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Criminal Justice Issues and Prisoners' Rights

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In August 1988, judges in Criminal Court of Richmond County, which comprises the New York City borough of Staten Island, began the first systematic use of day fines in American courts. Initially developed in Scandinavia in the 1920s and 30s, and then introduced to West Germany in the late 1960s and early 1970s as a substitute for short terms of incarceration, the day-fine involves a simple two-step process in setting fine amounts that embraces the principles of proportionality and equity that are traditional in both European and American sentencing jurisprudence. First, the court sentences the offender to a certain number of day-fine units (e.g., 15, 60, 120 units) according to the gravity of the offense, but without regard to his or her means. Then the value of each unit is set at a share of the offender's daily income (hence the name "day fine"), and the total fine amount is determined by simple multiplication. The percentage share of income used in valuing the day-fine units varies across the different countries which use this system, as do methods for accounting for the offender's family responsibilities or capital wealth, but the basic idea assures routine imposition of equitable fine sentences, the punitive impact of which is in proportion to the crime. This essay recounts briefly the story of how the European day fine was modified for use by the American criminal courts and tested in the criminal court of Staten Island, one of the five boroughs of New York City. This practice holds great promise for remedying several problems associated with the current American procedures for administering fines. To facilitate efforts by other jurisdictions to develop their own day fine policies, the following pages discuss how this innovation can improve criminal sanctioning practices and how several important policy and design issues were resolved by those involved in the Staten Island experiment. The essay then turns to an examination of preliminary data on its use, and of the effectiveness of the day fine in Staten Island compared to the traditional practice.

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