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BOOK REVIEWS

REVIEW ARTICLE

SENTENCING: JUDICIAL POLICY IN A POLITICAL STRUCTURE*

WINIFRED M. LYDAY**

With the constant increase in crime rates and the growing disenchantment with the rehabilitative model, judicial sentencing patterns and alternative sentencing approaches are attracting greater scrutiny. This concentrated examination has substantiated charges that the present indeterminate sentencing system encourages the exercise of discretion, promoting the disparate processing of defendants and the inequitable distribution of penalties. The documentation of discretionary sentencing patterns combined with impact evaluations related to rehabilitation and corrections have fostered the formulation of reform measures designed to structure or eliminate discretion in sentencing. Although the judiciary is discussing procedural reforms which would reduce disparity in dispositions, and several legislatures are considering proposals which would alter the sentencing alternatives available to judges in the criminal courts, little attention has been directed to the manner in which the operating milieu and organizational composition of the courts can affect the sentencing process.¹ In *Urban Politics and the Criminal Courts*, Martin A. Levin explores the relationship between judicial selection, dispositional policies and sentencing patterns in different political environments. By recognizing that court functions are affected by the political and organizational structure in

which they operate, Levin avoids the pitfall of oversimplifying the sentencing process and implicitly acknowledges that all sentencing strategies must necessarily reflect the complexity of the system in which sentencing occurs and the conflicting expectations which the sentencing function is expected to fulfill.

TALE OF TWO CITIES

To analyze the effect of the judicial selection process on sentencing trends, Levin selected the cities of Minneapolis, Minnesota, and Pittsburgh, Pennsylvania, as demographically-equivalent polar models of political and judicial recruitment systems. In Minneapolis, the representative model of a "good government" political system, all city positions were filled on a nonpartisan basis and party recommendations were not decisive in determining elections or policy. District court judges were selected by the governor from a list of three names chosen in a county bar association poll and judges ran for reelection on a nonpartisan basis. In Pittsburgh, the representative model of a "traditional" political system, the major party organization dominated elections and policy through the control of patronage. Although the governor appointed judges to fill common pleas court vacancies, the Democratic Party predominated the selection process and judges ran for reelection with their party designation printed on the ballot.

While the judicial recruitment system in Minneapolis does not contain all the components of judicial merit selection, both cities can be considered representative examples of their respective judicial and political models. In open-ended interviews with almost all of the judges serving on the criminal bench in both cities, Levin determined that Minneapolis

* A review article of *Urban Politics and the Criminal Courts*. By *Martin A. Levin*. Chicago, Illinois: University of Chicago Press, 1977. Pp. x, 332. \$19.00.

** Illinois Supreme Court Committee on Criminal Justice Programs.

¹ See, e.g., AMERICAN BAR ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE, SENTENCING ALTERNATIVES AND PROCEDURES 40-50 (1968); STATES' CRIMINAL JUSTICE ASSISTANCE PROJECT, DEFINITE SENTENCING: AN EXAMINATION OF PROPOSALS IN FOUR STATES (1976).

judges were primarily middle class in origin. With previous careers in private legal practice rather than public service, the judges selected on a nonpartisan basis tended to be oriented toward their professional peers. Conversely, the majority of the judges in Pittsburgh came from ethnic backgrounds. With established careers as public officials, these judges tended to be oriented toward their political constituency. Although these findings coincide with other studies comparing the characteristics of judges with judicial recruitment patterns, Levin provides additional insight into the attitudinal orientation of judges selected in the two systems studied.² While the judges in Minneapolis read current professional literature, relied on the recommendations of their probation and correctional counterparts and valued the esteem of their judicial peers, the judges in Pittsburgh emphasized compassion for the defendant and tended to reject professional or group standards. These standards and attitudes served as an important foundation for the manner in which defendants were processed in both cities.

Court Practices

In analyzing courthouse practices in both Minneapolis and Pittsburgh, Levin dispels the already worn notion that all courts function in the same manner. In Minneapolis, the professional orientation of the judiciary was mirrored by the professional practices instituted by the prosecutor. The prosecution emphasis on accurate charging and thorough preparation for trial supported a general policy which discouraged the reduction of charges. Since the judiciary tended to overtly discourage continuances and trials, cases were handled expeditiously. Rather than devote significant time and energy against a prepared opponent in an unreceptive setting, both public defenders and private defense attorneys tended to encourage their clients to plead guilty without a concurrent reduction in charges.

In Pittsburgh, the criminal court judges readily used an abbreviated nonjury trial procedure which tended to function as a sentencing hearing. In this abbreviated trial, judges considered facts concerning the defendant and the offense which normally would not have been admissible under strict rules of evidence.

² See also H. JACOB, *JUSTICE IN AMERICA: COURTS, LAWYERS, AND THE JUDICIAL PROCESS* (2d ed. 1972).

Since the judges rejected professional and group standards, individual predilections were quickly identified by both prosecution and defense counsel. Reflective of judicial practices, the prosecution consistently overcharged and failed to prepare for trial. Defense attorneys were similarly unprepared. Because judges summarily granted continuances, both the prosecution and the defense relied upon judge-shopping as a strategy to maximize the outcome of cases. The availability of judge-shopping and the prevalence of overcharging provided defense attorneys with an incentive to offer to defendants in return for their agreement to an abbreviated nonjury trial or a negotiated plea of guilty to a reduced charge.

Because of the frequent use of the abbreviated nonjury trial, only 53% of the defendants in Pittsburgh pled guilty. In Minneapolis, defendants typically pled guilty without negotiating for a reduction in charge. Levin uses these facts to substantiate his hypothesis that significant variation exists in the "pattern of plea-bargaining and the proportion of cases disposed of through guilty pleas."³ Although Levin juxtaposes his findings against what he portrays as the "conventional view of plea-bargaining," the patterns of charge negotiation and guilty pleas are not dissimilar to the processes described by Newman.⁴ In the instance of Pittsburgh, the agreement to an abbreviated nonjury trial has been incorporated into the bargaining process in consideration for individualized justice. As Levin indicates, this bargaining agreement serves the same function as a guilty plea in terms of facilitating the disposition of criminal cases.

Although courts are public institutions, the average criminal case does not attract publicity and the same parties continue to interact on a reoccurring basis. Since each of the actors in this process can either facilitate or hamper the successful performance of the other parties to the system, a practice of accommodation usually develops.⁵ Using details gained through observation and quotations recorded during

³ M. LEVIN, *URBAN POLITICS AND THE CRIMINAL COURTS* 85 (1977).

⁴ D. NEWMAN, *CONVICTION: THE DETERMINATION OF GUILT OR INNOCENCE WITHOUT TRIAL* (F. Remington ed. 1966).

⁵ R. DAWSON, *SENTENCING: THE DECISION AS TO TYPE, LENGTH, AND CONDITIONS OF SENTENCE* (F. Remington ed. 1969).

interviews, Levin paints a detailed picture of the manner in which the prosecuting attorneys, defense counsel and judges in Minneapolis and Pittsburgh have developed mutual practices of accommodation. Although the characteristics of the two court systems differ significantly, both courts are responding to the same administrative needs. For instance, Levin discovered that the public and private defense attorneys in both cities minimized the time they devoted to cases. Public defense attorneys only spent a minimal time with each case because they were confronted with a large caseload volume which they could not voluntarily control. Since most defendants could not afford a large retainer, private defense attorneys attempted to maximize income by increasing caseload and minimizing the time spent on each case. Because judges and prosecutors were forced to expedite their own large caseload, they tended to criticize defense attorneys who encouraged frequent trials, thereby reducing the tendency of the defense to spend only a minimal time per case. In this instance, the administrative need to process a large caseload expeditiously could be achieved through the application of sanctions and the accommodation of interests. While Levin fully describes processes such as administrative accommodation, he frequently fails to explore the theoretical implications of his observations.

The description compiled by Levin of the court practices in Minneapolis and Pittsburgh would provide no surprises to experienced court observers. Even within the same jurisdiction, the practices and procedures followed in separate courthouses can vary significantly. The variations between the courts in Minneapolis and Pittsburgh suggest, however, that there may be an important relationship between political environment, methods of judicial recruitment and the manner in which cases are processed in court. Further investigation based upon a larger-sized sample is needed to determine the exact relationship and correlation between these factors.

Sentencing Patterns

In order to determine the sentencing patterns prevalent among judges in Minneapolis and Pittsburgh, Levin has relied upon both attitudinal and statistical data. The results of the attitudinal research revealed a predisposi-

tion on the part of Minneapolis judges toward the protection of society and victims in contrast to empathy with defendants. Minneapolis judges were knowledgeable in procedural law and objectively tried to make decisions on evidence produced through strict adherence to the formal legal procedures of an adversary system. With respect to the act of sentencing, the judges stressed the importance of deterrence and rehabilitation. In contrast, the judges in Pittsburgh empathized with the defendants, rejecting the concepts of rehabilitation and deterrence. In sentencing, Pittsburgh judges stressed the personal characteristics of the defendant, the degree of personal injury involved in the actual commission of the offense and the values of the social groups represented by defendants in an effort to make expedient judgments in each individual case.

To a limited extent, differences in judicial attitudes were reflected in sentencing statistics. Even with prior record, and plea controlled, white and black defendants in Pittsburgh received more lenient sentences in terms of probation and incarceration than did their counterparts in Minneapolis. In both cities, whites were more likely to receive probation than blacks and defendants pleading not guilty received more severe sentences. While the terms of incarceration were relatively consistent in Minneapolis for both races, blacks received shorter terms of incarceration than did whites in Pittsburgh.

For the most part, the sentencing statistics used by Levin only indicate that Pittsburgh judges are more lenient and less consistent in their sentencing decisions than are Minneapolis judges. While these findings may be consistent with the attitudes expressed by judges in the two cities, these differences may be explained by other factors. The variation in sentencing trends may reflect differences in statutory and case law regarding the sentence option. Judicial decisions relating to probation and confinement may be affected by the quality of the respective state correctional institutions or the availability of noninstitutional programs. Sentence consistency may be partially attributable to state court procedure or the trend of reversals on appeal. Although these factors may not have affected the basic trends observed in this study, Levin's failure to describe and compare the legal context in which the judges in Minne-

apolis and Pittsburgh functioned raises significant questions with respect to the validity of his conclusions regarding sentencing patterns.

A major criticism must be directed toward the methodology and statistics which Levin used to document sentencing trends. The attitudinal research was based on open-ended interviews. Since Levin makes no indication of the types of questions asked, subsequent researchers would have difficulty in replicating the study. Levin also made no reference to the number of interviewers used or to whether efforts were made to control for interviewer prejudice or predisposition.

While the attitudinal research raises methodological questions, the statistical data used by Levin to compare the sentencing decisions in Minneapolis and Pittsburgh barely meet the minimal standards of statistical analysis. To show sentencing trends, Levin selected nine categories of felonies because they "seem to represent the crime problem in the public's mind."⁶ Levin never justifies how he reached this conclusion or how his categories compare with those used in other research on sentencing. Although most of the tables compiled by Levin use the same nine categories, some of the statistical tables for Pittsburgh include a tenth category which distinguishes "aggravated assault" from "assault with intent to kill." Comparisons of sentencing decisions were supposedly controlled for race, previous record, plea and age of the defendant, but Levin failed to include any statistics controlling the effect of the age of the defendant.⁷ Levin also provided very little information relating to the composition or the completeness of the data gathered.

The problems in data definition and consistency were compounded by Levin's methods of statistical analysis. Levin made no attempt to use statistical procedures more discriminating than percentages, averages and ratios. Furthermore, the statistical analysis used by Levin tends to obscure trends and exaggerate variation. For instance, in comparing an offense category with a dichotomous control variable, Levin calculates the percentage of cases per cell. He then divides the greater percentage by the lesser percentage to produce a normalized ratio with the direction of the relationship indicated by a plus or minus sign. Levin further collapses these categories for purposes of mak-

ing sentence comparisons by merely counting the number of categories in which the relationship was either "positive" or "negative."

As Levin aptly concluded, this study only represents a beginning in the effort to determine the relationship between methods of judicial selection and the process of sentencing. To accomplish such a feat would require a far larger sample of courts and a more comprehensive examination of the effects of intervening variables.

JUSTICE AS PRAGMATIC POLICY

In the second section of *Urban Politics and the Criminal Courts*, Levin considers policy issues involving the sentencing process in criminal courts. After discussing the methodological limitations in ascertaining the best predictor of reduced recidivism, Levin concludes that a probation-oriented sentencing policy can potentially reduce recidivism rates, effecting a long-run decrease in crime rates. Although this policy would maximize specific deterrence, it could increase the crime rate by not functioning as a general deterrent for individuals who might not otherwise commit a crime. According to Levin, an incarceration-oriented policy is the only approach which would achieve both general deterrence and crime reduction. Uniform incarceration of offenders, however, is exceedingly expensive. In order to maximize crime prevention, crime reduction and cost effectiveness, Levin recommends the following sentencing policy to criminal court judges:

1. Grant most first offenders probation, but incarcerate enough of them so as to eliminate the expectation that it is safe to commit crimes until the time of a first conviction.
2. Base decisions to incarcerate first offenders on the probabilities of recidivating that are associated with specific offenses and particular offender characteristics.
3. Incarcerate all second offenders for long terms.⁸

Levin recognizes that this policy would most probably result in the unequal treatment of first offenders, incarcerating a larger percentage of young and black. Under this sentencing policy, large numbers of individuals accused of a second offense would probably request jury trials or use defense tactics of delay. Since both judges and prosecutors would probably re-

⁶ M. LEVIN, *supra* note 3, at 219.

⁷ *Id.* at 92.

⁸ *Id.* at 183.

spond by reducing the charge or mitigating the sentence severity, a uniform policy of long-term incarceration for second offenders could effectively be instituted only through a major revision of statutory sentencing codes.

In addition to providing a serendipitous commentary on community-based alternatives to confinement and the unproven relationship between court delay and reduced deterrence, Levin related the sentencing trends observed in Minneapolis and Pittsburgh to the conflicting policy goals of crime reduction, prevention and deterrence. While the Minneapolis sentencing approach encourages consistency and equality, the Pittsburgh approach promotes individualized justice and benevolence. Since individual justice and benevolence is difficult to institute through the establishment of policy, Levin suggests that the uniform justice policy practiced in Minneapolis would be the best approach for judges to follow in urban areas with heterogeneous populations.

In attempting to formulate sentencing policy for judges, Levin recommends an approach which he suggests would best fulfill the conflicting expectations related to sentencing. His recommendations are oversimplistic in the sense that they cannot be instituted because they do not reflect the complexity of the system in which sentencing occurs.⁹ Furthermore, these recommendations, if instituted, are likely to produce the same sentence disparity as exists under the present system. Instead of developing a functional solution to the dilemma of sentencing, Levin only succeeds in reacquainting the reader with the predicament confronting judges and legislators.

The task of analysing the relationship between political structure, judicial selection methods and sentencing represents a significant undertaking in the field of criminology. By addressing these issues, Levin contributes information which will be useful in the reformulation of sentencing policy. By attempting, however, to address the additional issues of recidivism, crime reduction, crime prevention, correctional programs and court delay, Levin unsuccessfully assumes an impossible burden.

In concluding that a uniform justice policy toward sentencing may be a direct or indirect

consequence of judicial merit selection, Levin provides an additional justification for revising the judicial recruitment process. If judicial merit selection facilitates judicial adoption of a consistent sentencing policy, *Urban Politics and the Criminal Courts* suggests a partial remedy to policy decision-makers who would like to eliminate unwarranted sentence disparity without radically altering statutory sentencing codes.

COMMUNITY AND CORRECTIONS. By *Alexander F. Pathy* and *Suzanne M. Pathy*. New York: Equal Justice Institute, 1975. Pp. xiii, 120. \$3.95.

COMMUNITY-BASED CORRECTIONS. By *Vernon Fox*. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1977. Pp. xv, 320. \$12.95.

CORRECTIONS AND THE COMMUNITY. By *Louis P. Carney*. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1977. Pp. 327. \$13.95.

Community-based corrections was all the rage in this country in the late 1960's and early 1970's. Supported by national commissions and fortified by the reintegration model, community-based programs promised to bring a new day to corrections. Proponents argued that community-based corrections was more humane, less costly and more effective than imprisonment, and that prisons should have been reserved for hard core offenders. Halfway houses, restitution centers and prerelease centers, along with home furloughs, work release and educational release were established to keep offenders in the community. In the minds of many, the millennium had arrived.

However, in early 1975 the scenario began to change. Spurred on by a media that sensationalized the rise of crime and the failures of work release and home furloughs, the general public decided to get tough on criminals. Evidences of this hard line include: (1) the number of men and women behind bars dramatically increased from 225,000 on January 1, 1975 to 275,000 on January 1, 1977; (2) furlough programs were cancelled in some states and were decimated in other states; (3) stricter guidelines for work release programs reduced the offenders being placed in community jobs. Community-based corrections, obviously, had to retrench, to redefine standards for community placements, and to hope that the public would grow dissatisfied with the costs and the problems of prison overpopulation.

On its rise and in its decline, community-

⁹ Compare Levin's recommendations with the approach suggested by L. WILKINS, *SENTENCING GUIDELINES: STRUCTURING JUDICIAL DISCRETION* (1976).

based corrections has been a fertile field for correctional researchers and writers. In the late 1960's, *Federal Probation* and other correctional publications announced work release, home furloughs and halfway houses. These articles were soon anthologized by enterprising correctional researchers.¹ Only a step behind were several texts on community-based corrections.² Given the time it takes to write and to publish a book, it is not surprising that these books described community-based corrections in the early 1970's—the years of growth and enthusiasm. They failed, however, to express the uncertain futures of community-based corrections today. Many of these books approach their subject matter "once over lightly," for they are a-theoretical and descriptive, ignoring important correctional issues. Few of these books have a developed theory of reintegration, even though this concept is basic to models of community-based corrections.

In spite of their 1977 publication, Fox's *Community-Based Corrections* and Carney's *Corrections and the Community* share the problem of dated materials superficially presented. Consequently, they ask little of their readers. Both books are marred by several critical weaknesses; in fact, they give the impression of having been written in haste.

Carney's book is strong in its description of work release and prerelease programs, halfway houses, community correctional centers and community drug programs. Yet, organizational problems plague the reader chapter after chapter, and drove this reviewer to demand: "What is he trying to do?" Also number against *Corrections and the Community* are damning omissions from the areas of correctional crises, parole programs and community-based corrections for juveniles. In addition, references are dated and ignore important contributions to the field. Finally, the book is California bound; not all good things, I must insist, come out of California.

Fox also relies heavily on description. Diver-

¹ E.g., G. KILLINGER & P. CROMWELL, *CORRECTIONS IN THE COMMUNITY* (1974); G. PERLSTEIN & T. PHELPS, *ALTERNATIVES TO PRISON* (1975); MILLER & MONTILLA, *CORRECTIONS IN THE COMMUNITY* (1977).

² E.g., B. ALPER, *PRISONS INSIDE OUT* (1974); L. CARNEY, *CORRECTIONS AND THE COMMUNITY* (1977); V. FOX, *COMMUNITY-BASED CORRECTIONS* (1977); SOLOMON, *COMMUNITY-BASED CORRECTIONS* (1976).

sion from jail and bail, halfway houses and volunteers in community-based corrections are all as thorough and detailed as one could want. There is, however, no introductory chapter. After three pages of general introduction, Fox jumps into an historical sketch of community-based corrections ending in 1971—four years before community-based corrections slammed up against an offended public. Another serious weakness is that probation and parole, society's best alternative to prison, are slighted in favor of over-long chapters on neighborhood and area projects, community services management and government programs in the community. This book also needed closer attention from copy editors, because the extended sentence construction is flat and cumbersome. Commonly accepted information is footnoted time after time while significant omissions exist in the two chapters on juvenile corrections. All in all, this time, I'm disappointed with the prolific Mr. Fox.

In short, this reviewer cannot recommend either of these books. Both are in bondage to the system and are superficially descriptive rather than analytical. Finally, they describe a community-based corrections system that is no longer with us. Fox and Carney, it seems, have gone to the well once too often.

In contrast, Pathy and Pathy's book is a breath of fresh air. *Community and Corrections* is a progressive statement, born of the experience of working behind walls with inmates and of keeping up contact with them as they made their adjustment to the life outside. The book had its beginnings in Alexander Pathy's utter impotence in the face of the mounting rate of violence and crime. He became "ashamed of his silent and passive bystander role." Receiving a grant, he formed the Equal Justice Institute. Two 1972 pilot projects placed community volunteers in two New York City institutions, the House of Detention for men in Queens and the New York City Correctional Institution for women on Rikers Island. For eighteen months, from October 1972 to April 1974 (with and additional phasing-out period of two months), forty volunteers worked with 100 inmates weekly for an average of ten to twelve consecutive visits, the last of these coinciding with the release of the inmate. About half of the volunteers stayed with the program from start to end.

Community and Corrections, the fruit of this

experience, concludes that the criminal justice system does not "deliver just, equal, certain, and speedy justice." Only community involvement creates a fairer, more effective, justice system. Prisons should be small, the dignity of offenders should be a priority in corrections, parole should be phased out and the punishment model should be rejected.

Granted that these pilot projects had a brief life, were not renewed, had no empirical evidence of success or failure and received only limited acceptance by correctional administrators of the two institutions. They do, nevertheless, contain the ingredients for avoiding another correctional dark age by pointing out that:

- 1) The community must be actively involved in bringing change to corrections;
- 2) The continuation of volunteer services into the community is vitally important in offenders adjusting to community living.
- 3) The persons behind bars will respond to volunteers who care and who are interested in helping them.
- 4) The emphasis on making prisons more humane must be a top priority in correctional management.

The Equal Justice Institute may have been naive. Perhaps it did not place enough stress on volunteer selection training and selection. It may not have made lasting changes in life behind prison walls. But it stands as a symbol of community involvement and participation. This book would make an important addition to the library of correctional instructors and researchers and to the reading list of introductory courses on corrections.

CLEMENS BARTOLLAS

Sangamon State University

LETTER TO THE PRESIDENT ON CRIME CONTROL.

By *Norval Morris* and *Gordon Hawkins*. Chicago, Illinois: University of Chicago Press, 1977. Pp. vii, 96. \$1.95.

Social reform today is tolerated only if it can be achieved without sacrifice. No-cost welfare reform is a characteristic Catch-22 of the late seventies, as seniority rights balance out minority employment opportunities and the status quo disguised as meritocracy is offered as a greater good than educational opportunity for the disadvantaged. And so, one must acknowledge the pragmatism of proposing to the thirty-ninth president a "prescription for dealing with

... the crime problem" which costs little, avoids addressing social inequities which breed crime, (but are "beyond the substantial influence"—not of the President, but—"of the criminal justice system") and, nonetheless, promises to earn him "the approval of present generations and a place in history beyond caviol or qualification."

Knowing—as the authors of this letter did not know at its writing—the identity of the thirty-ninth president, and having had a six month sample of his tenure, it is interesting to review the Morris/Hawkins prescription and to search out and compare recent federal crime control initiatives.

We find the following in the prescription: distillations of the massive evidence in favor of gun control, the numerous appeals for order in the process of determining punishments, and the diverse arguments that coerced rehabilitation is an inappropriate component of the criminal sanction. In addition, there is a persuasive brief for government compensation of victims of violent crimes.

The authors plead that the resources of the criminal justice system should be concentrated to combat violence and direct invasions of property rights. This plea is most convincingly expressed as they prescribe decriminalization of activity that is properly private and decriminalization of dangerous activity which must be legalized if it is to be contained and regulated. The suggestion that certain evils be withdrawn from the province of police, courts of criminal jurisdiction and the correction system arouses, in some of its details, a fear that a resultant criminal justice class system may be improperly indulgent toward great but sophisticated evils, and will thus foster the alienation which leads those less advantageously placed to less subtle crimes. But these fears can be addressed without great sacrifice of efficiency, and the case for focused, efficient efforts against direct criminal assaults is indeed compelling.

Unfortunately, in the first months of President Carter's tenure, the nation clings to illusory solutions. The death penalty is deemed by Morris and Hawkins so ineffective in controlling crime that it is discussed only in an appendix and then only to set out the case for its abandonment. Although there was, during the Carter campaign, a hint of the moral courage required to advocate abandonment of a

cruelty which bears little more than a superstitious relationship to reducing crime, proposed legislation to expand federal authorization of the death penalty has evoked no opposition in this administration. (The Attorney General has reported to its sponsor an opinion that the bill is constitutional and expressed "support" for his "efforts to bring it to the attention of the Senate."¹)

The response to more promising proposals has been mixed. The President has recommended a reduction in proposed federal spending to control the availability of firearms. A comprehensive revision of the federal criminal codes provides the basis for ordered sentencing decisions, but leaves the plea bargaining process virtually unregulated. That revision clings to rehabilitation as a proper purpose of punishment by incarceration rather than some other goal whose achievement should, as a matter of sound public policy, be facilitated during relatively fixed periods of incarceration. The proposed code makes starts, albeit very timid ones, at decriminalization of marijuana and prostitution. And it establishes a seemingly workable system of victim compensation.

We are a people obsessed with violence, a people who still count greed as a virtue. This spring unemployed youngsters in one of our cities stood in line twenty hours for jobs paying less than sixty dollars a week. So long as we insist upon stingy solutions we must contain our optimism for results in the effort to control crime. But Morris and Hawkins are right when they say that the criminal justice system, which "cannot itself rectify social inequities . . . should certainly not exacerbate them." At this time, when the approach of the Carter administration to criminal justice issues seems flexible, and federal criminal law reform offers an occasion to set examples and give direction, this thoughtfully post-dated letter warrants attention.

PEGGY DAVIS

Rutgers University

SOCIAL STRUCTURE AND ASSASSINATION. Edited by *Doris Wilkinson*. Cambridge, Massachusetts: Schenkman, 1976. Pp. viii, 228. \$9.50.

Social Structure and Assassination is more a collection of vignettes than a book of readings. The editor presents nineteen articles in 213 pages. Except for the final selection (16 pages

of text, 37 pages of graphs, and 3 pages of notes), no article exceeds ten pages. Indeed, one article is only two pages. Most of the vignettes were published up to ten years ago with the most recent inclusion being 1970.

Although the editor claims to have presented a social structural analysis of political assassination, she actually accomplished the opposite. The bulk of the book which is devoted to assassination in America is a restatement of the mentally deranged, "loner" theory, and is almost entirely devoid of sociological analysis. What little discussion there is of social and political factors is reserved for cross-cultural comparisons. Political instability, political violence and minority tensions play a role in the incidence of assassination in Japan, the Middle East, Finland and Latin America. However, in the United States, according to this book, it is childhood experience not politics that moves men to murder politicians.

In the worst kind of retrospective speculation concerning assassination in America, we learn that John Wilkes Booth was a "practical joker of a sadistic type," that as a boy Leon F. Czolgosz "never associated with girls," and that Lee Harvey Oswald quarreled with his wife on the eve of the assassination and felt hostility toward his mother. This retelling of disparate facts about an assassin's life amounts to an explaining away of assassination rather than an understanding of a complex social and political phenomenon. Are we to think that Booth's assassination of President Lincoln was a practical joke? Would Oswald have preferred to kill his mother? This type of speculation may be fun, even interesting, but it is nonsense, especially in light of mounting historical evidence of Booth's conspiratorial involvement with Edward M. Stanton, Lincoln's Secretary of War, and Oswald's apparent connections with the intelligence community.

In short, this book is a disappointment. It promised a new approach, but instead it delivered the standard psychiatric explanation of political assassination.

RICHARD MORAN

Mount Holyoke College

ECONOMICS OPPORTUNITY AND CRIME. By *Marvin Ross*. Montreal: Renouf Publishing, 1977. Pp. iv, 86. \$12.50.

This book can only disappoint those who are seriously interested in the fundamental rela-

¹ 123 CONG. REC. S6381 (daily ed. April 26, 1977).

tionships between crime and economic well-being. It states a theory of "stages in the process of criminalization" and estimates some parameters based on data for a recent cross-section of neighborhoods in Toronto. But the theory is a hopelessly incomplete representation of economics, opportunity and crime, and the parameters estimated are not terribly relevant even to the theory espoused. Neither the theory nor the estimates acknowledge the potential for crime to affect the economic conditions in a neighborhood. Nor are other factors accounted for empirically in any rigorous way. Hence, one cannot know what to make of the simple correlation coefficients reported between crime rates and economic variables, from which Ross draws conclusions about the independent effects of economic conditions on crime.

This book is, moreover, written in a cumbersome style (*e.g.*, p. 1: "These studies have examined the extent to which the victim precipitated his own problem hopefully with the outcome being the awareness of what the victim should or should not do to prevent an offence from taking place."); its inferences are often trivial (*e.g.*, p. 36: "This table demonstrates that as unemployment increases, there is a decrease in the proportion of households with cars. Conversely, as family income increases, there is an increase in the proportion of households with cars."); and it contains very basic methodological errors (*e.g.*, p. 35: "Some of the independent variables are the converse of each other. For example, proportion of households with cars and proportion of households with no cars. If these variables both came out significant the variable with the highest simple R was included in the regression." Also, p. 40: "Quebec also showed a positive correlation, but it was not significant at 0.25. In other words, as the number of police increases, the rate for reported offences increases.")

In short, this book has little to offer.

BRIAN FORST

Institute for Law and Social Research

AN INTRODUCTION TO AFRICAN CRIMINOLOGY.

By *William Clifford*. Nairobi: Oxford University Press, 1974. Pp. xi, 226. \$13.25*

An Introduction to African Criminology depicts

* The opinions and views expressed in this review are those of the author and do not necessarily represent those of LEAA.

Africa as a case study of several fundamental issues in criminology, including causation, prediction, special types of crime (*i.e.*, incest, white collar crime, juvenile delinquency, drug use), prevention and treatment. Because of rapid industrial expansion in many sub-Saharan countries, the author notes that Africa provides a profile of the evolution and increase in crime. The tribal customs and culture of rural Africa coexisting with the emerging morality of urban Africa suggest a natural laboratory for probing factors commonly associated with rising crime rates in the West such as family instability, burgeoning populations, social mobility and urban growth.

According to Clifford, African countries face dual problems of augmenting economic improvements while simultaneously keeping the crime rate low. The lack of available resources makes it imperative that investments in prevention and treatment strategies be made wisely. Adapting western approaches to crime may be beneficial; but more importantly, learning from the mistakes of the developed nations may enable Africa to assume a leadership role in devising more effective crime control policies and procedures applicable to other crime-ridden parts of the world. Clifford articulates these points within the first few chapters and again in the Appendix. He also briefly discusses planning for the crime problem in Africa in the Appendix. However, the remainder of the slim volume is somewhat disappointingly devoted to a general discussion of criminological issues with an occasional reference to Africa.

In this regard, Clifford's most salient weakness is his attempt to do too much. He attempts to provide a background of the methods used to study crime and he attempts to offer some insights on the content of African criminology. For this reader, greater focus on the latter would have been more appealing. Thus, the chapters on general theories of crime causation and prediction could have been omitted.

Further, the discussion of prevention strategies suggests grandiose techniques, such as improving child care, equalizing incomes, eliminating feelings of inequality and poverty and relieving the stresses engendered by modern living. However, the reader is left wondering how these recommendations would be implemented in Africa, especially with its limited resources.

Regarding treatment approaches, Clifford

outlines some of the controversies in defining the role and functions of probation, parole, prisons and community alternatives for adults and juveniles in Africa. However, his limited descriptions of African conditions minimizes the reader's comprehension of the magnitude of the problems as they pertain specifically to Africa. In addition, Clifford's continuous reference to the "African" crime problem throughout the book raises the unaddressed question as to whether there are differential facets of the crime problem confronting individual sub-Saharan countries.

Despite these shortcomings, the strength of Clifford's book lies in its highlighting the need for further exploration of the causes and approaches to crime everywhere, and in Africa in particular. It is for this reason that this easily readable book could serve as an interesting supplemental text in criminology courses. Moreover, to the cross-cultural researcher, this book suggests the challenges in developing a more refined African criminology.

PHYLLIS JO BAUNACH
National Institute of Law Enforcement and
Criminal Justice, Washington, D.C.

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