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Alfred Blumstein, Chairman

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James Thomas, Executive Director

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The Effects of Five-Year Mandatory Sentencing in Pennsylvania

This is the first of a series of publications designed to summarize the results of policy analysis in the areas of criminal and juvenile justice for the benefit of state policy makers and the general public. It is our hope that information on the effects of past changes will be valuable for shaping future change.

This issue summarizes the findings of an evaluation conducted by the Commission's Bureau of Statistics and Policy Research, with partial financial support from the U.S. Bureau of Justice Statistics. The principal researcher was Richard S. Morelli, who was assisted by Bureau Director Phillip Renninger, Cheri Saylor, Gurdev Sekhon, Kenneth Bellock and Charles Carroll. Another more detailed report is also planned, and will be available from the Pennsylvania Commission on Crime and Delinquency, P.O. Box 1167, Federal Square Station, Harrisburg, Pennsylvania 17108-1167.

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On June 6, 1982, Pennsylvania adopted a new sentencing law that required judges to sentence certain serious offenders to prison with minimum sentences of at least five years. The law (Act 54-1982, 42 PCS § 9712, et seq.) was written to preclude the use of probation or a suspended sentence. The act covers a variety of offenses: third degree murder, voluntary manslaughter, rape, involuntary deviate sexual intercourse, serious robbery, serious aggravated assault, and kidnapping (including attempts to commit any of these offenses). For the law to apply to these offenses, there must be either visible possession of a firearm, a prior conviction of the defendant within the previous seven years, or commission of the crime in or near public transportation facilities.

The PCCD has examined the effects of Act 54 on robberies and aggravated assaults committed with firearms. The principal effects studied were those on crime rates, on court convictions and sentences, on court workload, and on pre-trial detention.

Crime Rates

The law was intended to decrease the use of firearms in crimes of violence beyond what would otherwise have occurred. Table 1 shows the change in robbery and aggravated assault rates, including the type of weapon used, for 1981, (the year before the law took effect) and 1984 (well after the law). Over that period, when crime rates were declining generally, all robberies fell by 21%; gun robberies fell 40%, while non-gun robberies fell only 12%. Strong arm robberies, the most numerous type and comprising half of all robberies, fell by only 9%. This difference suggests a shift from gun robberies to strong-arm robberies.

Aggravated assaults over that period fell by 8%; those with guns fell 27%, while non-gun assaults fell only 4%. The use of knives and other weapons in aggravated assaults each showed an increase of 1%, suggesting a shift to these weapons. In sum, by far the most favorable change in both robberies and aggravated assaults was the large decline in the use of guns, possibly the result of Act 54.

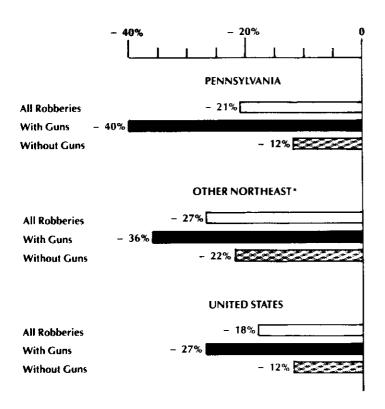
TABLE 1

Change in Robbery and Aggravated Assault Rates* In Pennsylvania By Weapon Type 1981 vs. 1984

	1981 <u>Rate*</u>	1984 <u>Rate*</u>	Change	Percent Change
All Robberies	185.4	147.0	- 38.4	- 21
With Gun	60.7	36.7	- 24.0	= 40
Without Gun	124.7	110.3	- 14.4	= 12
Knife	21.7	17.6	- 4.1	- 19
Other Weapon	8.2	6.8	- 1.4	- 17
Strong Arm	94.8	85.8	- 9.0	- 9
All Aggravated Assaults	155.0	143.1	- 11.9	- 8
With Gun	26.4	19.2	- 7.2	- 27
Without Gun	128.6	123.9	- 4.7	- 4
Knife	33.0	33.4	+ 0.4	+ i
Other Weapon	28.3	28.6	+ 0.3	+ 1
Personal Weapon	67.3	61.9	- 5.4	- 8

^{*}Number of reported offenses per 100,000 persons in the population.

Figure 1
Percent Change In Robbery Rate
By Weapon Category 1981-1984



^{*}Conn., Me., Mass., N.H., N.J., N.Y., R.I., Vt.

Robbery: It is useful to compare these shifts in Pennsylvania with those in other states. Figure 1 compares changes in it a and non-gun robberies in Pennsylvania with other northeast ern states and with the U.S. as a whole. Non-gun robberies the U.S. dropped by the same 12% as in Pennsylvania to U.S. gun robberies fell by only 27% compared to Pennsylvania's 40% decrease. This comparison might suggest a subpression of gun robberies in Pennsylvania with no associated switch to another type of weapon. On the other hand, a comparison of Pennsylvania with the eight other northeasters states reveals that Pennsylvania had a slightly greater declared in gun robberies (40% compared to 36%), but only halt the decline in non-gun robberies (12% compared to 22%).

... Mandatory sentencing probably reduced the incidence of gun robberies somewhat below what it would have been without the new law.

In comparison to the Northeast, which has a similar large decline in gun robberies and a smaller decline in non-gun robberies, Pennsylvania experienced a larger decline in gun robberies as a fraction of all robberies. Figure 2 compares Pennsylvania with other states and groups of states according to the percent change (from 1981 to 1984) in the fraction of gun robberies. Comparison states were chosen for their similarity to Pennsylvania in population and degree of urbanization. Nationally, the fraction of robberies committed with a firearm fell from 40% in 1981 to 36% in 1984 — a percentage decrease of 10%. In Pennsylvania, the fraction dropped from 33% to 25%, or a 24% drop. The percent decrease in Pennsylvania was thus greater than in all of the other areas. Firearm use in Michigan even increased by 11%.

Figure 2
Percent Change In Gun Robberies
Per 100 Robberies: 1981-1984

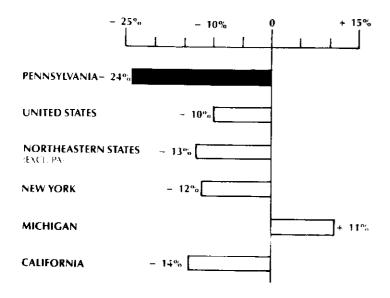
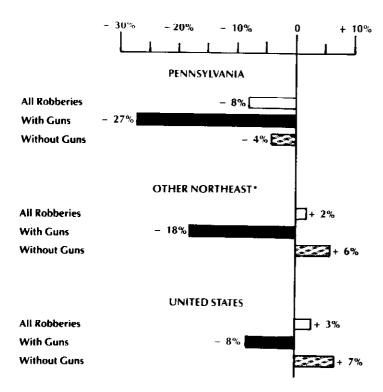


Figure 3
Percent Change In Agg. Assault
Rate By Weapon Category 1981-1984

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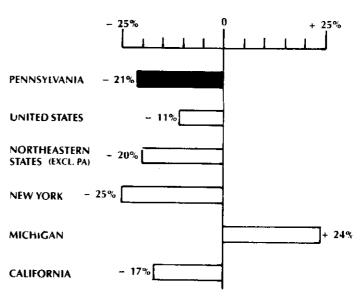


*Conn., Me., Mass., N.H., N.J., N.Y., R.I., Vt.

Data shown in Figures 1 and 2 suggest that mandatory sentencing probably reduced the incidence of gun robberies somewhat below what it would have been without the new law. Some of that may have reappeared as non-gun robberies - primarily "strong-arm" robberies without weapons rather than the use of knives or other weapons.

Aggravated Assault: Figure 3 provides a similar comparison for aggravated assault. The 27% drop in Pennsylvania's gun offense rate is greater than the decreases experienced elsewhere in the Northeast and in the U.S. However, changes in non-gun aggravated assaults were also most favorable in Pennsylvania - they declined by 4% compared to increases of 6% in the Northeast and 7% in the U.S. This is also reflected in Figure 4, which shows that the percent drop in gun assaults per 100 aggravated assaults in Pennsylvania was similar to the other comparison states and

Figure 4
Percent Change In Gun Assaults
Per 100 Aggravated Assaults: 1981-1984



regions (the increased use of guns in both robberies and assaults in Michigan was unusual).

. . . An apparently lesser impact on assaults than on robberies probably reflects the fact that assault is more often an impulsive act . . .

Thus, the absence of a differential effect between gun and non-gun assaults diminishes the likelihood that mandatory sentencing had an important effect on the use of guns in aggravated assaults. In part, the observation of an apparently lesser impact on assaults than on robberies probably reflects the fact that assault is more often an impulsive act and less premeditated than robbery. Thus, compared to a robber, an assaulter is less likely to be influenced by the increased penalty for his use of a gun.

Convictions and Sentences

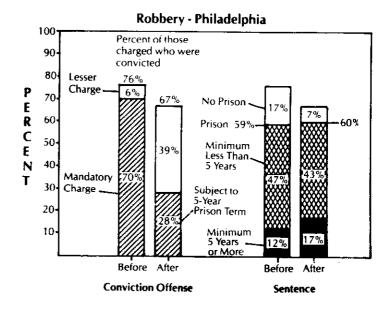
Early in the criminal justice process the police and prosecutor specify the charges for each defendant. A charge covered under mandatory sentencing is usually accompanied by other lesser charges not covered by Act 54. In order for the Mandatory Sentencing Law to apply to a case at sentencing, a defendant must be both charged with, and found guilty of one of the specific offenses included in the new law. Such a conviction then opens the way for the prosecution and the court to invoke the mandatory minimum provisions of Act 54 at the sentencing hearing. The defendant may admit guilt to some or all charges, often as a result of some torm of agreement by the prosecutor to drop some charges or to request less than the maximum punishment allowed by law. Through such agreements, the prosecutor avoids the problems associated with a trial, including the exposure to risk of an acquittal, and the defendant avoids the risk of the harshest possible sentence.

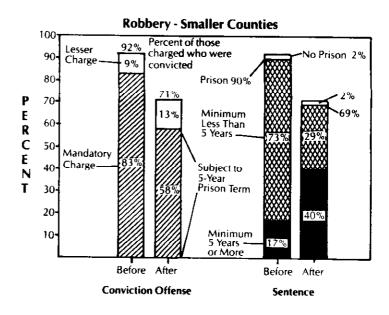
The court processing of robbery and aggravated assault cases with guns was analyzed in three counties. The counties included one major urban center (Philadelphia), one which is largely suburban (Delaware), and one with a medium-size city as_well as rural areas (Dauphin). The cases chosen involved offenses committed during twelve months prior to the effective date of mandatory sentencing, and twelve months following the effective date, to determine the changes that occurred. For analysis purposes, data from the smaller counties were combined. Therefore, results from the analysis of these data may apply to only one county or may apply to both.

Data from the three counties were obtained from district attorney files (which included police records) and, in the smaller counties, from the courts of common pleas and from the county prisons. Robbery and aggravated assault cases were reviewed and information was recorded on those defendants who, according to police reports and witnesses who were not co-defendants, visibly possessed a firearm. Cases were excluded if it was not clear which person had the firearm. Defendants also charged with more serious offenses, such as murder, were excluded. In Philadelphia, a random sample was used. Cases were placed in the "before" or "after" groups based on the date of the offense since this date determined whether the law applied.

Since data were collected only on defendants already held for common pleas court, changes in the criminal justice system's responses at earlier stages, including police responses and court processing at the minor judiciary level, could not be analyzed. For cases of this seriousness, however, virtually all are held for court; and thus we would expect changes in earlier processing to have been minimal.

Figure 5
Dispositions and Sentences Before vs. After
Mandatory Sentencing: Robbery

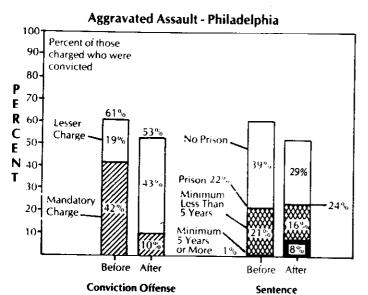


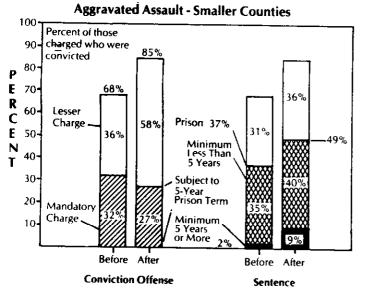


After the law the primary change was to conviction on lesser charges.

The portions of Figure 5 labeled "conviction offense" show that for gun robberies, the law led to a major reduction in the proportion of convictions on those charges for which the law now calls for a five-year mandatory sentence. After the law the primary change was to conviction on lesser charges. In Philadelphia, for example, before the law took effect, 70% of all armed robbery defendants were found guilty of the charge that later would have carried a mandatory sentence.

Figure 6
Dispositions and Sentences Before vs. After Mandatory Sentencing: Aggravated Assault





Six percent (6%) were convicted of only lesser charges, and 24% were not convicted. By contrast, after the new law, only 28% were convicted of a charge covered under the mandatory sentencing law, while the percent convicted of only lesser charges jumped from 6% to 39%. A similar shift occurred in aggravated assault. In Philadelphia, the proportion convicted of the degree of aggravated assault for which the new law required a five-year sentence fell from 42% to 10%. Similar drops in charges were observed in the two smaller counties. (See Figure 6.)

Prior to mandatory sentencing, a defendant charged with felony robbery in the first degree had no strong reason to challenge the degree of the charged offense. . .

These revisions in charge seriousness are understandable in light of the changed significance of the specific charge. The mandatory sentencing laws changed court processes so that a significantly smaller proportion of cases would be legally convicted under those offense charges that became subject to five-year minimum prison terms under the law. Prior to mandatory sentencing, a defendant charged with felony robbery in the first degree had no strong reason to challenge the degree of the charged offense, since the charge would not preclude his making a case for a lenient sentence. Regardless of the charge, he could offer to plead guilty in exchange for a promise of a recommendation for a lighter sentence. Now, since Act 54 severely limits sentencing discretion for its specified offenses, the defendant much more vigorously avoids the specific charges that could invoke a mandatory sentence.

In Philadelphia, the shift to convictions for less serious offenses occurred to a comparable degree for jury and non-jury trials, as well as guilty pleas, and for both robbery and aggravated assault. In the two smaller counties, the shift to lesser offenses was evident for guilty pleas, but there were too few trials for reliable analysis of those dispositions.

Sentences: In/Out Decision

Despite the fact that only a portion of defendants charged with a relevant offense fall under the new law at sentencing, the more relevant question is how many more charged defendants end up incarcerated, and how many of those have minimum terms of five or more years. Figures 5 and 6 show the percent sentenced to prison (including county jail sentences). The Philadelphia graphs show that the percent of those charged who were incarcerated remained about the same. In the smaller counties, the percent of those charged with the relevant robbery offense who were incarcerated decreased (due to a reduction in convictions) but increased from 37% to 49% for aggravated assault.

. . . The background of generally rising incarceration rates. . . raises the question of whether the mandatory sentencing law had any discernible effect on whether a defendant was incarcerated.

Additional court data on serious cases not covered by mandatory sentencing were analyzed to see if gun robberies and assaults changed in ways different from serious cases as a

whole. Court dispositions from 1981 through 1983 in the three counties showed that the proportion of defendants who were incarcerated did increase — especially in the smaller counties. Similar trends are suggested by data on robberies and aggravated assaults with all types of weapons. Some of this broad increase in incarceration probably results from the initiation of sentencing guidelines in 1982. Guidelines apply to all misdemeanors and felonies and overall prescribe tougher sentences than the average imposed before the guidelines were enacted. In Philadelphia, 34% of defendants charged with a serious (UCR, Part I) crime in 1981 were eventually incarcerated. In 1983, the figure was 46%. The percent incarcerated in the smaller counties rose from 24% in 1981 to 45% in 1983.

Against the background of generally rising incarceration rates, the mixed results on gun crimes in the three counties studied raises the question of whether the mandatory sentencing law had any discernible effect on whether a defendant was incarcerated.

Length of Incarceration

The bottom segment of each "sentence" bar in Figures 5 and 6 shows the percent receiving minimum terms of five years or more. The data indicate that a defendant who has been held for court on a charge of robbery or assault with a gun faces a significantly increased risk of a prison term of five years or more. In Philadelphia, an assault defendant's risk increased from 1 in 143 (0.7%) before mandatory sentencing to 1 in 13 (7.8%) — an increase of more than 10 times. The risk of a five-year prison term for robberies in 1983 was 40% in the smaller counties, up from 17% in 1981.

... A defendant who has been held for court. . . faces a significantly increased risk of a prison term of five years or more.

Analysis of all robberies and aggravated assaults in the three study counties and statewide reveals a growing percent

of defendants receiving minimum terms of five or more years from 1981 to 1983. The increase in five-year minimums for gun robberies and assaults was typically far greater than the increases found for all robberies or all aggravated assaults in the three counties or statewide. In Philadelphia, however, the risk of a five-year term for gun robberies increased by about 40% from 12% to 17%, and this was similar to the increase for all robbery cases from 5% to 7%. The results thus generally support a conclusion that mandatory sentencing has caused a significant increase in the percent of defendants who receive the intended minimum terms of five years or more.

Incarcerated criminals are, of course, "out of action" for a longer period of time, and so their crime committing potential is thereby restrained. There is an open question of the degree to which the longer sentences provide an enhanced deterrent signal to others and thereby deter their crimes. Except for robbery in the smaller counties, the percent of defendants charged with the offenses under study who are eventually 1) convicted of those charges, and 2) incarcerated, and 3) given five-year minimum sentences still remained relatively low (under 20%) after passage of Act 54. In the case of aggravated assault, for example, an 8% or 9% chance of a five-year prison sentence after arrest and charging may not represent a very powerful deterrent - especially since assault is often a spontaneous act, and since most offenders do not even consider their risk of apprehension, let alone their chances of being incarcerated for five years or more.

For armed robbery, where the risk of a five-year prison term is greater, and where the offense is more premeditated, we would expect the deterrent effect to be greater. This greater risk for an armed robber could well have contributed to the crime reduction shown in Figure 1.

Sentences: Offenses Under Act 54

This section examines the sentences of only those defendants actually convicted of a charge included under Act 54. Table 2 shows the percent incarcerated of those convicted of offenses to which Act 54 applies. The "before" group includes all cases to which the law would have applied had it been in effect, and so includes those lesser offenses which might well have been converted to a lower charge if the threat of a five-year sentence had prevailed.

TABLE 2

Change In Percent Incarcerated Following Conviction Of An Act 54 Offense

	Before	After	Change
Robbery			
Philadelphia	82%	97%	+ 15%
Smaller Counties	99%	96%	- 3%
Aggravated Assault			
Philadelphia	45%	96%	+ 51%
Smaller Counties	79%	92%	+ 13%

Change In Percent With Five-Year Minimum Terms Of Those Incarcerated For An Act 54 Offense

	Before	After	Change
Robbery Philadelphia Smaller Counties	21% 20%	59% 72%	+ 38%
Aggravated Assault Philadelphia Smaller Counties	4 %ո 7%ո	82%	+ 52%
This is based on only 11 cases.	7 .0	(36%)	+ 29%

For robberies, the incarceration rate was quite high before the new law, increasing somewhat (about 15%) in Philadelphia and remaining about the same (over 55%) in the other counties. For aggravated assault in Philadelphia, however, incarceration rose from just under half to almost 100%. Of those incarcerated, the percent with minimum terms of five or more years is shown in Table 3.

The figures show a dramatic increase in the percent with five-year minimums. Most striking is the jump from 4% to 82% for gun assaults in Philadelphia. Taking account of the shift there from 42% to 10% convictions on the mandatory charge, there is still an important growth from 1% of those charged serving five-year minimums to 8% after enactment of Act 54.

The requirements of Act 54 presume that all the figures in the columns headed "after" in Tables 2 and 3 would be 100%. While the incarceration rates in Table 2 are indeed close to 100%, the percent with five-year minimums in Table 3 are substantially lower. There are at least three possible explanations for figures below 100%: 1) some judges are consciously choosing not to follow the Act; 2) an unintended failure to properly apply the law; 3) the judge may have determined that the law did not apply, but that fact may not have been revealed in the case record or accurately coded for the study.

Court Workload and Delay

While robberies and aggravated assaults with guns comprise only a small proportion of any court's criminal case load (about 2% statewide), they typically consume a considerably greater proportion of staff time and pre-trial jail space. Because the penalty for these serious crimes was made more severe by Act 54, the study reviewed changes in court processing to see if the new penalties affected the resources required.

For armed robbery cases, the proportion of guilty pleas dropped considerably. In Philadelphia, the proportion of guilty pleas (including pleas to lesser offenses) fell from 46% to 33%; and in the smaller counties guilty pleas went from

76% to 38% of armed robbery dispositions. Guilty pleas and dismissals consume the least court resources per case. While dismissals increased somewhat, the largest increase was in jury trials — the procedure that consumes by far the most court resources. In Philadelphia, jury trials for armed

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robberies doubled from 6% to 12% of dispositions; in the other-counties, jury trials increased threefold from 14% to 42%. Non-jury trials did not change significantly. In contrast there was only a slight increase in the percent of jury trials for all robbery cases in all three counties; thus, the large increase in demands for jury trials for gun robberies is likely a consequence of Act 54's sentencing provisions.

Aggravated assault cases did not experience the same decline in guilty pleas—they even increased somewhat in the smaller counties (from 49% to 64%). Jury trials tripled from 3% to 9% in Philadelphia and remained about the same in the other counties, where dismissals decreased.

In the two smaller counties, there was an increase from 12% to 50% in the median number of days between the time a case was held for court at a preliminary hearing and the time guilt or innocence was established. Data were not available for Philadelphia.

Detention Awaiting Trial

The percent of robbery defendants detained for some period of time, as well as the length of time detained, both showed somewhat of an increase, as displayed in Table 4. With respect to those charged with aggravated assault, the percent detained in the smaller counties fell slightly, but the median length of detention increased from two weeks to ten weeks. The median detention time also increased somewhat for robbery in the smaller counties.

TABLE 4

Percent Detained And Median Detention Time In Days

	% Detained		Median Length of Detention (Days)		
	Before	After	Before	After	Change
Robbery					
Philadelphia	*	*	*	*	*
Smaller Counties	77%	87%	147	179	+ 32
Aggravated Assault					
Philadelphia	60%	75%	8	7	- 1
Smaller Counties	61%	58%	13	73	+ 60
*High percent of data missi	ng; no results.				

Summary and Conclusions

- Analysis of Pennsylvania crime rates in 1981 (prior to the mandatory sentencing law) and 1984 (after the new law) showed a large decline in the use of guns in both robberies and aggravated assaults, possibly as a result of the new mandatory sentencing law.
- The analysis of data on reported robberies in 1981 and 1984 for Pennsylvania and elsewhere suggests that —mandatory sentencing probably reduced the incidence of gun robberies somewhat below what it would have been without the new law. However, the analysis also suggests that some of this reduction may have shifted to non-gun robberies.
- The analysis of data on reported aggravated assaults reflects less of an effect than in the case of robbery. The absence in the analysis of a differential effect between gun and non-gun assaults diminishes the likelihood that mandatory sentencing has had an important effect on the use of guns in aggravated assaults. In part, this observation of an apparently lesser impact on gun assaults than on robberies probably reflects the fact that assault is more often an impulsive act and less premeditated than robbery. Therefore, an assaulter is less likely than a robber to be influenced by increased penalties.
- Mandatory sentencing has caused a significant increase in the percent of defendants who receive the intended minimum terms of incarceration of five years or more.

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