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I am submitting herewith a thesis written by Christopher Thomas Link entitled "Structural Determinants of Correctional Policy: Testing Two Models of Sentencing Reform." I have examined the final copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts, with a major in Sociology.

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STRUCTURAL DETERMINANTS OF CORRECTIONAL
POLICY: TESTING TWO MODELS OF
SENTENCING REFORM

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For Becky

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ABSTRACT

This research examines the political and economic antecedents of criminal sentencing reform in the U.S. from 1971-1982. For each of the 50 states, demographic, economic, and political data were collected. Using these data, the explanatory utility of two perspectives on correctional reform, one informed by Structural-Marxism and the other by Pluralism, is investigated. The objective is to determine the relationship between the scope of changes in sentencing codes and the conditions which prompt these changes. Analysis of the sentencing reform movement permits us to explore and identify the social contexts which constrain policy makers periodically to "reform" official control structures. I conclude by suggesting needed refinements and improvements in the operational and theoretical approaches to these social phenomena.

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CHAPTER I

STATEMENT OF THE PROBLEM

In all societies individuals and groups devise certain social structures and policies intended to constrain individuals whose behavior threatens social order. These processes of social control range from informal sanctions governing relations in three or four member social groups to complex codified laws that specify the limits of acceptable behavior in nations of several million inhabitants. At the latter end of this array, the social control processes of many complex industrialized societies include: 1) formal organizations, such as the police and the armed forces, 2) judicial agencies such as state and federal courts which try, convict or release, and sentence accused offenders, and 3) correctional programs and institutions such as probation, parole, prisons, and jails.

The day-to-day operations of social control are the focus of a complex web of social control policies. Examples include: 1) the rules of evidence in criminal prosecutions, 2) rules of criminal procedure, and 3) parole statutes.

Policies such as these change over time. Changes range from gradual developments which correspond to gradual transformations in a particular type of society to short-term dynamic innovations brought on by crises or "new knowledge."

Recent changes in criminal sentencing in the U.S. exemplify short-term dynamic shifts in social control policy. The move from indeterminate to determinate sentencing

characterizes these changes. Sentences of one year to life with release contingent on the convict's rehabilitation have been replaced by much more narrow sentences with nearly predetermined release dates. These new sentencing policies are the focus of this research.

Since 1971, at least forty states have revised their criminal sentencing codes (Shane-DuBow, 1984). Taken together, these reforms constitute a fundamental restructuring of the sentencing process in the U.S. Some revisions have been quite extensive. States implementing sweeping changes have, for example, abolished parole, enacted statutes imposing sentencing guidelines, implemented state-wide parole guidelines, and revamped their entire sentencing codes (Lagoy et al., 1978; Von Hirsch and Hanrahan, 1981; Galvin, 1983; Cavender and Musheno, 1983; Shane-DuBow, 1984).

By contrast, other states have enacted only piecemeal reforms. Examples include optional parole guidelines, optional sentencing guidelines suggested by sentencing commissions, increases in sentence lengths only for designated serious offenses, and less extensive sentencing code revisions, (Lagoy et al., 1978; Von Hirsch and Hanrahan, 1981; Galvin, 1983; Cavender and Musheno, 1983; Shane-DuBow, 1984). A handful of states did not reform their sentencing codes. These states retained indeterminate sentencing (Shane-DuBow, 1984).

Existing analyses of the sentencing reform movement cluster in three areas: 1) descriptive accounts (Lagoy et

al., 1978; Von Hirsch and Hanrahan, 1981; Galvin, 1983; Shane-DuBow, 1984), 2) impact studies and evaluation research (Determinate Sentencing, 1977; Clear et al., 1978; Gottfredson, 1979; Orland, 1979; Hewitt and Clear, 1983; Zatz, 1984), and 3) philosophical and legal debates (Evans and Gilbert, 1977; Alschuler, 1978; Fogel, 1979; Karslake and Townsend, 1979; Von Hirsch, 1983; Cavender, 1984a; 1984b).

However, we still lack a convincing or inventive explanation of the social contexts which produced sentencing reform. To supplement the literature in this area, I create and test two explanatory models which might explain this dramatic shift in penal policy. One is informed by Structural-Marxism and the other by Pluralism. This research will move us toward a theoretically refined and empirically testable explanation of the social contexts which produced the sentencing reform movement. In addition to improving the sentencing reform literature, this research should contribute to theoretical interpretations of social control and changes in criminal justice policy.

CHAPTER II

THEORETICAL PERSPECTIVES

Here I introduce and review two major competing paradigms on changing social control policies: Structural-Marxism and Pluralism.

I. STRUCTURAL-MARXISM

Structural-Marxism is one of many interpretations of the work of Karl Marx. This variety of Marxism is based primarily on his later works, which are undeniably structuralist and contain little of the humanistic and philosophical writing of the early Marx (Althuser, 1969). Marx (1970: 21) states this structural position in the preface to A Contribution to the Critique of Political Economy:

In the social production of their existence, men inevitably enter into definite relations, which are independent of their will, namely relations of production appropriate to a given stage in the development of their material forces of production. The totality of these relations of production constitutes the economic structure of society, the real foundation, on which arises a legal and political superstructure and to which correspond definite forms of social consciousness. The mode of production of material life conditions the general process of social, political, and intellectual life. It is not the consciousness of men that determines their existence, but their social existence that determines their consciousness (Cited from Ritzer, 1983:270).

Contemporary Structural-Marxists extend this approach in analyses of capitalist societies which focus on the economy, the state, and ideology.

Their starting point is the contention that the economic realm or economic base is the central component of the social structure in a capitalist social formation. They agree with other Marxists that this base substantially determines the production of the material conditions of social life, the relationships essential to this production, and the nature of social change.

This economic base also determines the class structure in society. Capitalist economies necessarily produce dichotomous class structures comprised of the bourgeoisie or owners of the means of production and the proletariat or exploited workers who must sell their labor for wages. However, Structural-Marxist conceptualizations elaborate this original Marxian two-class model to include descriptions of several class fractions found in modern capitalist societies (Ritzer, 1983).

Two examples of class fractions include a "new class" of middle class intellectuals (Gouldner, 1979) and the "reserve army of labor" (Braverman, 1974) consisting of marginalized members of the working class.

While the primacy of the economic realm and class is a distinguishing feature of Structural-Marxism, these theorists do not ignore other important components of capitalist society. The state is one of these components. Comprised of several distinct apparatuses, the state is the vital segment of the periodically dominant political realm. It is also "relatively autonomous" from the interests of capital

or "institutionally separated from and 'external' to the exploiting class" (Clarke, 1983:115). This enables the state to pursue policies detrimental to the interests of capitalists; but, ultimately it must ensure the perpetuation of the capitalist system on which it depends (Block, 1977).

Changes in economic conditions affect the state and configure its political processes. For example, the state may be periodically constrained to assist in capital accumulation (Gold et al., 1975; Block, 1977; 1981) and to mediate class struggle (Gold et al., 1975; Gordon et al., 1982). In this manner the state, through its many apparatuses, employs the political process to reproduce and rationalize the capitalist system.

Ideology is the other potentially dominant structure accounted for in the Structural-Marxist perspective. It includes the system of beliefs which justify the operation and organization of capitalist society. These beliefs are generally accepted by the populous and buttress the capitalist economy and political order.

Ideology obfuscates the operation of the political process. Through it changes are passed off as progressive and orderly adaptations instead of products of outright manipulation which serve the needs of the capitalist social formation (Humphries and Greenberg, 1981). Thus, ideology legitimates the results of the political process and hides this process behind an "ideological front [which] conceals [its] true workings" (Sumner, 1982:256).

II. PLURALISM

The Pluralist perspective derives from the traditional liberalism and the pluralist political theories originally proposed by Dahl (1961; 1967) and Rose (1967). This perspective provides an explanation of the structure and political processes of liberal-democratic societies.

Two basic assumptions underlie traditional liberalism and the conceptualization of the Pluralist perspective. First, the world is to be understood in individualistic rather than class terms. Secondly, individual liberties exist in a pluralistic society (Wright, 1973).

The first assumption stresses the role of individuals in the organization of society (Marger, 1981). They are the vital social and political ingredients in liberal-democratic societies. They join to form interest groups, voluntary associations, and coalitions whose influence and input substantially determines the structure of society.

Class is not a central component of this perspective. Here social classes constitute only one of many interests which join individuals (Alford, 1973). Class is no more a determinant of society than several other group associations.

The second basic assumption means that the power structure is diffuse or decentralized (Rose, 1967). An example of this is the interest-group structure in liberal-democratic societies. This is comprised of individuals with

crosscutting and overlapping group memberships (Marger, 1981) and several issue-specific coalitions. This decentralization ensures that no one interest can "marshal the power regularly to impose its will upon the larger society" (Mankoff, 1970:422).

Pluralism assumes that individuals initiate the political or "power process" (Rose, 1967) within this decentralized power structure. This means that as individuals form interest groups and coalitions, and plan and execute strategies to present their demands to decision makers, they take the crucial steps in this process which produces change.

The existence of a liberal consensus or a consensus of values that governs this "power process" is also assumed. This consensus provides the agreed-upon rules of the game (Marger, 1981) which direct political action in "the legitimate political arena" (Alford, 1973). Thus, these preordained strictures also provide the guidelines for political change.

Pluralists contend that the government, comprised of several responsive agencies with overlapping jurisdictions and responsibilities (Alford, 1973), arbitrates the interest-group competition which occurs during the "power process." Its goal is to achieve a new consensus and maintain social order while responding to the demands of interest groups. In short the government officiates between "contending factions of the politically active population"

(Malecki, 1981:252) and attempts to enact policies which are acceptable to all interests.

Groups' and individuals' acceptance of the final governmental solution to legitimate political conflict lessens the government's task of mediation. Groups maintain considerable faith in the beneficence of the state (Gordon, 1973) and assume that the give-and-take of the policy-making process ensures that these solutions will serve the best interests of all.

In this manner, interest groups and governmental organizations work together to correct imperfections (Gordon, 1973) in pluralist societies. They seek to remedy any defects "in the existing decision-making and policy-making institutions" (Manley, 1983:380). Organizations or policies which do not correspond with the goals of reform, justice, equality, and freedom are in time forced to change (Alford, 1973). In sum, the pluralist political process corrects the system's gaps, omissions, and downright failures (Manley, 1983:372) and moves society toward just, humane, and equalitarian goals (Alford, 1973).

III. INTERPRETING SENTENCING REFORM

Given all the attention sentencing reform has received, its political and economic antecedents remain largely unexplored. To redress this neglect, I have created two interpretations which are informed by broader theories of the state and political processes. These interpretations form

the basis for two original models of sentencing reform which are instructed by, but are not logically derived from, Structural-Marxism and Pluralism. For example, the Pluralist model does not contain "political process" variables suggested by Pluralism, but does contain the Pluralist notion that responsive governments act to ensure the protection of individual liberties in democratic societies.

Structural-Marxist Interpretation

Four variables are central to a Structural-Marxist based interpretation of the contexts which produce sentencing reform: 1) changes in the economy, 2) fiscal crisis of the state, 3) class structure and class fractions, 4) state apparatuses, and 5) dominant political ideologies.

Consistent with the assumption of economic causal primacy, changes in the U.S. economy during the 1970s and early 1980s are crucial predictors of sentencing reform. These changes include increases in inflation and unemployment and decreases in productivity and growth. Together such changes produced a "period of decay" in late U.S. capitalism (Gordon et al., 1982).

Avenues for asserting rationality became very important when this "decay" exposed the contradictions and irrationality of late capitalist production. Sentencing policies based on "justice" and "fairness" provided the state with such an avenue. These policies allowed the state to actively defend the rationality of its social control

processes at a time when economic difficulties precluded the rationalization of capitalist production.

Fiscal conditions also worsened during the 1970s. Interventionist economic policies and the expansion of the welfare state during the economic slowdown produced a "fiscal crisis" (O'Connor, 1973; Block, 1981). The state could do little to solve economic problems. This led to a general lack of confidence in the government (Friedrichs, 1980) or a legitimization crisis (Habermas, 1975).

Newly reformed sentencing policies provided the state with a means of controlling the legitimacy crisis brought on by declining fiscal capabilities. These policies would enable the state to reassert its legitimacy in the area of social control (Clarke, 1978; Reiman and Headlee, 1981; Paternoster and Bynum, 1982).

The size of important class fractions also determined the emergence of sentencing reform. Large "problem populations" comprised of young alienated "social dynamite" (Spitzer, 1975) complicated order maintenance during this unstable period. New sentencing policies which justified and rationalized the handling of troublesome "problem populations" were especially appealing during this time when state acts were routinely questioned. Sentencing reforms would provide clear-cut, defensible, and rational means for controlling young marginalized members of society.

Also, a large "new class" of liberal-reformers heightened critical examinations of existing systems and proposed

new approaches to problems in the form of "new class projects" (Gouldner, 1979) at this time. Sentencing reform was one of these projects. Stressing rationality, expertise, knowledge, and problem solving (Cohen, 1985) the new class led in the critique of indeterminate sentencing and supported the initial "fixed-sentencing" proposals (Greenberg and Humphries, 1980). Intellectuals developed new sentencing policies and pushed for their implementation (e.g., American Friends Service Committee, 1971; Fogel, 1975; Dershowitz, 1976; Von Hirsch, 1976).

The size of the state criminal justice apparatus also influenced the emergence of sentencing reform. The size of this apparatus determined the state's capacity for coercive order maintenance and the visibility of intrusive state action. When programs such as LEAA increased the size of these state criminal justice agencies and the social turmoil of the 1970s increased their visibility, rationalized sentencing policies provided justifications for their continued growth and operation.

Political ideology also contributed to the sentencing reform movement. Important here is the "rise of the New Right" during the 1970s and the early 1980s (Platt and Takagi, 1977). Conservatism pervaded political thought during this period. In criminology and law "get tough" approaches to crime control proliferated (van den Haag, 1977; Wilson, 1983).

A "coopted" version of "fixed-sentencing reform" (Greenberg and Humphries, 1980) was part of the conservative agenda. Neo-retributionists supported "reforms" which stressed deserved, definite, and harsh punishment for offenders. Thus, conservative political currents provided the ideological underpinning for the emergence of many sentencing reforms.

In sum, the Structural-Marxist model suggests that rational sentencing policies in recent years were produced by social contexts characterized by deteriorating economic conditions, increasing fiscal difficulties, a large problem population, a large new class, a large state criminal justice apparatus, and a prevailing conservative political ideology.

Pluralist Interpretation

A Pluralist-informed description of the social contexts which produced sentencing reform might begin with the governmental response to the crime problem. Individuals and groups demanded "direct and rational responses to criminality" (Cohen, 1985:91). The government responded to the public outcry over rising criminality by implementing reformist policies which allowed for explicit punishment of those who threaten the safety and infringe upon the rights of others. In this manner, reformed sentencing policies better enabled the government to uphold the fundamental principles of liberal society.

The availability of a centralized agency to implement these policies tempered the government's capacity to act. Governments with highly centralized justice operations were better equipped to implement new sentencing policies. Centralized justice operations, unlike decentralized agencies, maintained the bureaucratic control necessary to ensure proper and uniform implementation of new sentencing policies. Thus, the most extensive reform policies were implemented by governments with centralized justice operations.

Governments blessed with an educated citizenry, a well-trained cadre of state employees, and, subsequently, enlightened interest groups benefited from these individuals' ideas and input concerning new sentencing policies. Where individuals could not claim originality, their advanced education enabled them to maintain an open-minded attitude toward innovations occurring in other states. They were also able to suggest workable adaptations of these new ideas for use in their states. Thus, new, more rational approaches to sentencing policy occurred in these enlightened and receptive environments.

The trend toward conservatism during the 1970s also played a key role in the development of new sentencing policies. Beginning in 1964 and continuing throughout the early 1980s, "law and order" was an important plank in conservative political platforms (Finckenhauer, 1978). During their period of political dominance, conservative candidates stressed the right of personal safety and the virtues of a

relatively crime-free society. Cohen (1985:245) explains how this conservative climate permeated the political arena and nurtured the sentencing reform movement:

Conservatives-so the story goes on-in the face of rising crime rates, general threats to order and institutional authority and then the apparent evidence that liberal solutions were played out, reaffirmed their traditional goals of deterrence, incapacitation, and retribution by imposing harsh punishments. The liberal left "capitulated" thinking that if the state could not be trusted to do good and if doing good anyway had ambiguous results, then we should at least, let the system be fair, just, open and safe from abuse. So came the birth of the "justice model" or the "back to justice movement."

In sum, this Pluralist-based model describes the social contexts which produced sentencing reform as consisting primarily of responsive governments acting to ensure the protection of individual liberties through the implementation of rational sentencing policies. The centralization of the state's criminal justice agencies, the number of educated citizens available to propose and accept new ideas, and the conservative political climate all further conditioned and created this context for change.

CHAPTER III

LITERATURE

To what extent are the theoretical perspectives on social control policy supported by empirical research? A review of the relevant literature instructs us here.

I. MARXIST LITERATURE

Marxist analyses of social control cluster in two areas: 1) the relationship between class structure and social control policy, and 2) the relationship between economic conditions and social control policy, including analyses of sentencing reform in the U.S.

Marxist discussions of the relationship between class structure and social control policies (Spitzer, 1975; Fox, 1983) attempt to explain why the young, the poor, the minorities, and the working class are the likely objects of control in modern capitalist societies. Answers to this question provide clues as to why social control policies result in the incarceration of a disproportionate percentage of this segment of the population in capitalist societies such as the U.S.

Consider for example, Spitzer's (1975) explanation of how members of the lower class become the targets of control policies in capitalist societies. He contends that these unemployed and alienated individuals compose a potentially volatile group which must be neutralized during economic downturns. This neutralization may entail incarceration or

the implementation of policies whereby threatening individuals can be readily processed and labeled deviant. Thus, membership in "feared" social classes greatly increases one's chances of being formally processed during economic crises in capitalist societies.

Marxist examinations of the relationship between economic conditions and social control policy build on the work of Rusche and Kirchheimer (1938). They state that every system of production gives rise to its own forms of punishment. These authors further contend that punishment policies in a society reflect the prevailing ideologies of that society. Understood in this manner, Rusche and Kirchheimer explain how the use of incarceration as the dominant form of punishment serves the needs of and is a logical development in modern capitalist societies (Rusche and Kirchheimer, 1939; Rusche, 1980).

General historical analyses (Scull, 1977; Spitzer and Scull, 1977a; 1977b; Spitzer, 1979; Humphries and Greenberg, 1981) support this economic conditions-social control policy relationship. These works trace the development of social control policy from pre-capitalist to capitalist society and from capitalist to modern capitalist society. In each stage of development changing economic conditions substantially determine the corresponding social control policies.

Specific historical analyses (Takagi, 1980; Adamson 1983; 1984) also reveal this relationship. For example, studies of the South from 1790 to 1815 found that

correctional policy varied from treatment during times of prosperity to punishment during periods of economic downturn. Also, studies of Pennsylvania during the same time period explain that "punishment by private and solitary labor" at the Walnut Street Jail replaced "hard labor, publicly and disgracefully imposed" due to fiscal crises which plagued states in the aftermath of the American Revolution (Takagi, 1980).

The emergence of the convict lease system in the South illustrates how changing economic conditions lead to changes in social control policy. After the Civil War, several Southern states unable to withstand an additional economic liability devised policies to transform the potential cost of housing convicts into additional revenues. State convicts were leased to plantation owners, coal mining companies, and others needing cheap labor. States received an economical method of punishing offenders; entrepreneurs and industrialists gained a supply of laborers. These provisions were vital to the states and private enterprise given the economic climate in the South at this time (Adamson, 1983). In sum, these historical examples illustrate how social control policies "originate in response to modifications in the political economy" (Takagi, 1980:55).

Discussions of the emergence of sentencing reform (Greenberg and Humphries, 1980; Platt, 1982) provide examinations of the rationale for and political forces which supported this innovation. Here researchers explain that

determinate sentencing replaced indeterminate sentencing to end gross disparity in punishing offenders, coerced rehabilitation, and unlimited discretion in inmate release decisions. They cite the political alliance between the New Left, liberals, and conservatives as an important catalyst in this reform process.

Examinations of the bases of sentencing reform (Clarke, 1978; Paternoster and Bynum, 1982; Cavender, 1984) reveal reform advocates' appeals to neo-classical philosophy. They explain how this philosophy instructs proponents to assume that: 1) rational people break the law and deserve punishment, and 2) justice is fairness.

Critiques of these philosophical justifications posed the following questions: where does a consideration of structural inequalities fit into the assumption of justice and fairness (Cavender, 1984)?, and what more are these assumptions but moralistic, individualistic, and simplistic approaches to social control (Clarke, 1978)?

Others assume the primacy of material conditions and use Marxist theory to explain how economic crises produced sentencing reform (Clarke, 1978; Reiman and Headlee, 1981; Paternoster and Bynum, 1982; Platt, 1982; Fox, 1983). For example, these studies revealed that the initial phase of the reform process occurred when economic instability produced increasing criticism of the state. During this time the state received the blame for the continuing economic downturn, for allowing capitalists to commit crimes as they

competed for diminishing profits (Reiman and Headlee, 1981), and for neglecting problem populations that were normally "bought off during times of affluence" (Paternoster and Bynum, 1982).

These state-attributed failures resulted in a legitimacy crisis which prompted the state to assume a more coercive character. New punishment policies were the manifestations of this coercive character. These policies constituted appealing alternatives to ideologically and economically unjustifiable "treatment" policies (Clarke, 1978). They also exhibited the state's unwillingness to tolerate lawlessness (Reiman and Headlee, 1981). In short, new sentencing policies emphasizing punishment and fairness provided the "heavy ideological work" necessary to justify coercive controls (Paternoster and Bynum, 1982) and facilitated "an ideological cutting-loose from the treatment ethic" (Clarke, 1978:59).

In sum, Marxist analyses of sentencing reform interpret recent changes in social control policy as responses to a "penal crisis rooted in the larger crisis of capitalism" and "[expressions] of a much more profound reorganization of the political economy" (Platt, 1982:38). Viewed in this manner, sentencing reforms are products of contemporary political and economic conditions masked in ideological mystifications (Fox, 1983).

II. PLURALIST LITERATURE

Pluralist studies of social control include general treatments of policy change, and analyses of specific changes, including changes in criminal sentencing.

General pluralist treatments of changes in social control policies (Berk and Rossi, 1977; McGee, 1981) focus on the interests which influence correctional decision-making. Important interest groups and actors discussed in this research include governors, legislators, law enforcement and corrections officials, judges, state attorneys and defense lawyers. Other significant contributors include labor unions, state bar associations, lobbyists, the mass media, inmates' families, professional and service clubs, ethnic organizations, churches, educational establishments, mayors, sheriffs, and citizen crime commissions.

These treatments also include examinations of the political dynamics of the policy reform process. For example, McGee (1981) stresses the importance of the relationship between state correctional agencies and "controlling political forces" in developing reforms. Also, the role of strong coalitions comprised of legislators and state executives who claim correctional reform as their "turf" is a key component of Berk's and Rossi's (1977) analysis.

Studies of specific changes in social control policy (Miller et al., 1977; Hagan, 1979; Krajick, 1983; Jacobs, 1983) also concentrate on interest groups which shape these

policies. Jacobs' (1983) discussion of the interaction between legislators, business interests, and coalitions of community groups which brought community-based corrections to Vienna, Illinois, exemplifies this research.

The politics of the reform process provide another focus for these analyses. For example, Hagan (1979) discusses the political maneuvering involved in passing reform legislation, Krajick (1983:34) addresses the political considerations which led several states to retain discretionary parole, and Jacobs (1983) concludes that the foundation for correctional change must be delicately laid in the political environment.

Pluralist examinations of criminal sentencing reform (Gettinger, 1977; Tonry and Morris, 1978) also reveal several interests which condition this reform process. They emphasize the role of influential individuals, interest groups, and governmental officials in producing sentencing reforms. Prisoners' groups, civil libertarians, scholars, and corrections officials are also described as the primary movers in the push for determinate sentencing policies.

The political nature of the sentencing reform process is also examined in these works. For example, they detail sentencing reform proponents' use of works by the A.F.S.C., Von Hirsch, Morris, Fogel, and the Twentieth Century Fund Task Force on Criminal Sentencing to support their position during political debates (Tonry and Morris, 1978). Also, a description of "strange and weird" coalitions which united

liberals and conservatives in support of determinate sentencing policies comprises a part of these analyses (Gettinger, 1977). Finally, these works describe the negotiation and compromise between various interests competing in the political arena which produced "acceptable" reform bills.

III. CRITICAL ASSESSMENT OF THE LITERATURE

A balanced assessment of the foregoing Marxist and Pluralist research highlights several strengths and weaknesses.

Marxist Literature

Recent Marxist-inspired research exhibits several accomplishments. For example, treatments of the class structure-social control policy relationship (Spitzer, 1975) supply theoretical refinements and suggest new directions for further research. Also, studies of the economic conditions-social control policy relationship (Scull, 1977; Spitzer and Scull, 1977a; 1977b; Spitzer, 1979; Humphries and Greenberg, 1981; Takagi, 1980; Adamson, 1983; 1984) provide examinations of general developments and specific changes in social control policies. Finally, analyses of criminal sentencing reform (Clarke, 1978; Greenberg and Humphries, 1980; Reiman and Headlee, 1981; Paternoster and Bynum, 1982; Platt, 1982; Fox, 1983; Cavender, 1984) provide examinations of a recent, specific, and extensive change in social control policies.

This research also constitutes the initial efforts at applying critical sociological analysis to social control phenomena.

Given these improvements, several shortcomings remain. First, analyses of the class structure-social control policy relationship (Spitzer, 1975) provide very little beyond initial theoretical refinements and suggestions for further research. Additional works which consider the complexity of class structure in modern capitalist society and how it is related to changes in social control policies are badly needed.

This literature also exhibits a high degree of theoretical abstraction. It rarely includes specific examples to support theoretical claims and lacks reports of empirical research. Empirical analyses of specific social control policies produced by the class structure of modern capitalist society are needed to clarify Marxist theories of class structures and social control policies.

Secondly, the economic conditions-social control policy literature suffers from a lack of empirical research. None of these works offer a careful analysis of a specific widespread change in penal policy. They deal with specific isolated changes or general widespread trends. This weakness remains despite the occurrence of recent widespread changes in social control policy. Social control policy changes in response to the decline of rehabilitation programs, the prisoners' rights movement of the early 1970s, and the

effect of determinate sentencing are a few of the several changes ripe for Marxist analysis.

Also, Marxist analyses of sentencing reform include very little beyond abstract theoretical and philosophical discussions. These analyses are simplistic and underdeveloped. For example, when Reiman and Headlee (1981) discuss new sentencing policies as state efforts to reinforce its commitment to law and order, the complexities of class structure in modern capitalist societies are ignored. Speaking generally about the capitalist class committing offenses fundamentally no different from offenses committed by the lower class, they do not address the role of various "other" classes such as state managers, academics, etc. in the emergence of sentencing reform. Also, when others (Paternoster and Bynum, 1982) explain how worsening economic conditions constrain the state to rely on coercive policies to prevent a potential legitimacy crisis, they do not explain how other conditions or structures may affect this relationship.

Few Marxist analyses of sentencing reform are based on empirical research. Some analysts (Greenberg and Humphries, 1980; Platt, 1982; Fox, 1983) cite events that preceded determinate sentencing or "problems" which facilitated this reform, but their analyses are descriptive. They present no empirical tests of hypotheses which explain the emergence of sentencing reform and provide no concrete examples or data to support their descriptions.

Improving Marxist analyses of sentencing reform awaits initial empirical research efforts. It is no longer sufficient to simply state that reform measures are repressive, discriminatory, and coercive (Platt, 1982; Fox, 1983) without analyzing the specifics of these policies. Comprehensive empirical analyses are needed to discern the specific changes in sentencing policies resulting from the implementation of determinate sentencing.

Also, empirical research is needed to detail where these changes took place and to examine the diversity of these changes. Knowledge of the diversity of these changes coupled with the knowledge of the unique characteristics of each particular region may provide increased understanding of the sentencing reform movement.

In sum, these works comprise the groundwork for future Marxist analyses of changes in the social control policies of capitalist societies. However, in varying degrees each category of this literature can be cited for three basic weaknesses: 1) an underdeveloped recognition of the complexity of capitalist social formations, 2) an absence of analyses of recent and specific changes in social control policies, and 3) a lack of properly conceived empirical research to test theoretical notions.¹

¹Greenberg (1977; 1980), Jankovic (1977), Wallace (1981), and Box and Hale (1982) present carefully constructed empirical tests of Marxist theories concerning the relationship between the labor-market and incarceration. Because these works do not explicitly deal with social control policies, they are not specifically relevant to this research. While these are commendable efforts, similar studies of social control policies do not exist.

Pluralist Literature

The Pluralist literature also exhibits several strengths. General treatments of changes in social control policy (Berk and Rossi, 1977; McGee, 1981) identify the myriad interests which contribute to the policy process. They also provide some basic insight into the political dynamics of policy change. Analyses of specific changes in social control policy (Miller et al., 1977; Hagan, 1979; Krajick, 1983; Jacobs, 1983) describe the important interests and political processes which produced these changes. The criminal sentencing reform literature (Gettinger, 1977; Tonry and Morris, 1978) explores a recent change in social control policy, provides detailed analyses of sentencing reform in four "pioneer states", and reviews the major forces which shaped this movement.

Given these accomplishments several weaknesses remain. For example, the general discussions of correctional policy draw their findings from very small samples and their analyses are atheoretical. Their conclusions rely on very general case studies. Also, the pluralist perspective lurks implicitly behind discussions of interest groups and powerful coalitions, but there is no effort to systematically link the observations to a pluralist or any other theoretical framework.

The analyses of specific changes in social control policy exhibit the same weaknesses. Some (Hagan, 1979; Krajick, 1983; Jacobs, 1983) do not develop their pluralist

theoretical underpinnings. Others (Miller et al., 1977; Jacobs, 1983) base their analyses on case studies alone. A few (Krajick, 1983; Jacobs, 1983) lack carefully constructed and rigorously employed empirical research programs.

Similarly, at least one pluralist analysis of sentencing reform relies solely on case studies (Gettinger, 1977). While this approach may have been appropriate in 1977, this is no longer true. These case studies do not provide the empirical analyses needed to compare the changes in sentencing policy implemented in several states.

None of the pluralist-based analyses of sentencing reform explicates a fully developed pluralist theory of sentencing policy change. The pluralist perspective remains implicit throughout these works. One must assume the authors' pluralistic orientation from discussions of interest groups, coalitions, and political processes.

None of these discussions of sentencing reform constitute a carefully planned and rigorously followed research program. These analyses neglect stringent studies and rely on journalistic accounts and unsubstantiated ruminations to produce insight into changes in criminal sentencing. This inhibits a comprehensive analysis of the sentencing reform movement in the U.S.

A final criticism of all these pluralist discussions of social control concerns specification of causally important changes which set the policy reform process in motion. Rarely, if ever, do these studies describe important

catalysts which inspire political action by interest groups, coalition formations, and, ultimately, legislative debate and government action. These causal forces remain unexamined and unexplicated.

In sum, an assessment of Pluralist analyses of social control policies reveals four basic weaknesses. These include: 1) a lack of rigorous empirical research, 2) the absence of an explicit and carefully constructed pluralist theoretical framework, 3) limited scope and an over-reliance on case studies, and 4) failure to specify important causal factors which trigger the pluralist political reform process.

Empirical research which tests operationalized theoretical models would begin to remedy the weaknesses in the social control policy literature. To this end the theoretical models of sentencing reform outlined in Chapter II provide the basis for such research.

An analysis of sentencing reform which tests these theoretical models contributes two basic improvements to the social control literature. First, it provides explicit theories of a specific social control policy reform and tests their relative explanatory merits. Second, it examines several hypotheses concerning a specific social control policy reform. These hypotheses are:

1. The greater the level of economic crisis the greater the extensiveness of sentencing reform.
2. The greater the level of fiscal strain the greater the extensiveness of sentencing reform.

3. The greater the size of the new class/educated population the greater the extensiveness of sentencing reform.
4. The greater the size of the problem population the greater the extensiveness of sentencing reform.
5. The greater the size of the criminal justice apparatus/centralized justice agencies the greater the extensiveness of sentencing reform.
6. The greater the strength of the conservative political ideology/political conservatism the greater the extensiveness of sentencing reform.
7. The greater the level of criminality the greater the extensiveness of sentencing reform.

CHAPTER IV

METHODS

The principle analytic technique used in this research is multiple regression. This technique allows for the simultaneous examination of the effect of several independent variables upon a dependent variable. Here it provides a method of evaluating the effects of independent variables comprising the Structural-Marxist and Pluralist models on the dependent variable, sentencing reform.

I. OPERATIONALIZATION AND DATA

The state is the unit of analysis. Operational measures were constructed and data were collected for the dependent variable, independent variables, and non-modeled variables for each state because the sentencing policy changes of interest in this research occurred at the state-level.

Dependent Variable

A bewildering number of changes marked the enactment of sentencing reform in the U.S. While the scope of these changes vary greatly, all exhibit a common element. To a greater or lesser extent, these changes include attempts to rationally minimize or manage the amount of discretion afforded criminal justice functionaries in criminal sentencing decisions. For this reason, I refer to sentencing reform in the U.S. as the implementation of rationalized discretion management.

Nine specific code changes which typify rational discretion management were made in many of the 50 states. These include: 1) abolition of discretionary parole, 2) establishment of state-wide sentencing guidelines, 3) establishment of state-wide parole guidelines, 4) establishment of increased penalties for repeat or habitual offenders, 5) establishment of increased penalties for certain felony offenses, 6) establishment of mandatory sentences for certain felony offenses, 7) reduction or elimination of good-time credits for felony offenders, 8) establishment of optional, experimental, or selectively imposed sentencing guidelines, and 9) establishment of optional, experimental, or selectively imposed parole guidelines.

In order to construct a measure of the extent of sentencing reform, each state was given a score of one for each of these changes it made. The scores were summed for each state to obtain the final value of the dependent variable. This became each state's "rationalized discretion management" score. This variable ranges from zero (no changes) to five.

Data detailing which states made none, one, or several of these changes and the years in which they were enacted derives from several sources. First, I consulted published works which reported sentencing changes by state (Shane-DuBow et al., forthcoming; Galvin et al., 1983; Cavender and Musheno, 1983). Complete data for twenty-five states were located from these sources. For the remaining twenty-five

states I wrote the State Attorney General and the legislative research offices to request this information.²

Complete data for twenty-one states were obtained from responses to these requests. Data for the remaining four states were collected from state codes annotated.

Independent Variables

To assess the conditions in each state prior to sentencing reform, all independent variables were measured over a one- to ten-year period prior to the enactment of the most significant change in sentencing policy. Where no major reform legislation was enacted, these variables were measured prior to the enactment of the earliest minor change. Where no changes occurred, variables were measured prior to the year in which the most states enacted sentencing reforms (i.e., 1979).

Relevant independent variables of the Structural-Marxist model are: 1) economic crisis, 2) fiscal strain, 3) size of the problem population, 4) size of the new class, 5) size of the state criminal justice apparatus, and 6) conservative political ideology. Operationalizations and data for each are detailed below.

Changes in the rate of unemployment are an index of fluctuations in economic conditions. They are sensitive to economic downturns as evidenced by high unemployment during

²See pages 83-84 for a copy of the request sent to the State Attorneys General and legislative research offices.

economic crises throughout history (e.g. the Great Depression). For this reason, the average annual rate of change in the unemployment rate over a ten-year period prior to the reform year is used in this analysis to measure of the level of economic crisis in each state.³ The highest average annual rates of change in unemployment denote the worst economic crises. This variable ranges from $-.03$ to $.14$.

State per capita expenditures constitute one measure of fiscal conditions. Unlike other measures such as state deficit spending, this measure is relatively straightforward and its interpretation is complicated less by the complexities and ideosyncracies of state fiscal policies. Because of this, for each state I employ the average annual rate of change in per capita expenditures over a ten-year period prior to sentencing reform as a measure of fiscal strain.⁴

This measure is calculated by subtracting the states' average annual rates of change from the national average annual rate of change for the same time period. This provides a comparative measure of the level of fiscal strain.

³Unemployment data were obtained from the Manpower Report of the President (U.S. Department of Labor, Manpower Administration, 1962; 1963; 1964; 1965; 1966; 1967; 1968; 1969; 1970; 1971; 1972; 1973; 1974; 1975; 1976; 1977; 1978; 1979; 1980; 1981; 1982).

⁴Per capita expenditures data were obtained from Government Finances in the United States (U.S. Department of Commerce, Bureau of the Census, 1962a; 1963; 1964; 1965; 1966; 1967; 1968) and State Government Finances (U.S. Department of Commerce, Bureau of the Census, 1969; 1970; 1971; 1972; 1973b; 1974; 1975; 1976; 1977; 1978; 1979; 1980; 1981; 1982).

Higher differences between a state's average annual rate of change and the national average annual rates of change indicate the state's inability to keep pace with spending levels for that period. The greater the difference the greater the fiscal strain in a particular state. This variable ranges from $-.06$ to $.04$.

The percentage of the state's population comprised of 15-34 year-old black and hispanic males in the year prior to reform is the measure of the size of the problem population.⁵ This measure was selected for two reasons. First, individuals in this group, which is defined by age, sex, and minority status, have exhibited traditionally higher rates of unemployment, officially recognized criminality, and incarceration than other similarly defined groups. Secondly, these physical and behavioral attributes are all included in Spitzer's (1975) descriptions of the problem population.

Census data from 1970 and 1980 were used to estimate the annual increase in the problem population. The estimated annual increase was used to calculate the size of the problem population for any given year (e.g. the 1973 problem population = the 1970 problem population + 3 x the estimated annual increase). The final measure was calculated by dividing the state's problem population one year prior to

⁵Data were obtained from Census of the Population: 1970 Charactersitics of the Population (U.S. Department of Commerce, Bureau of the Census, 1973b) and U.S. Census of the Population: 1980 General Social and Economic Characteristics (U.S. Department of Commerce, Bureau of the Census, 1983).

reform by the state's total population for the same year. This variable ranges from .17% to 7.1%.

The percentage of the state's population comprised of individuals who have completed four or more years of college education by the year prior to reform is used to estimate the size of the new class.⁶ This measure taps the distinguishing characteristic of this class--the experience of university or college training in an academic setting which encourages intellectual thought.

Census data from 1970 and 1980 were used to estimate the annual increase in the size of the new class. The estimated annual increase was used to calculate the size of the new class for any given year (e.g. the size of the new class in 1973 = the size of the new class in 1970 + 3 x the estimated annual increase). The final measure was calculated by dividing the state's new class one year prior to reform by the state's total population for the same year. This variable ranges from 4.9% to 16.4%.

Data concerning the number of employees and governmental expenditures for justice administration have been collected annually since 1971. Due to the complexities of intergovernmental payments, expenditures are the less straightforward of these two sources of information

⁶Data were obtained from Census of the Population: 1970 Characteristics of the Population (U.S. Department of Commerce, Bureau of the Census, 1973b) and U.S. Census of the Population: 1980 General Social and Economic Characteristics (U.S. Department of Commerce, Bureau of the Census, 1983).

concerning the size of the various justice apparatuses. Thus, I decided to use the percentage of the state criminal justice workforce which is comprised of state-level employees to measure of the size of each states' state criminal justice apparatus in the year prior to sentencing reform.⁷ This measure is derived by dividing the total number of state-level criminal justice employees by the total number of criminal justice employees (i.e., state, county, and local). Where data were unavailable for 1980-1982 the most recent available estimates (i.e., 1979) were used. Larger percentages of state-level employees indicate a larger state apparatus. This variable ranges from 18.2% to 69.1%.

The percentage voting for conservative presidential candidates (i.e., Nixon and Wallace in 1968; Nixon in 1972; Ford in 1976; Reagan in 1980) in the election prior to reform is employed to measure the strength of conservative political ideology in a particular state.⁸ The unavailability of regularly collected state-level political data necessitated this use of voting behavior as a proxy measure of political ideology. Voting behavior in Presidential elections in particular was selected for use because it provides

⁷Data were obtained from Expenditures and Employment Data for the Criminal Justice System (U.S. Department of Justice, 1972; 1973; 1974; 1975; 1976; 1977; 1978; 1979).

⁸State voting data were obtained from "Opinion Roundup" (Public Opinion, 1984). National vote data were obtained from the Statistical Abstract of the United States: 1985 (U.S. Department of Commerce, Bureau of the Census, 1984).

a more standardized basis for comparison between states than comparisons of voting behavior in state elections.

To construct this comparative measure, the national conservative vote percentage was subtracted from the percentage of state voters voting for the conservative Presidential candidate(s). Higher positive scores on this variable were received by the states in which the conservative vote exceeded the national conservative vote for the relevant election. Thus, it is assumed that political beliefs in these states were relatively more conservative than states that scored near or below zero. This variable ranges from -13 to 14.

Constituent variables of the Pluralist model are: 1) level of criminality, 2) size of the educated population, 3) size of centralized criminal justice agencies, and 4) political conservatism. Their operationalizations and data are explained below.

Official crime statistics reported by the F.B.I. are the only available crime data which provide the annually reported reasonably comparable state-level data required for this analysis of increasing criminality. For this reason, the operational measures employed here were dictated by the manner in which these data were collected and reported in the Uniform Crime Reports.

After reviewing this data, I decided upon two measures of increasing criminality. I included both measures in this analysis because an increase in either general or violent

criminal behavior could produce the collective definition of a "crime problem" that is linked to the enactment of sentencing reforms.

The first provided an indicator of the general increase in criminality in a state prior to the enactment of sentencing reform. Here I calculated the average annual rate of change in total Index crime (i.e. murder, rape, robbery, aggravated assault, burglary, larceny/theft, and auto theft) over a five-year period prior to the enactment of sentencing reform.⁹ States with higher average annual rates of change are assumed to experience a comparatively greater general increase in criminality. This variable ranges from -1.0% to 33%.

The second measure is an indicator of the increase in violent criminal behavior in a state prior to the enactment of sentencing reform. For this measure, I calculated the average annual rate of change in total violent crime (i.e., murder, rape, robbery, and aggravated assault) over a five-year period prior to sentencing reform.¹⁰ States with higher average annual rates of change are assumed to experience a comparatively greater increase in violent crime. This variable ranges from -3.9% to 28.5%.

⁹Data were obtained from Crime in the United States: Uniform Crime Reports (U.S. Department of Justice, Federal Bureau of Investigation, 1967; 1968; 1969; 1970; 1971; 1972; 1973; 1974; 1975; 1976; 1977; 1978; 1979; 1980; 1981; 1982).

¹⁰Data were obtained from Crime in the United States: Uniform Crime Reports (U.S. Department of Justice, Federal Bureau of Investigation, 1967; 1968; 1969; 1970; 1971; 1972; 1973; 1974; 1975; 1976; 1977; 1978; 1979; 1980; 1981; 1982).

In measuring the size of the educated population, I was primarily interested in determining the percentage of individuals in a state who had achieved an advanced level of education. Following the convention of using years of education as a measure of level of education, I decided to define "advanced education" as completion of four or more years of college. In addition to its intuitive appeal, this definition is justified because it distinguishes between a rather large number of individuals who complete some post-high school education and those who complete enough years to attain, in most cases, a bachelors degree. For these reasons the operationalization and data sources for the educated population are the same as those for the new class variable in the Structural-Marxist model.

The size of state justice agencies can be used as a measure of the size of centralized justice agencies because they are arguably the most centralized of all of the criminal justice agencies in a state. This is evidenced by the fact that a solitary state official (e.g. Attorney General, Corrections Commissioner, etc.) has ultimate control over state agencies which have state-wide responsibilities. Also, they have bureaucratically-organized administrative structures whose main offices are located frequently in major urban areas.

Assuming that state justice agencies are the most likely agencies to exhibit centralization, the size of the state criminal justice agencies provides an indicator of the size

of the important centralized justice agencies in a state. For this reason, this variable is operationalized in the same manner as the variable "size of the state criminal justice apparatus" in the Structural-Marxist model.

In operationalizing political conservatism, I encountered the same problems that were encountered with the operationalization of conservative political ideology (i.e. the absence of annually collected state-level political data). Because these variables are very similar, I employed the same proxy measure--percentage voting for the conservative candidate(s) in Presidential elections--to estimate the level of political conservatism in a state prior to the enactment of sentencing reform. Thus, the operationalization and data sources for political conservatism and conservative political ideology are the same.

Non-Modeled Variables

Four non-modeled variables are also included in this analysis. They are: changes in the size of the prison population, correctional resource strain, region, and time period during which reform occurred. These variables serve as control and descriptive variables. As control variables they provide checks for factors which may significantly influence the extensiveness of sentencing reform, but are not included in either explanatory model. As descriptive variables they provide additional information concerning where and when the most extensive sentencing reforms took

place. Below I describe the operationalizations and data for these variables.

The average annual rate of change in the state prison population over a five-year period prior to sentencing reform provides the measure of fluctuations in the size of the state prison population.¹¹ Average annual rates of change range from -9.4% to 27.6%.

The number of prisoners per correctional employee is used as an indicator of correctional resource strain.¹² Others have found that this is highly correlated with prison overcrowding (Mullen et al., 1980:66), an unmistakable condition of correctional resource strain. This indirect measure is used in this analysis because of the unavailability of annually reported comparable state-level data concerning prison overcrowding.

¹¹Prison population data were collected from Prisoners in State and Federal Institutions for Adult Felons Department of Justice, Bureau of Prisons, 1967; 1968; 1969; 1970; 1971), Prisoners in State and Federal Institutions on December 31 (U.S. Department of Justice, LEAA/BJS, 1974; 1975; 1976a; 1977; 1978; 1979; 1980; 1981), and Sourcebook of Criminal Justice Statistics (U.S. Department of Justice, LEAA/BJS, 1976b; 1983).

¹²Data for correctional employees were collected from Expenditure and Employment Data for the Criminal Justice System (U.S. Department of Justice, 1972; 1973; 1974; 1975; 1976; 1977; 1978; 1979; 1980). Where correctional employee data were not available for 1980-82, the most recent available data (i.e., 1979) were used. State prison population data were obtained from Prisoners in State and Federal Institutions for Adult Felons (U.S. Department of Justice, Bureau of Prisons, 1967; 1968; 1969; 1970; 1971), Prisoners in State and Federal Institutions on December 31 (U.S. Department of Justice, LEAA/BJS, 1974; 1975; 1976; 1977; 1978; 1979; 1980; 1981), and Sourcebook of Criminal Justice Statistics (U.S. Department of Justice, LEAA/BJS, 1976b; 1983).

This measure is calculated by dividing the total number of state prisoners incarcerated one year prior to reform by the total number of correctional employees during the same year. A comparatively large number of prisoners per employee indicates that correctional resources are more limited in these particular states. This variable ranges from .35 to 7.0.

Regional distinctions are routinely employed in other analyses of this type (Hagan, 1979; Carroll and Doubet, 1984). Here states were coded by region (i.e., Northeast, North Central, South or West) pursuant to regional distinctions employed in the 1970 and 1980 U.S. Census. Dummy variables were constructed to distinguish between states by region.

To construct the time period variable I arbitrarily divided the total time period during which all of the sentencing reforms analyzed in this study occurred (1971-1982) into four periods each consisting of three years. The time period during which sentencing policies were reformed (i.e., 1971-73; 1974-76; 1977-79; 1980-82) was coded for each state. Those states which made no changes were assigned the code for the time period in which the most states enacted reforms (i.e., 1977-79). Dummy variables were constructed to distinguish between states according to the time period during which their reforms occurred.

II. DATA ANALYSIS

Assessment of the Models

The dependent variable (rationalized discretion management) is regressed on the independent variables comprising the Structural-Marxist model. Stepwise inclusion is used to determine order of entry. The same method of analysis is used in a separate regression equation examining the independent variables of the Pluralist model.

The results of these equations reveal: 1) variables which do not meet the statistical criteria necessary to enter the equations¹³, and 2) variables which are related to the dependent variable in a direction opposite to that which is hypothesized. These variables are deleted from further statistical analyses.

Independent variables from both models which entered the initial regression equation and are related to the dependent variable in the hypothesized direction are included in two additional regression equations (one for each model). Stepwise inclusion is again used to determine the order of entry.

The results of these two equations is used to assess the relative explanatory merits of the most parsimonious

¹³Variables do not enter the regression equation if the proportion of their variance which is not explained by other dependent variables is less than 0.1%. This rather low tolerance level is used to obtain the most complete output for stepwise regression provided by the statistical package used for this analysis (Nie et al., 1975).

Structural-Marxist and Pluralist models. This assessment is based on the amount of explained variance accounted for in each model, the number of variables which achieve statistical significance, and an examination of the relative size of standardized regression coefficients.

The R^2 calculated after the final step of the second set of regression equations is used to determine which of the restricted models explains the most variance in the dependent variable.

The F-statistic calculated for each variable after the final step of the second set of regression equations is used to determine which variables achieve statistical significance. Although .10 levels of significance are not reported normally, both the .05 and .10 levels are reported here. The break with convention is justified due to the suggestive nature of these findings which dictates that any potentially instructive information about these variables should be recognized.

Lastly, the size of the standardized regression coefficients for each variable in both models is examined. These examinations are impressionistic instead of statistical. They are included in order to glean additional indications from these data which would otherwise be overlooked if analyses were limited to strict statistical tests.

Such examinations of the standardized regression coefficients are justified in this instance because of the small number of cases ($N=50$). This contributes to standard error

and in turn inhibits some variables from obtaining statistical significance. Also, because this study employs census data from all states instead of a sample of states, we are not constrained to rely solely on tests of significance and inferential statistics, but are free to use regression analysis for descriptive purposes.

Examining Non-Modeled Variables

Multiple regression analysis is also used to examine the non-modeled variables' contribution to our understanding of the emergence and extent of sentencing reform. Three equations are used in this analysis. In the first, the dummy variables for region are examined. The second includes the dummy variables for time period. The final equation contains the prison population variable, the correctional resource strain variable, and the region and time period variables which explain the most variance in the dependent variable. Stepwise inclusion is used in all these equations. The results of these equations are evaluated using R^2 , the F-statistic and the standardized regression coefficients for each variable.

CHAPTER V

FINDINGS

I. THE STRUCTURAL-MARXIST MODEL

Table I displays the results of the regression of rationalized discretion management on the full Structural-Marxist model.¹⁴ They reveal that the variables "economic crisis," "fiscal strain," "size of the new class," and "size of the problem population" are related positively to rationalized discretion management.

TABLE I
SUMMARY TABLE FOR REGRESSION OF RDM ON THE FULL
STRUCTURAL-MARXIST MODEL

Independent Variable	r	B	R ² Change	F
Economic Crisis	.29	.23	.09	2.42
Fiscal Strain	.13	.22	.05	2.36
Size of New Class	.20	.26	.04	3.86*
Size of Problem Population	.24	.22	.04	2.68
Size of State Criminal Justice Apparatus	-.25	-.23	.04	2.57
Conservative Political Ideology	.04	†	†	†

R² = .26

† Did not enter equation

*p ≤ .10

¹⁴See TABLE VIII, page 85 for the zero-order correlation matrix which contains all of the variables used in this analysis.

These findings are consistent with the hypothesized relationships.

Only conservative political ideology fails to meet the statistical criteria necessary to enter the equation. Consequently, this variable is excluded from further statistical analyses.

The size of the state criminal justice apparatus varies inversely with rationalized discretion management. This finding contradicts the hypothesized relationship between these two variables. For this reason, I excluded the size of the state criminal justice apparatus variable from further statistical analyses.

Table II displays the results of the regression of rationalized discretion management on the restricted Structural-Marxist model. All of these variables entered the

TABLE II

SUMMARY TABLE FOR REGRESSION OF RDM ON THE
RESTRICTED STRUCTURAL-MARXIST MODEL

Independent Variable	r	B	R ² Change	F
Economic Crisis	.29	.30	.09	4.47*
Fiscal Strain	.13	.27	.05	3.65**
Size of New Class	.20	.20	.04	2.29
Size of Problem Population	.24	.23	.04	2.66
R ² = .22				

*p < .05

**p < .10

equation and were related to the dependent variable in the hypothesized direction.

The independent variables "economic crisis," "fiscal strain," "size of the new class," and "size of the problem population" combine to explain 22% of the variance in the dependent variable. Of these four variables, two achieve statistical significance: economic crisis (.05 level) and fiscal strain (.10 level).

Although the size of the new class and the size of the problem population variables do not achieve statistical significance, they obtain relatively sizable standardized regression coefficients (.20 and .23) and simple correlation coefficients (.20 and .24). These two variables also contribute 8% of the total variance explained by the restricted Structural-Marxist model.

II. THE PLURALIST MODEL

Table III shows the results of the regression of rationalized discretion management on the variables in the full Pluralist model. This regression reveals that only two variables--"total Index crime" and "size of the educated population"--are related to rationalized discretion management in the hypothesized direction.

The variable political conservatism does not meet the statistical criteria to enter the initial Pluralist equation. Consequently, I deleted this variable from further statistical analyses.

TABLE III
SUMMARY TABLE FOR REGRESSION OF RDM ON THE FULL
PLURALIST MODEL

Independent Variable	r	B	R ² Change	F
Size of Educated Population	.20	.28	.08	3.37**
Size of Centralized Criminal Justice Agencies	-.25	-.31	.06	4.69*
Total Violent Crime	-.23	-.17	.02	1.26
Total Index Crime	-.08	.09	.01	0.31
Political Conservatism	.04	†	†	†

R² = .17

† Did not enter equation

*p < .05

**p < .10

Both the size of the centralized criminal justice agencies and the total violent crime vary inversely with rationalized discretion management. These findings contradict the hypothesized relationships between these variables and rationalized discretion management. I excluded both independent variables from further statistical analyses.

The results of the regression of rationalized discretion management on the restricted Pluralist model are presented in Table IV. This reveals that the size of the educated population variable is the only predictor which enters this equation. Although it explains 4% of the variance in the dependent variable, this variable does not achieve statistical significance.

TABLE IV
SUMMARY TABLE FOR REGRESSION OF RDM ON THE
RESTRICTED PLURALIST MODEL

Independent Variable	r	B	R ² Change	F
Size of Educated Population	.20	.20	.04	2.10
Total Index Crime	-.08	†	†	†
R ² = .04				
†Did not enter equation				

III. NON-MODELED VARIABLES

The first step in the analysis of the non-modeled variables entailed the regression of rationalized discretion management on the dummy variables denoting region. Table V presents the results of this regression.¹⁵

While none of these variables achieve statistical significance, the dummy variable for the South is the best regional predictor of rationalized discretion management. It is included in the final equation which analyzes other important non-modeled variables.

¹⁵I report the largest standardized regression coefficient and F-ratio obtained from two regression equations. The first excluded the dummy variable for the West. The second excluded the dummy variable for the Northeast. Deleting one variable was necessary in order to assess each region's contribution to explained variance. Regressing RDM on all four dummy variables for region would have resulted in 100% explained variance and no basis for judging the variables' relative contributions to explained variance.

TABLE V
SUMMARY TABLE FOR REGRESSION OF RDM ON
REGION DUMMY VARIABLES

Independent Variable	r	B	F
Northeast	.09	-.03	0.03
North Central	-.09	-.19	1.15
South	-.15	-.23	1.65
West	.16	.03	0.03

Next, I regressed rationalized discretion management on the dummy variables representing the four three-year time periods from 1971 to 1982. The results of this regression are reported in Table VI.¹⁶

TABLE VI
SUMMARY TABLE FOR REGRESSION OF RDM ON
TIME PERIOD DUMMY VARIABLES

Independent Variable	r	B	F
1971-73	-.23	-.19	0.42
1974-76	-.16	-.12	0.48
1977-79	.26	.46	3.35*
1980-82	-.03	.26	1.86

*p ≤ .10

¹⁶I report the largest standardized regression coefficient and F-ratio obtained from two regression equations. The first excluded the dummy variable for 1980-82. The second excluded the dummy variable for 1971-73.

The dummy variable for the time period 1977-79 is statistically significant. It was the best time-period predictor of rationalized discretion management and is also included in the regression equation which examines other non-modeled variables.

Table VII displays the results of the final regression equation. Here I regressed rationalized discretion management on the dummy variable for the South, the dummy variable for 1977-79, the variable "change in the size of the prison population," and the variable "correctional resource strain."

The non-modeled variables combine to explain 13% of the variance in rationalized discretion management. Only the dummy variable for 1977-79 achieves statistical

TABLE VII
SUMMARY TABLE FOR REGRESSION OF RDM ON
NON-MODELED VARIABLES

Independent Variable	r	B	R ² Change	F
1977-79	.26	.30	.07	4.02*
Change in the Size of the Prison Population	-.07	-.21	.03	1.95
South	-.14	-.20	.02	1.63
Correctional Resource Strain	.06	.17	.02	1.15
R ² = .13				

*p ≤ .10

significance. It contributes half of total variance explained by this set of variables. None of the standardized regression coefficients for the other non-modeled variables approach that of the 1977-79 time period variable.

IV. DISCUSSION OF RESULTS

The foregoing results suggest four conclusions. First, the Structural-Marxist model compared to the Pluralist model provides a relatively superior explanation of variation in the adoption of rationalized discretion management policies. The Structural-Marxist variables in both the full and restricted models explain more variance in the dependent variable than the Pluralist variables in either model. Two Structural-Marxist variables achieve statistical significance after deleting variables which did not enter and those inversely related to the dependent variable. None of the variables in the restricted Pluralist model achieve statistical significance. All of the Structural-Marxist variables in the restricted model obtain standardized regression coefficients that exceed those of the best predictor variable in the restricted Pluralist model.¹⁷

Second, the findings indicate that the size of a state's new class is an important predictor of its adoption of rationalized discretion management measures. The new

¹⁷The standardized regression coefficient is the same for the new class variable in the restricted Structural-Marxist model and the educated population variable in the restricted Pluralist model.

class variable achieves significance and contributes substantially to explained variance in the Structural-Marxist model. This variable also obtained a standardized regression coefficient comparable to those achieving statistical significance in the restricted Structural-Marxist model.

Third, analyses also reveal that the size of the state justice apparatus or centralized justice agencies is an important determinant of rationalized discretion management. The size of the state justice apparatus/centralized justice agencies variable was statistically significant in the full Pluralist model, contributed substantially to explained variance in both full models, and obtained relatively large standardized regression coefficients in both full models. Although I did not anticipate the correct direction of the relationship between this variable and the dependent variable, one cannot overlook the strength of the inverse relationship.

Finally, the performance of the 1977-79 time period variable in the time periods and non-modeled variables equations affirms its importance in explaining variation in rationalized discretion management. This variable was statistically significant and by far the best predictor of rationalized discretion management in both equations analyzing non-modeled variables.

In the following chapter I move to a theoretical interpretation of the findings. I also discuss the poor performance of some variables and the unanticipated performance of

others. I conclude with a discussion of the implications of this research.

CHAPTER VI

INTERPRETATION

This study has shown that four factors shaped the social contexts which produced sentencing reform in the U.S. and determined the extent of sentencing reform in each state. These factors are declining economic conditions in the states, increasing fiscal strain on the state governments, the size of the state's new class, and the size of the state's criminal justice apparatus.

The analysis thus confirms the Structural-Marxist contention that deteriorating economic conditions in the U.S. in recent years set the stage for new sentencing policies. Sentencing reform occurred in those states where the ability to provide monetary support and services to citizens and business declined. As fiscal strain and the resulting legitimation crisis (Habermas, 1975) became more acute, the number of rationalized sentencing policies enacted increased. States which experienced the most severe economic decline enacted the greatest number of rationalizing reforms. These new policies may have provided an avenue for asserting legitimacy that was desperately needed by states experiencing mounting fiscal difficulties throughout the 1970s. These state reforms reintroduced rationality into one component of an increasingly irrational capitalist system.

It is clear also that enactment and the number of rational sentencing policies enacted is partially determined

by the percentage of well-educated actors residing in a state. As the percentage of new class critics and problem solvers increases, the number of rationalized sentencing policies also increases. These findings support the Structural-Marxist argument that the size of important class fractions conditions changes in social control policy.

These research findings also lead us to a better understanding of the relationship between the size of the state justice apparatus and the emergence and extent of sentencing reform. They reveal that smaller state justice apparatuses enhance the likelihood and extent of sentencing reform in the states. This finding is hardly surprising. States with smaller state justice apparatuses must rely on local systems of justice administration although their control over these systems of justice is limited. Because this lack of control precludes reform through administrative decree, legislative reforms are the likely alternatives in these states.

Also, states with larger state justice apparatuses may provide the settings for movements in opposition to legislative changes. This opposition would originate in justice bureaucracies' attempts to preserve autonomy. Here, large state justice apparatuses would find administrative changes more palatable than new legislation that would usurp their control over sentencing policy.

In sum, the findings show that the size of state apparatuses subsequently contributes to the determination of change in social control policies. These interpretations

are consistent with the Structural-Marxist contention that the size of relevant state apparatuses conditions changes which affect their operation.

This research reveals one other variable which is related to sentencing reform: the 1977-79 time period. This suggests that not only did sentencing reform reach its peak during this period, but states reforming their sentencing policies at this time also made more extensive changes.

However, this finding cannot be construed to suggest that time period alone is a predictor of sentencing reform. There is nothing unique about this time period in and of itself to support such a conclusion. A somewhat more plausible interpretation of relationship between the 1977-79 time period and sentencing reform is that it is an artifact of the relationship between economic decline and sentencing reform. This interpretation is supported by the finding that the 1977-79 time period is highly correlated with the economic decline variable.

Alternatively, the relationship between time period and the extent of sentencing reform may tap the extent to which state's imitated each other in reforming their codes. During this time several states borrowed from the reform proposals of "pioneering states" (Gettinger, 1977). To the extent that this borrowing resulted in the adoption of similar reforms the relationship between time period and sentencing reform indicates that several states followed the fashionable reform plan of the day and does not suggest the presence of another determining factor.

In addition to revealing factors which shape the contexts which produce sentencing reform the results of this study also identify factors which do not shape these contexts for change. For example, the size of the problem population is not directly related to changes in social control policy. This finding points to the need to reexamine theories which explain changes in social control policy as intentional efforts to control specific populations (Spitzer, 1975). An improved theory may begin by conceptualizing these changes as efforts toward general control or rationalization of the social system. In other words, a more accurate explanation of social control policy reform may describe controlling problem populations as a secondary goal or latent function of the state's primary efforts to rationalize the capitalist system.

No clear and convincing link was found between political ideology or political conservatism and changes in sentencing policy. These results may be due to an overly narrow conceptualization of ideology as "conservative political ideology" in the Structural-Marxist model and an overly broad use of the concept "conservatism" (which includes economic, foreign policy, as well as justice policy conservatism) in the Pluralist model. A more confident rejection of the relationship between political ideology/conservatism and changes in social control policy awaits further clarification of these concepts.

This finding also remains tentative due to the unavailability of annually collected and comparable political-attitudes data. Attitudinal data, collected following the rigor of survey methodology, is needed to provide information concerning the political beliefs of the non-voting population not ascertained in voting-behavior data. Such data could replace voting-behavior data in future analyses and hopefully provide a true measure of political beliefs.

No relationship obtains between the growing "crime problem" and social control policy reform. Increasing criminality does not appear to be the critical change that inspires individuals and groups to push for new criminal sentencing policies. Strong indications suggest that pluralist explanations that begin with the "crime problem" are incomplete and of limited value for interpreting sentencing reform.

At least two operational limitations cause these findings to be tentative. First, because official crime statistics were used to measure criminality, these findings are based on increases in reported criminal acts. To the extent that crimes have occurred which were not reported, official statistics may not reflect the true intensity of the crime problem in each state. Thus, the analysis of the "real" increase in crime and its relationship to changes in social control policies eludes us.

Secondly, official statistics do not report the number of widely publicized violent crimes committed during a

certain time period. These crimes may evoke collective definitions of a "crime problem" which are as widely accepted as those based on officially documented and reported increases in the crime rate. Since the data used in this study do not account for perceptions of increased criminality, the relationship between individuals' perceptions of the "crime problem" and sentencing reform efforts could not be examined.

Findings concerning regional variation in sentencing reform fail to reveal that this was a regional phenomenon. No appreciable differences marked the policy changes occurring in the four major divisions of the U.S. Thus, no one region can be identified as the well-spring of change.

However, the use of four rather broad regions in this analysis may preclude detection of more subtle regional differences. Future analyses may benefit from further dividing these four regions into smaller sub-regions.

Changes in a state's incarcerated population were not related to the number of sentencing changes enacted. This indicates that changes in sentencing policies occurred irrespective of fluctuations in prison populations. Apparently, new sentencing policies were not responses to increasing or decreasing prison populations.

Analyses of the effects of long-term increases and decreases in the prison population could further test these conclusions based on analyses of short-term fluctuations. Responses to gradual shifts in this population could then be

examined in addition to responses to the sudden shifts examined here. This assumes, however, that new data sources could be found to supplement incomplete pre-1966 prison population data.

Lastly, the enactment of new sentencing policies cannot be explained as a response to correctional resource strain. The findings indicate that states reformed their sentencing policies regardless of their ability to commit resources to maintain their correctional systems.

This finding remains suggestive, however, until a better measure of correctional resource strain is developed. The measure employed here--number of corrections employees per prisoner--is at best indirect. A more direct measure of the condition of the states' correctional operations would allow for a superior assessment of the correctional resource strain-sentencing reform relationship.

I. CONCLUSIONS

Beyond these specific findings this research produces several general conclusions. First, the Structural-Marxist emphasis on the economy, the state, and class directed this inquiry to the vital structural changes and conditions which precipitated changes in sentencing policies. Clearly, these variables provide a superior explanation of sentencing reform as compared to Pluralist explanations of this phenomenon.

Next, this research reveals the importance of empirical studies which test Marxist theoretical constructs. Empirical analyses of this genre uncover gaps and weaknesses in the Structural-Marxist arguments. These works also provide empirical verification of ideas instructed by Marxist theory.

The important point here is that Marxist theories must undergo the same interplay of theory and research that is applicable to other theoretical perspectives. Through this process we can develop increasingly sophisticated Marxist theories and accumulate knowledge of substantive problems "explained" by these theories. By formulating Marxist explanations, conducting empirical tests of these explanations, and reformulating theoretical constructs based on the results of these tests, we may begin to move Marxism beyond arid theoretical and philosophical discussions to well-reasoned, empirically verified statements which accurately describe social reality.

A third general conclusion involves the neglect of the organizational and interpersonal levels of analysis in "structural" studies similar to the research reported here. Although it is important to examine and understand the structural forces and social contexts which produce and promote change, this does not warrant a disregard for intervening processes. It is impossible to comprehend fully how structural effects translate into social realities without considering how these effects are mediated by organizations and individuals.

Consider, for example, this study's attempt to develop an understanding of changes in social control policies. While this structural analysis is generally instructive, it has not informed us of the specifics of how these policies are produced and implemented by specialized organizations and individuals working in organizational contexts. Complete understanding of the ideosyncracies of states' social control policy change processes awaits further examination and understanding of these organizational and interpersonal contexts.

Finally, the results of this study do not point to a single undeniable description of the contextual antecedents and extent of sentencing reform in the U.S. Insight into the fundamental contributory contextual changes which preceded this reform movement is all that is claimed here. Other interpretations can and must be examined before we are able to claim full comprehension of this phenomenon.

For example, a "social movements" interpretation of sentencing reform has a good deal of intuitive appeal. Applying the theories and research findings from this perspective may produce additional insights into the emergence of sentencing reform. Social movements analyses may begin where structural analyses end to explain what transpires after the climate for change is produced. Understood in this manner, structural analyses describe and explain the setting while "social movements" interpretations describe how the drama of changing social control policies unfolds.

II. IMPLICATIONS

At least three important implications derive from this research. First, the complexities and difficulties encountered here should convince students of social control policy that much is to be done before we can claim a complete understanding of the social contexts which produce changes in social control policies. Understood as such, this study should provide a springboard for additional theorizing and empirical analysis instead of a final solution to the question: What constrains societies to change their social control policies?

Secondly, this research should encourage criminologists to continue utilizing Marxist theoretical constructs to explain/interpret changes in the social control policies of contemporary capitalist societies. This will hopefully increase our understanding of these policies and also provide alternatives to "mainstream" or conventional interpretations of social control phenomena.

Finally, this study should help demystify changes in social control policies. By exploring the underlying structural antecedents of these changes we can assume a more enlightened position from which to critically evaluate the rhetoric and "rationales" offered by reform advocates. Once we recognize and associate structural changes with changes in social control policies we should be better equipped to distinguish true humanitarian reform from changes produced by economic, political, and ideological expediency.

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APPENDIX

December 18, 1984

Name
Address
Address

Dear Name:

As you probably know, during the past fifteen years most of the states have modified their criminal sentencing codes and procedures. I am a doctoral student in criminology and my graduate thesis will examine the social and political antecedents of these changes.

I hope you can provide me with some information about the change(s), if any, that your state has made. If possible, could you please note the calendar year (between 1971 and 1982) when each of the following change(s) was enacted in your state. I am interested only in the year of enactment, not the effective date of the legislation.

- 1) Discretionary parole was abolished.
- 2) State-wide sentencing guidelines were established.
- 3) State-wide parole guidelines were established.
- 4) Penalties for repeat or habitual offenders were increased.
- 5) Penalties for certain felony offenses were increased.
- 6) Mandatory sentences were enacted for certain felony offenses.
- 7) Good-time credits for felony offenders were reduced or eliminated.
- 8) Optional, experimental or selectively imposed sentencing guidelines were enacted.
- 9) Optional, experimental or selectively imposed parole guidelines were enacted.

If you prefer, you may respond with a list of changes your state has made. Copies of the relevant statutes or citations to the revised statutes would also be helpful.

Enclosed is a stamped, self-addressed envelope. Please use this to return the requested information or otherwise respond.

Thank you for your assistance. Unless you request otherwise, I will acknowledge your contribution to this research in any subsequent publications. I will also be glad to provide you with a summary report of the findings of my research. Please indicate in your response whether or not you would like a copy of this report.

December 18, 1984
Page Two

Please send this requested information to:

Christopher T. Link
132-C Taliwa Ct. Apts.
Knoxville, TN 37920

If there are any questions concerning the desired information, please feel free to contact me by mail or by phone. My phone numbers are:

(615) 579-0833 after 6:00 p.m.
(615) 974-2122 before 6:00 p.m.

Thank you,

Christopher T. Link
University of Tennessee

TABLE VIII
ZERO-ORDER CORRELATION MATRIX

	CPP	CNI	77	SOUTH	TVC	TIC	CPI	CJA	PP	HC	FB	EC	ROM
ROM	-.0601	.0644	.2569	-.1461	-.2269	-.0703	.0431	-.2494	.2416	.2046	.1297	.2934	-
EC	.1652	-.0977	.4148	-.1290	-.2293	.2711	-.0069	-.2321	.2653	.0627	-.2971	-	-
FB	-.1649	.0950	-.1401	-.2241	.1599	.1039	.1720	-.1260	-.1995	-.0114	-	-	-
HC	.2235	-.4660	.0460	-.3602	-.2461	-.4102	.0346	.2027	-.0516	-	-	-	-
PP	.2132	.4735	.2041	.4640	-.3170	.0260	-.0979	-.0674	-	-	-	-	-
CJA	.2864	-.2409	-.2922	.2136	.0750	-.0812	-.1332	-	-	-	-	-	-
CPI	.2494	-.0000	.1409	-.2602	.0522	-.0249	-	-	-	-	-	-	-
TIC	-.1603	.0700	-.2132	-.0529	.4277	-	-	-	-	-	-	-	-
TVC	-.1820	-.1130	.3419	-.0704	-	-	-	-	-	-	-	-	-
SOUTH	-.0835	.4155	-.1108	-	-	-	-	-	-	-	-	-	-
77	.3330	.0347	-	-	-	-	-	-	-	-	-	-	-
CNS	.1500	-	-	-	-	-	-	-	-	-	-	-	-
CPP	-	-	-	-	-	-	-	-	-	-	-	-	-

ROM is rationalized allocation management

EC is economic crime

FB is fiscal strain

HC is size of the new class and size of the education population

PP is size of the problem population

CJA is size of the state criminal justice apparatus and the size of the centralized criminal justice agencies

CPI is conservative political ideology and political conservatism

TIC is total Index crime

TVC is total violent crime

SOUTH is the dummy variable for the region South

77 is the dummy variable for the 1977-79 time period

CNS is correctional resource strain

CPP is change in the size of the prison population

VITA

Christopher Thomas Link, the son of Billy and Yvonne Link, was born December 12, 1960 in Indianapolis, Indiana. He was graduated from Gallatin High School in Gallatin, Tennessee in June 1979. In the fall of 1979 he entered Middle Tennessee State University to study criminal justice administration. He received his B.S. degree from M.T.S.U. in December 1982. The following fall he accepted a teaching assistantship at the University of Tennessee, Knoxville to pursue a Master's degree in Sociology. He was named the Outstanding Sociology Graduate Student of 1983-84 after his first year of study. During the spring of 1984 he worked as a research assistant to Professor Neal Shover. He was admitted to candidacy during the summer of 1984 and completed requirements for the M.A. degree during the following fall.

The author is currently pursuing a Doctor of Philosophy degree with a major in Sociology at the University of Tennessee, Knoxville where he is employed as a research assistant.