

Criminal Law Utilities for the PC: Something to Consider

by James Eckert

Crime Time

by George Dentes (freeware)

Gunga Clerk

by David Woodin (Due Process Software)

Adept as we have all become at flipping the pages of the Penal Law to determine the minimum and maximum sentences for all possible offenses under all of the possible predicate permutations, under both the old and new sentencing schemes, there may be other attorneys who are less fortunate. For those attorneys, two new pieces of software are available to help calculate the sentences available under any possible outcome of their case. One is simple, and free. The other is less simple, does much more than just calculate sentences, and is not free (but can be sampled for free in a demo version).

The first is called *Crime Time* and is copyrighted but free. George Dentes, the Tompkins County District Attorney, originally wrote it in 1996 and has produced an updated 1998 version. *Crime Time* is a simple-to-use DOS program which displays the sentencing requirements for any given crime for any given prior history. The user chooses a crime from the alphabetical listing of offenses. Typing the name of the offense takes you to that offense in the list; it is seldom necessary to type more than two or three letters. Then the user chooses whether the offense was attempted or completed. The adult/YO/juvenile status is chosen. Then the prior felony status is entered, in one or more steps depending on persistent possibilities and so on. The result is a display of the information entered followed by a textual explanation of the lawful sentences, including surcharges, and other considerations such as mandatory consecutive time for crimes committed while released on bail. At each step the appropriate facts are chosen by hitting **ENTER**, and you can move back a step by hitting **ESC**.

Because it is limited to sentence calculations, *Crime Time* is easy to use from the first try. Anyone familiar with making menu choices on a computer should be able to access *Crime Time*'s data within minutes. With little practice, you can determine the possible sentences for a case, using only a handful of menu selections, in about thirty seconds from starting the program to reviewing the result.

The second piece of software is more ambitious and, like nearly any program that can do more, it is more complicated. It is not difficult to use, it simply will take more practice to maneuver through the choices and functions of the program.

James Eckert has been a Monroe County Assistant Public Defender for 13 years, with 10 years in Appeals; he has programming experience in Basic, C and C++; he was a beta tester of the games High Command and V for Victory: Gold, Juno, Sword.

This program is called *Gunga Clerk*, and was written by David Woodin of Due Process Software. *Gunga Clerk* can review a list of elements chosen from a list and find the possible criminal charges appropriate to those facts. It can display the elements of the offense and then define the elements, with case citations. *Gunga Clerk* can display lesser included offenses, again with authoritative references. It can list lawful pleas and limits on plea bargains given an initial charge. Finally, like *Crime Time*, it can display the lawful sentences for a given offense and criminal history. With all of this power, it is not surprising that *Gunga Clerk* has a steeper learning curve than the much simpler *Crime Time*.

When *Gunga Clerk* is run the offenses you will be working with must be "loaded." This keeps the lists you work with later more manageable in length, but you must load each type of offense you want included in your searches (segregated by Penal Law section). *Gunga Clerk* lists offenses by Penal Law section numbers, not alphabetically, although the offense categories are listed prominently alongside the Penal Law section numbers.

The mechanisms for referencing each capability of *Gunga Clerk* are too numerous to detail here. Generally an offense is chosen from one menu, and then subsequent menus are used for the other functions of the program, whether it's finding lesser included offenses or sentence calculations. *Gunga Clerk* suffers from the fact that the user has more choices to make than in *Crime Time*. In *Crime Time* every decision is limited to going forward (hit **ENTER**) or going back (hit **ESC**). *Gunga Clerk* is less intuitive—hitting enter highlights a choice, **F10** moves on, and space bar displays more data. **ESC** sometimes takes you back a step, but in some cases, e.g. possible sentences, every data page must be reviewed before hitting **ENTER**, not **ESC**, will take you back a step. You won't get lost with the commands, however, because the available choices are always displayed at the bottom of the text box. Still, it takes some time to get used to which key must be hit to move to the next step.

In short, *Gunga Clerk* confronts us with the perennial software dilemma. If we want a more powerful program we are going to have to invest more time in learning how to use it. Once it is mastered, however, *Gunga Clerk* can be a very useful tool from the investigation stage (with its calculation of possible charges), through plea bargaining and sentencing. Its extensive references will also aid in researching what one authority has called the interstices of our jurisprudence.

Both programs are written for DOS, but run just fine in a Windows environment (they were both tested under Windows 95). A Windows version of *Crime Time* is planned, and a Web-based version of *Gunga Clerk* is in the works. Set-up for the current version of each was simple. Anyone who has downloaded a program from the World Wide Web will not be challenged, others should seek the assistance of a qualified adolescent.

Under Windows the programs run in a DOS box, which means that they look much like any other Windows program, except that you must close them out yourself when you shut down. (If the program fills the screen and you want it in a box, or vice-versa, hold down the **ALT** key and hit **ENTER**.) Neither program is much to look at graphically since they are just text, but this is all that is needed. *Gunga Clerk* is impressive with the list of capabilities and the availability of authority for lessers, etc. *Gunga Clerk's* extensive references to authority even caught the distinction between the 2nd and 3rd Departments (which hold that if restitution is ordered then no surcharge should be imposed) and the 4th Department (which has repeatedly held that only those with the funds to pay restitution up front must have their surcharged waived, and anyone without the funds to pay restitution before sentencing pays the additional fine for their impecuniousness).

One fault in both programs is the failure to alert the practitioner to the Sex Offender Registration Act implications of convictions. In many cases the SORA consequences are more serious than the actual sentence. Further, there are offenses

whose SORA applicability is not readily apparent, e.g. kidnapping where the victim is under seventeen years old. Although for *ex post facto* purposes SORA is not considered a part of sentencing, the reality is that SORA is often the chief concern of anyone charged with many offenses these two programs deal with. Neither contains any reference to SORA that I saw in my fairly extensive use of each (neither mentions it, for example, as it applies to rape or sodomy). Both would greatly help their users if SORA implications were included.

Crime Time can be downloaded free from the following Internet address: <http://owasco.co.tompkins.ny.us/distatto/crimetim.html>. Any Yahoo search on *Crime Time* and Tompkins will pull up the current address, if it changes. The Demo version of *Gunga Clerk* (with a limited database of offenses) can be downloaded from: <http://members.aol.com/dewoodin/dps.htm>. Again, a search on *Gunga Clerk* and Due Process Software will give you the updated address if it changes. The full version of *Gunga Clerk* used for this review was \$149.00. Both programs are definitely worth considering for anyone whose practice involves criminal law. ⚖