Research Note

Another Look at the Judicial Power of the Purse: Courts, Corrections, and State Budgets in the 1980s

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In measuring the impact of court-ordered prison reforms on state budgets, Taggart (1989) challenged Harriman and Straussman's (1983) conclusion that court decisions have affected state spending for corrections. This Research Note explores important questions left unanswered by both studies: (1) What impact did the courts have on cases litigated during the 1980s? (2) Why are the courts able to influence spending in some states but not others? The results support Taggart's conclusion that spending for corrections follows an incremental pattern. Judicial influence on state budgets declined during the 1980s as courts narrowed the scope of prison reforms.

Do judges really have the "power of the purse"? This Research Note explores that question within the context of prison reform litigation. Existing studies on the impact of court reform on state expenditures for corrections not only have produced contradictory results but have also only begun to explore the numerous issues that these cases raise. In their study of prison litigation, Harriman and Straussman (1983) concluded that court decisions have affected state spending on prisons, particularly in the area of capital expenditures. Taggart (1989), however, disagreed with these findings. Using a more complex budgetary model, he found that the judiciary's ability to influence state expenditures for corrections is limited by the dynamics of the budgetary process. State spending was found to be a function of previous spending patterns. A single event such as a court order did not dramatically change state expenditures.

This study replicates and extends Taggart's analysis by addressing two questions left unanswered by earlier studies: (1) What impact did the courts have in the "second wave" of cases litigated during the 1980s? (2) Why is a significant impact on state expenditures found in some states, while in others there is little or no change in spending patterns?

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I. The Costs of Prison Reform Litigation

Although it is difficult to measure precisely just how much court-ordered prison reform is costing the states, individual case studies have produced some cost estimates. For instance, Harris and Spiller (1977) estimate that the decision in the Arkansas prison case increased the state's correctional expenditures six-fold. In his study of the impact of prison reform in Georgia, Chilton (1991) calculated that the state spent $100 million to renovate the prison at Reidsville. Aggregate costs, exclusive of legal fees, were close to $200 million over 10 fiscal years. In prison litigation in Louisiana, the state appropriated more than $100 million for capital improvements and $18 million for operating costs following a court order concerning the Angola state penitentiary (Frug 1978). Finally, reforms ordered for the Alabama prison system were estimated to cost $79 million (Yackle 1989).

These cost estimates suggest that substantial public funds are being allocated for judicially mandated prison reforms. Total compliance costs in these cases are influenced by several factors. Decrees that are directed toward an entire correctional system will likely be more expensive than those limited to one prison or facility. Also important are the number of problems under consideration by the courts (see the appendix). Issues have ranged from inadequate medical care and poor sanitation to denial of due process and inmate abuse. The one issue that cuts across virtually every case, however, is overcrowding. Cases involving overcrowding or inadequate medical care may be more expensive than providing due process guarantees, such as inmate grievance procedures, especially if the state has to build new facilities to reduce overcrowding or hire more doctors and staff to provide medical care. In general, the more conditions subject to intervention, the higher the compliance costs. Compliance costs will be greatest for those states whose entire prison system is under court order for overcrowding and total conditions.

II. Design and Measurement

The targeted population for this study consists of those cases involving reform of state prisons between 1968 and 1990. Throughout this period, 44 states were under a court order or consent decree to limit population and/or improve conditions in either the whole state prison system or its major facilities. Of these 44 states, 30 were selected for the analysis. Only states under court order before 1986 were chosen because at least a five-year post-decision period is necessary to capture the impact of court intervention on state budgets.

Although most states have experienced several prison reform cases, the analysis is limited to the leading case in each state. All of these cases are easily identifiable, and many have already been subject to detailed case studies (see, e.g., Chilton 1991; Cooper 1988; Crouch & Marquart 1989; Harris & Spiller 1977; Yackle 1989). Federal district courts have been the catalyst for most of these cases, but in several states, such as West Virginia, state supreme courts have led the push for prison reform (see the appendix). For the most part, the source of the judicial remedy does not create problems for the analysis because state officials are supposed to comply with the decision regardless of whether it is based on federal or on state law. The origin of the court order, however, does raise different normative questions. State judicial intervention in prison systems raises separation of power issues, while federal intervention generates both federalism and institutional power issues (see, e.g., Nagel 1978; Feeley & Hanson 1990).

A. A General Model of State Expenditures

The general model utilized in this study is adopted from Taggart (1989). Taggart combined three budgetary models (autoregressive, share-of-the-pie, and constituency) into a general framework in order to allow for greater decisionmaking complexity in state spending for corrections. This model is extended by applying it to 30 states, not just 10, over a time period that covers the 1980s. The theoretical model for state spending on corrections is represented as follows:

$$E_t = b0 + b1E_{t-1} + b2P_{t-1} + b3C_{t-1} + b4I_{t-1} + e_t .$$

E_t is a state's expenditure in dollar amounts for corrections in a given year. This variable includes expenditures for both operating costs and capital outlays. E_{t-1} is the expenditure total in dollar amounts for corrections in the previous year (autoregressive variable). P_{t-1} represents total government spending in the previous year (share-of-the-pie variable). C_{t-1} is the state's prison population in raw numbers for the previous year (constituency variable). The error term is e_t, and $b0$, $b1$, $b2$, $b3$, $b4$ are the parameters to be estimated. The court intervention, I_{t-1}, is represented as a dummy variable that has the value of 0 until a year after a federal district court decision has been rendered in a given state and is coded 1 for every year after that point. This variable will be adjusted back to 0 if the decision is overturned or if the court relinquishes jurisdiction.

The underlying assumption for the analysis is that state response to judicial intervention is measurable in monetary terms. States have reacted to judicially mandated population limits and capital improvements by building more prisons and renovating existing facilities. In an effort to minimize costs, however, states

have also responded by experimenting with early release programs, reduced sentences, inmate labor, and the transfer of prisoners to county jails. The budgetary impact of such alternative programs cannot be adequately measured in this study. Information from available case studies is utilized to augment the statistical analysis and to identify deployment of these alternative programs.

Measuring compliance with a court order also presents problems. There are two dimensions to compliance: economic and administrative. Along the economic dimension, compliance with a court order is achieved if sufficient funds have been allocated or redirected to meet the standards articulated in a court decree. Even if a state provides more money for reforms, however, immediate compliance may not follow. It takes years to build new prisons and adequately staff them. In some cases, funds may be authorized for capital costs but very little for general operating costs. Under this scenario, corrections officials find themselves managing a new facility with insufficient staff or services to handle the inmate population. On the administrative side, compliance may require changes in staff practices and management policy. This might include separating HIV-positive inmates from other prisoners, increasing recreational time, or providing due process mechanisms for inmate disciplinary hearings.

Ultimately, compliance can only be determined by the judge and the court-appointed special master involved in each case. There is no simple formula for measuring compliance. The best indicator of compliance is when the court relinquishes jurisdiction. This action signifies that the court is satisfied with both the economic and administrative response of state officials to the terms of the judicial decree. Defendants involved in prison litigation must be able to show that the unconstitutional conditions occurring when the judicial order was first issued have been ameliorated and that future violations are unlikely. Of the 30 states in this study under court order, only 6 have been released from active supervision of the court.[1] As mentioned earlier, the court intervention variable will be adjusted to account for this development where applicable.

B. Data and Estimation

Government census data provides detailed information on state expenditures for corrections. Dollar figures are deflated using an implicit price deflator for state and local government

[1] The court relinquished jurisdiction in Alabama in 1988, Arkansas in 1982, Georgia in 1983, Oklahoma in 1984, and Wyoming in 1983. After 20 years of litigation, Texas was finally released from its court order in December 1992.

purchases.[2] The use of (deflated) absolute expenditures and revenues, as well as the total number of prison inmates, resulted in measures that were nonlinear over time and contained a few outliers. Outliers were found primarily in the early years when prison populations were small and expenditures low. In order to render each series linear, natural log transformations were used for interval measures on both sides of the equation. This procedure allows all estimated slope coefficients to be expressed as elasticities.[3]

Several variants of the budgetary model were estimated for each state using ordinary least squares (OLS) regression.[4] For the most part, there were no serious problems with basic regression assumptions.[5] Case studies are also used to bolster the analysis. Variations between these results and those reported by Taggart are noted where applicable.

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[2] This price index is compiled by the Bureau of Economic Analysis and represents the best deflator for the economic statistics used in the study. Working with deflated expenditure and revenue statistics in a longitudinal study requires some caution. Longitudinal economic data, especially in the presence of lagged variables, tend to be highly correlated. Plots of the data reveal that most of the measures are nonlinear over time and contained a few outliers. In order to smooth and render each series linear, the interval measures on both sides of the equation were reexpressed as natural logs.

[3] In other words, the value of an estimated coefficient will express the percentage change in state correction expenditures (E_t) given a 1% change in some independent variable, e.g., total government spending (P_{t-1}) in the previous year. Since all estimates are expressed as percentages, they can be compared with one another. (See Schroeder & Sjoquist 1986:61; Johnston 1971.)

[4] The model was first estimated without the court intervention variable. The budgetary model was then estimated for total corrections expenditures. This same model was reestimated using different lags for the court intervention variable. A third test measured total operating expenditures. Finally, the model was applied to a control group of six states not under court order. The results from the control group indicate that, absent judicial intervention, the autoregressive variable has the greatest impact on total corrections spending in a given year.

[5] A potential problem when working with longitudinal data is serial correlation, also known as autocorrelation, of the error terms. The OLS regression model assumes that the error term is not correlated with the independent variables. Autocorrelation is said to exist if the residual error terms from different observations are correlated. Positive autocorrelation can result in the underestimation of the standard error of the estimated coefficients while inflating goodness-of-fit measures.

Normally, the Durbin-Watson statistic is used to test for serial correlation, but this statistic breaks down in the presence of a lagged endogenous variable. Serial correlation was then examined by regressing e_t (obtained from the OLS results) on e_{t-1} and the original independent variables and testing the significance of the coefficient obtained for e_{t-1}. A significant slope would require the rejection of the null hypothesis of no serial correlation (see Taggart 1989:257; Johnston 1971).

Data for the state of Arkansas displayed serial correlation and created difficult problems for the analysis. Since Arkansas was the first state under a court order, the pre-decision period was the smallest for all 30 states. An attempt was made to increase the number of time points by extending the pre-decision period several years to 1960. This approach was successful in reducing the high correlation between the variables. For Arkansas, then, the sample size is 30.

III. Results

The first dependent observation is that of total state expenditures for corrections. This measure, E_t, represents allocations for correctional institutions only and includes spending for current operating costs and capital outlays. The regression results for 30 of the states that have experienced prison reform litigation are presented in Table 1.

Table 1. Impact of Court-ordered Prison Reform on Total Expenditures for Corrections in 30 States, Controlling for Previous Expenditures, Total State Spending, and Prison Population

States by Year of Court Order	Budget Variables			Positive Intervention Estimates			
	E_{t-1}	P_{t-1}	C_{t-1}	(Total) I_{t-1}	(Operating) I_{t-1}	r^2	Standard Error of Estimate
1970–79:							
Arkansas (1970)	.86***	−.19	.35**	.19***	.15***	.96	.13
Mississippi (1972)	.45**	.07	.25*	.29**	.27***	.90	.15
Ohio (1972)	.82***	−.06	.21	.02	.25**	.91	.13
Oklahoma (1974)	.26	.48**	−.06	.37***	.21***	.95	.12
Florida (1975)	.40*	.72***	−.27	.16	.07	.97	.10
Louisiana (1975)	−.13	.57*	.01	.54***	.19***	.90	.19
Alabama (1976)	.20	.47***	.35**	.20**	.26**	.95	.14
Delaware (1977)	.31	.05	.56*	—	—	.57	.16
New Hampshire (1977)	.14	.37**	.38**	.14	.03	.89	.19
Rhode Island (1977)	.13	−.11	.74**	.23	.19**	.83	.16
Wyoming (1977)	.47*	.13	.29	.27*	.25***	.90	.19
Arizona (1977)	.40**	.40**	.02	.22*	.12**	.97	.15
Maryland (1978)	.71***	−.19	.39**	.06	.07	.93	.08
Missouri (1978)	.54**	.03	.33	.11	.02	.98	.14
Georgia (1978)	−.45*	.52*	.34	.64***	.04	.95	.11
Colorado (1979)	.57**	.23	.31*	—	—	.92	.10
1980–85:							
Texas (1980)	.61***	.22	.02	.17*	.10	.98	.10
New Mexico (1980)	.74***	.31	−.02	—	.33***	.95	.18
Nevada (1980)	.22	.91*	−.16	—	.02	.89	.21
Connecticut (1980)	.58**	.01	.46	—	.10*	.91	.12
Oregon (1980)	.24	−.33	.94***	—	—	.66	.14
Illinois (1981)	.65***	−.05	.37***	.02	—	.97	.08
Kentucky (1981)	.24	.44**	.40**	—	.04	.94	.12
Indiana (1982)	.80***	.21*	−.13	.10	.02	.96	.09
West Virginia (1982)	.83***	−.03	−.01	.15	.10	.70	.10
Tennessee (1982)	.67***	.17	.04	.12	.08	.93	.14
South Dakota (1984)	−.13	.29**	.57***	.34***	.22**	.95	.08
Hawaii (1985)	.70***	.17**	.13	.04	—	.93	.18
Idaho (1985)	.35	.37	−.06	.34*	—	.74	.21
North Carolina (1985)	.66***	.24	.05	.05	—	.95	.09

SOURCE: U.S. Department of Justice Bureau of Justice Statistics 1988, 1991.
*$p \leq .10$ **$p \leq .05$ ***$p \leq .01$

Although the regression coefficients are not as large as those reported by Taggart, and are significant in fewer than half of the states, there is overall support for retention of the fully specified model. A majority of the intervention estimates are positive and statistically significant in states where a strong relationship was

expected. For example, the cost estimates for Alabama and Georgia, discussed earlier, suggest that the judiciary did have an impact on spending for corrections. The statistical results for the court intervention variable in these states appear to confirm this relationship.

The budgetary control variables E_{t-1}, P_{t-1}, and C_{t-1} varied in significance. Recall that these variables represent total corrections expenditures, total state expenditures, and prison populations, respectively. The autoregressive variable, E_{t-1}, is the most important in shaping total state expenditures for corrections. Many of the estimated coefficients are larger than the coefficients for P_{t-1} and C_{t-1}, with 16 of the 30 coefficients significant at the .05 level. Overall, these results are even stronger than those reported by Taggart (1989:259), and they confirm the importance of the autoregressive variable in the general model.

The share-of-the-pie variable (P_{t-1}) and the constituency variable (C_{t-1}) appear to be of about equal value in shaping state expenditures for corrections. In 12 states the coefficients for both P_{t-1} and C_{t-1} are significant. The results for the constituency variable differ considerably from Taggart's finding. The majority of his estimates for C_{t-1} were in the postulated direction; however, none were statistically significant. The difference may be explained by the fact that the time period encompassed by this study includes the 1980s—a period of rapidly increasing prison populations. Though overcrowding was an issue in all of the prison reform cases of the 1970s, the primary problems revolved around the physical condition of antiquated institutions, staff practices, and the treatment of inmates. Burgeoning prison populations during the 1980s compelled states to engage in massive construction efforts to provide more cells. These policies contributed to increased capital costs which are reflected in state corrections expenditures.

The estimated impact of judicial intervention (I_{t-1}) is presented in the fourth column of Table 1. Federal courts had a significant and positive impact on total corrections expenditures in 11 of the states examined. It is important to note that 5 of these states were among the first to be placed under a federal court order, and each had its entire prison system declared unconstitutional. The significance of the timing of judicial intervention is examined in more detail below.

Other common features of prison reform litigation in these five states include the model of correctional administration and the extensive scope of the judicial remedies. Correctional facilities in these states were managed along a plantation model characterized by work farms and manufacturing industries, prisoners working long hours in field labor, overcrowded dormitory wings, segregated facilities, and the use of inmate bosses to maintain

order. These features were the basis for many constitutional violations.

Conditions in these prison systems were so terrible that the judges overseeing the cases found them "shocking to the conscience of a reasonably civilized people" (*Holt v. Sarver* 1970). Federal Judge Frank Johnson identified "massive constitutional infirmities" in the Alabama prison system (*Pugh v. Locke* 1976), and Judge William Wayne Justice found it impossible for his written opinion to convey the "pernicious conditions and the pain and degradation which ordinary inmates suffered" within the Texas Department of Corrections (*Ruiz v. Estelle* 1980). Evidence of constitutional violations was overwhelming in many cases, and the defendants admitted to deficiencies in medical care, recreational activities, sanitation, and other areas. Confronted with these conditions, judges in all five of these cases wrote detailed opinions describing the constitutional violations and ordering specific remedies in numerous areas of prison administration.

Judicial intervention was limited to a single institution in the six other states (Louisiana, Georgia, Idaho, South Dakota, Arizona, and Wyoming) where the court intervention variable was statistically significant. These orders were comprehensive, however; most involved six or more issue areas. A study of prison reform in Georgia, for example, identified approximately 2,500 specific remedies, ranging from single-cell provisions to the proper cooking temperature for meat served in prison mess halls (Chilton & Talarico 1990). Once established, these remedies are often perceived as "rights" by many prisoners and their advocates, and they can influence conditions in state correctional facilities beyond the institution targeted for reforms. In the remaining jurisdictions, 12 experienced no significant change in spending for corrections, while 7 actually decreased their expenditures. Generally, reforms in these states were more restricted in scope and were confined to either a single institution or a few issue areas.

It would appear that judicial intervention is less influential in changing corrections expenditures than many critics suggest (Harriman & Straussman 1983; Peirce 1987). In two-thirds of the states, courts have not had a statistically significant impact on total corrections expenditures one year after the initial court order.[6] The absence of any significant judicial impact in many of the states may be attributed to the lag time used for the intervention variable. In all likelihood, a state's response to a judicial order will take longer than a year. Even in states where there is

[6] Caution is warranted in interpreting some of these results. In 5 of the 19 states that did not produce a significant estimate for court intervention (Connecticut, Vermont, Delaware, Hawaii, Rhode Island), a central authority administers both prisons and jails. This type of administrative structure complicates the measurement of court intervention on corrections spending.

consensus over the policy objectives mandated by the court, one year may not be enough time to appropriate funds. Many state legislatures have only recently begun meeting annually.[7] States that meet biennially will be slower to appropriate funds for judicial reforms. Also, a state's fiscal year does not usually correspond to the calendar year, so there may be additional delays. More important, since the most common response to a court order from both prison administrators and state legislators is resistance, not cooperation, a budgetary impact may not be noticed until two years or more after the intervention.

A delay in impact can be measured by using different lags for the intervention. The regression models for each state were reestimated using two-year and three-year lags for intervention. Longer lags produced noticeably different results in fewer than 10 states. While the estimates for Louisiana, Arizona, Wyoming, Tennessee, and Idaho all increased in the second year, only Louisiana produced a much larger estimate. This finding is consistent with expenditure figures described earlier.

In only 3 states—Oklahoma, Arizona, and Idaho—is an increase sustained over a three-year period. For the majority of the states, the use of longer lags made little difference. In 13 states that had no significant impact in the first lag, nothing was evident by the third year. Although 5 states (Rhode Island, Colorado, New Mexico, Nevada, and Hawaii) did produce significant estimates by the third year, they were all negative coefficients. In these states, spending on corrections actually decreased significantly three years after a court order. Reports issued by special monitors appear to confirm these statistics. In Nevada, the special monitor found the defendants in substantial noncompliance several years after the court order. In 1988, eight years after the original court order, the parties reached a settlement agreement in this case (National Prison Project 1991). Prison officials in Hawaii entered into a consent agreement with lawyers from the ACLU National Prison Project in 1985 acknowledging that serious problems existed in the areas of medical and mental health care, security staffing and training, overcrowding, and other issues at two prisons. An expert panel responsible for overseeing implementation of the agreement, however, found the defendants to be in serious noncompliance several years after the consent decree (National Prison Project 1992). A state legislative audit conducted in 1989 reaffirmed the reports of the expert panel.

Similarly, state officials in Rhode Island and New Mexico were slow to comply with judicial reforms. The special master appointed in the Rhode Island case was not relieved of his duties until 1983, seven years after the original court order. Although

[7] In 1968, fewer than 20 state legislatures met on an annual basis. By 1980 that number had risen to 33. In 1990, all but 6 legislatures convened annually. Only Arkansas, Kentucky, Nevada, North Dakota, Oregon, and Texas still meet biennially.

the state spent millions of dollars for reforms (Pettine 1991:5), funding could not keep pace with incarceration rates and new prisons were filled almost overnight. In his final report on compliance with the remedial decree, the special master warned of continued overcrowding in Rhode Island prisons (Lopez 1989:2). Within two years, the state faced another court order.

In New Mexico, prison officials and inmates' lawyers reached a comprehensive settlement agreement following a violent prison riot in 1980 that resulted in 38 deaths. The agreement provided for technical assistance to help during implementation and an outside monitor to oversee compliance. After two years, the monitor had evidence of noncompliance, and additional legal measures were taken to force compliance. In 1983, both sides reached an agreement whereby the defendants withdrew a motion to modify the consent decree and further agreed to the appointment of a special master to insure compliance (Lopez 1988).

These statistical results and case histories provide additional evidence that courts are limited in their ability to alter state spending on corrections. Federal courts, it would appear, have been unable to influence levels of state spending for corrections beyond temporary increases. What if the analysis were confined to capital expenditures only? Evidence from both Taggart (1989) and Harriman and Straussman (1983) suggest that the courts have had their greatest impact in this area of corrections spending. Generally, states have responded to court orders and crowded prisons by building new facilities or renovating existing institutions. A new prison typically costs between $15 million and $60 million, with an average of $75,000 to $100,000 per inmate bed (Clear & Harris 1987). Given the nature of these costs, it is worthwhile to measure the court's impact on capital outlays when controlling for prison population and other expenditures.

Judicial impact on capital outlays was estimated by repeating the analysis using just operating expenditures. The results are presented in column (3) of Table 2. These findings can be compared to those in column (2), which include the influence of capital expenditures. The impact of judicial intervention on operating costs has been slightly less than that for total expenditures, which encompass capital outlays. While the intervention is moderately significant in about one-third of the states for both variables, the estimated coefficients for I_{t-1} on operating expenditures are much smaller than those for capital expenditures.

Table 2. Relationship between the Comprehensiveness of Court Order and Estimated Impact of Judicial Intervention on State Spending for Corrections

States by Affected Institutions	Issue Score[a] (1)	Positive Intervention Estimates for Total Expenditures (2)	Positive Intervention Estimates for Operating Expenditures (3)
Entire system			
Alabama	7	.20**	.26**
Mississippi	7	.29**	.27***
Texas	7	.17**	.10
New Mexico	7	—	.33***
Tennessee	6	.12	.08
Arkansas	5	.19***	.15***
Oklahoma	5	.37***	.21***
Rhode Island	4	.23	.19**
Florida	3	.16	.07
Two or more prisons			
Hawaii	6	.04	—
Indiana	5	.10	.02
Maryland	4	.06	.07
Idaho	4	.34*	—
North Carolina	3	.05	—
Single prison			
Louisiana	7	.54**	.19***
Georgia	7	.64***	.04
Colorado	7	—	—
West Virginia	6	.15	.10
Arizona	6	.22*	.12**
Wyoming	6	.27*	.25***
South Dakota	5	.34***	.22**
New Hampshire	5	.14	.03
Illinois	5	.02	—
Kentucky	5	—	.04
Nevada	4	—	.02
Connecticut	3	—	.10*
Missouri	3	.11	.02
Oregon	3	—	—
Ohio	2	.02	.25**
Delaware	2	—	—

[a]Derived by totaling the number of issues reported in the Appendix
*$p \leq .10$ **$p \leq .05$ ***$p \leq .01$

A more complete picture of judicial intervention can be developed by focusing on the nature and timing of judicial reforms. Table 2 illustrates that there is a strong correlation between the comprehensiveness of the court's order to a state and its subsequent impact on state spending for corrections. There are two sides to this relationship. Taggart (1989:265) has noted that the ability of the judiciary to change state spending patterns is partially a function of its willingness to expand the scope of reform from a single institution to an entire prison system. In this study, the entire prison systems of 9 states have been subject to court orders. Five of these states (Alabama, Mississippi, Texas, Arkansas, and Oklahoma) have increased total corrections expenditures in the post-decision period. In the 21 states where judicial

intervention was limited to one or two institutions, only 5 increased expenditures in the following year.

The relationship between the comprehensiveness of a court order and budgetary impact can also be expressed by the number of issues involved. Positive budgetary effects are evident in cases where the courts addressed five or more issues. Of the 12 states where courts ordered reforms on six or more areas of inmate concern, 8 increased their spending in the post-decision period. Only Tennessee, Hawaii, Colorado, and West Virginia failed to augment their corrections expenditures.

In Tennessee, political resistance delayed any significant reforms and budget increases until more than three years after the initial order (Bonneyman 1985:11). Similarly, political opposition from both the governor and the legislature in West Virginia, coupled with a poor fiscal environment, mitigated any positive budgetary response to court reforms (Useem 1990). Hawaii is a special case because the state administers both prisons and jails. Significant reforms at two institutions had very little impact on the overall corrections budget.

One final way to approach the relationship between court reforms and budgetary impact is by examining the time period in which the case was decided. Cooper (1988) has identified two "waves" of conditions of confinement cases. The first wave (early to mid-1970s) was directed at antiquated prisons with the most extreme conditions, many of which were organized along the plantation model. Southern states were the main focus of these early cases, which often resulted in complex, system-wide remedial decrees (Feeley 1989).

A second wave of cases came in the early 1980s. These cases involved relatively newer institutions with less severe physical conditions that were, however, dangerously overcrowded. Overcrowding often contributes to deficiencies in medical care, sanitation, and inmate safety. Mandated reforms in these areas are more likely to impact operating expenditures because they are recurring costs. Using this classification, state prison reform cases were grouped by year of court order in Table 1.

When looking at both capital and operating costs in Table 1, it is clear that the judiciary had a much greater impact on corrections spending in the 1970s cases than in more recent decisions. Judicial impact was most profound in cases litigated before 1978. Aside from a few cases, the courts have been unable to alter spending patterns in cases decided after that year.[8] This finding is important because previous budgetary studies of prison reform litigation have focused only on the earliest cases. By including only cases litigated during the 1970s, these studies are potentially

[8] Although the date of court intervention for New Mexico and Texas is listed as 1980, the cases began during the 1970s. The *Ruiz* case in Texas, for example, was initiated in 1972, and the New Mexico case began in 1978.

biased toward finding significant estimates for judicial intervention.

IV. Conclusions

Do judges really have the "power of the purse"? In some cases the answer is yes, but either the purse is quite small or judges are fiscal conservatives, because the overall results from the budgetary study indicate that the judiciary has had only a limited impact on state expenditures for corrections. The court intervention variable was statistically significant in about one-third of the states examined, and a few of these states were only marginally significant. There are several important determinants in the judiciary's ability to alter state spending patterns for corrections.

Court decisions had a greater impact on capital outlays than operating costs. The relationship, however, between capital costs and compliance with judicial remedies is complex. Many states, at least initially, responded to court orders to reduce overcrowding and improve living conditions by building new prisons and medical facilities. But as the Rhode Island case illustrates, these measures do not guarantee full compliance with remedial decrees. Prison cells are often filled as soon as they are built because demand for prison space exceeds capacity. As a result, overcrowding, with its attendant problems, continues despite expensive construction programs.

There appears to be a direct relationship between the comprehensiveness of a court order and the ability of the judiciary to overcome existing spending patterns. Judicial intervention was most significant in cases involving five or more issue areas over an entire prison system. Cases in which judges ordered sweeping changes in prison administration and structure, on the grounds that a "totality of conditions" violates the Constitution, were more likely to have a greater impact on the state correctional budget. Although litigation was directed at a single institution in Georgia and Louisiana, the remedies in these cases were extensive, and the impact was felt throughout each state's prison system and correctional budget. These results clearly indicate that there is a link between the scope of a remedy and budgetary impact.

A relationship also exists between the timing of a judicial remedy and state spending for corrections. Judicial impact on state budgets was most profound in cases litigated during the 1970s. If both New Mexico and Texas are included, since these cases began during the 1970s, every state except one that had a significant estimate for the court intervention variable was litigated prior to 1980. Judicial decisions during the 1980s were more limited in scope and, with few exceptions, were unable to alter spending patterns.

There are several possible explanations for this judicial retrenchment. Prison litigation during the 1970s may have ameliorated some of the most severe conditions in many states. These lawsuits also made corrections officials more aware of legal liabilities and responsibilities. Many jurisdictions established alternative dispute resolution mechanisms to address inmate grievances. Finally, it can be argued that the legal environment was more conducive for prison reform during the 1970s. Republican presidential administrations made a significant impact on the federal bench by appointing conservative judges who are less inclined to issue comprehensive orders that undermine state administrative powers.

In analyses controlling for other variables, results from the budgetary study indicate that most states have not spent more money on corrections following a court order. While it is true that state spending on corrections dramatically increased during the 1980s, in both aggregate levels and as a proportion of state budgets, this expansion cannot be attributed to judicial intervention alone. In fact, more powerful forces are at work in determining appropriations. My findings support Taggart's (1989) conclusion that total state expenditures are a product of previous spending patterns. Budget allocations are incremental in the sense that a current budget represents a "fair share" increase over the previous year's allocation. These results are consistent with widely accepted theories of state budgeting (Taggart 1990; Wildavsky 1988).

While the results of the study indicate that concerns over the judicial "power of the purse" may be overstated, the findings do raise questions about the use of litigation and the courts as an agent for meaningful social change. Litigation is useful in some ways in promoting reforms, but there are limits to what the courts can accomplish. The judiciary may develop comprehensive remedies for rights violations, but it is up to the state to make the administrative and fiscal changes necessary for compliance. While less intrusive administrative changes may be implemented, it is much more difficult to alter spending patterns. In the budgetary process, court orders are just one of many factors that influence state appropriations. Other factors include interest group pressures, public opinion, and legislative politics.

Further research should attempt to integrate some of these other variables into a budgetary impact and implementation model. As the scope of judicial intervention into state prison administration diminishes, more attention must be paid to legislative actions and their impact on prison populations and correctional budgets. Recently enacted "three strikes" statutes, truth-in-sentencing reforms, and the elimination of parole are likely to impose significant fiscal and administrative costs on state prison

systems. If state governments do not respond adequately to these costs, we may see a "third wave" of prison reform litigation.

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Ruiz v. Estelle, 503 F. Supp. 1265 (1980)

Appendix. Leading Prison Reform Cases for 30 States

State	Case	Citation	Year	Over-crowding	Staff Practices	Health/ Safety	Sani-tation	Food	Medical Care	Due Process
AR	Holt v. Sarver	309 F.Supp. 362 (E.D. Ark.)	1970	Yes	No.	Yes	Yes	Yes	Yes	No
MS	Gates v. Collier	349 F.Supp. 881 (N.D. Miss.)	1972	Yes	Yes	Yes	Yes	Yes	Yes	Yes
OH	Chapman v. Rhodes	434 F.Supp. 1007 (S.D. Ohio)	1972	Yes	Yes	No	No	No	No	No
OK	Battle v. Anderson	376 F.Supp. 402 (E.D. Okla.)	1974	Yes	Yes	Yes	Yes	No	Yes	No
FL	Costello v. Wainwright	397 F.Supp. 20 (M.D. Fla.)	1975	Yes	No	Yes	No	No	Yes	No
LA	Williams v. Edwards	547 F.2d 1206 (5th Cir.)	1975	Yes	Yes	Yes	Yes	Yes	Yes	Yes
AL	Pugh v. Locke	406 F.Supp. 318 (M.D. Ala.)	1976	Yes	Yes	Yes	Yes	Yes	Yes	Yes
DE	Anderson v. Redman	429 F.Supp. 1105 (D. Del.)	1977	Yes	Yes	No	No	No	No	No
NH	Laaman v. Helgemoe	437 F.Supp. 269 (D. N.H.)	1977	Yes	Yes	No	Yes	Yes	Yes	No
RI	Palmigiano v. Garrahy	443 F.Supp. 956 (D. R.I.)	1977	Yes	No	Yes	Yes	Yes	No	No
WY	Bustos v. Herschler	C.A. No. C76-143-B (D. Wyo.)	1977	Yes	Yes	Yes	Yes	No	Yes	Yes
AZ	Harris v. Cardwell	C.A. No. 75-185 PHXCAM (D. Ariz.)	1977	Yes	Yes	Yes	Yes	No	Yes	Yes
MD	Johnson v. Levine	459 F.Supp. 648 (D. Md.)	1978	Yes	No	No	Yes	Yes	Yes	No
MO	Burks v. Walsh	461 F.Supp. 454 (W.D. Mo.)	1978	Yes	No	No	Yes	No	Yes	No
GA	Guthrie v. Evans	C.A. No. 3068 (S.D. Ga.)	1978	Yes	Yes	Yes	Yes	Yes	Yes	Yes
CO	Ramos v. Lamm	485 F.Supp. 122 (D. Colo.)	1979	Yes	Yes	Yes	Yes	Yes	Yes	Yes
TX	Ruiz v. Estelle	503 F.Supp. 1265 (S.D. Tex.)	1980	Yes	Yes	Yes	Yes	Yes	Yes	Yes
NM	Duran v. Apocada	C.A. No. 77-721-C(D. N.M.)	1980	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Appendix A.—Continued

State	Case	Citation	Year	Over-crowding	Staff Practices	Health/ Safety	Sani-tation	Food	Medical Care	Due Process
NV	England v. Miller	C.A. No. CVR-77-221-ECR	1980	Yes	Yes	Yes	No	No	Yes	No
CT	Lareau v. Manson	507 F.Supp. 1177 (D. Conn.)	1980	Yes	Yes	Yes	No	No	No	No
OR	Capps v. Atiyeh	495 F.Supp. 802 (D. Ore.)	1980	Yes	No	Yes	No	No	Yes	No
IL	Lightfoot v. Walker	486 F.Supp. 504 (S.D. Ill.)	1981	Yes	No	Yes	Yes	Yes	Yes	No
KY	Kendrick v. Bland	541 F.Supp. 21 (W.D. Ky.)	1981	Yes	Yes	No	No	Yes	Yes	Yes
IN	French v. Owens	538 F.Supp. 911 (S.D. Ind.)	1982	Yes	Yes	Yes	Yes	No	Yes	No
WV	Crain v. Bordenkircher	C.A. No. 81-C-320R (Marshall)	1982	Yes	Yes	Yes	Yes	Yes	Yes	No
TN	Grubbs v. Bradley	552 F.Supp. 1052 (M.D. Tenn.)	1982	Yes	Yes	Yes	Yes	Yes	Yes	No
SD	Cody v. Hilliard	599 F.Supp. 1025 (D. S.D.)	1984	Yes	No	Yes	Yes	No	Yes	Yes
HI	Spear v. Ariyoshi	C.A. No. 84-1104 (D. Haw.)	1985	Yes	Yes	Yes	Yes	Yes	Yes	No
ID	Balla v. Bd. Corrections	595 F.Supp. 1558 (D. Id.)	1985	No	Yes	No	No	Yes	Yes	Yes
NC	Hubert v. Ward	C.A. C-C-80-414-M (W.D. N.C.)	1985	Yes	Yes	No	No	No	Yes	No

NOTE: Abbreviations: F.Supp. = Federal Supplement (U.S. District Courts); F.2d = Federal Reporter 2d Series (U.S. Courts of Appeals); C.A. = Civil Action (state court).

SOURCE: National Prison Project 1990–92; Taggart 1989; various federal and state reports.