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Harold A. Phelps

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RHODE ISLAND'S THREAT AGAINST MURDER

HAROLD A. PHELPS¹

For more than 200 years capital punishment was employed by Rhode Island to repress murder. During a considerable portion of this time (1647-1852) the same penalty was applied to other crimes, such as treason, witchcraft, burglary, arson, and rape. With changes in public opinion, generally by revision in the criminal code, this punishment was considered more serious than some of the crimes involved and gradually the list of capital offenses diminished. In practice the death penalty was used by the courts only in cases of murder for several decades prior to its total abolition in 1852.

LEGAL STATUS OF MURDER IN RHODE ISLAND

This abolition movement may be traced to three circumstances. (1) A growing humanitarian sentiment against the barbarity of the death penalty. (2) The reflection of this sentiment in the minority report of a commission appointed to revise the criminal code in 1838, which indicated the increasing difficulty of the courts to secure convictions in murder cases when the death penalty would be enforced. (3) And finally a 19th century Sacco-Vanzetti incident in the conviction and execution of John Gordon in 1844, which incited statewide protest and gave a much needed personal note to the campaign.

Though primarily of historical significance these circumstances have present interest because of their relation to contemporary methods of analyzing and treating crime. Rhode Island accepted life imprisonment for convicted murderers as a satisfactory, if not adequate, punishment with no serious consideration of the frequency of murder, of the variety of problems which murder involves, or of the value of the death penalty as a repressive measure. This strictly legal approach to the treatment of crime was necessarily abstract. Lacking sufficient plasticity to meet novel conditions of violence, revisions were frequently proposed to make the laws against murder more applicable.

With the substitution of life imprisonment for the death penalty 75 years ago, there have been several waves of public sentiment concerning its inadvisability. On two occasions when efforts were made

¹Department of Social and Political Science, Brown University, Providence, R. I.

to restore the death penalty, minor revisions of the criminal code were effected. Agitation in the early 'seventies resulted in the re-establishment of the death penalty (in 1872) in the case of a prisoner who should commit murder when under sentence of life imprisonment. However no one has ever been punished under this revision, though much emphasis is placed upon this movement in debaters' handbooks. The second revision, made in 1915 following a long and fiery controversy, resulted in a substantial reduction in the severity of the existing law. By this law murder was classified into two types, namely, killing with intent and premeditation (murder of the first degree) with life imprisonment as the penalty, and second degree murder with a sentence varying from not less than ten years to life imprisonment. Moderated by the usual provisions for pardon and parole that are paralleled in the codes of many states, this briefly is the legal status of murder in Rhode Island.

Any experiment, dealing with as serious a social problem as murder, deserves careful analysis. It raises several inquiries. When neighboring states, similar in population and in economic development, retain the death penalty, how successfully has Rhode Island restricted the lawlessness and violence which result in murder? What do the homicide statistics show? Do the courts, assisted by the police, apprehend and convict suspected murderers with sufficient speed to guarantee as far as it is humanly possible the security of law-abiding citizens? Does the prison experience of convicted murderers indicate that parole and pardon are useful tools in effecting the release of prisoners or agents in the miscarriage of justice? What is the penalty for murder in Rhode Island as demonstrated by prison-histories? In short, how effective is Rhode Island's threat against murder?

THE HOMICIDE PROBLEM IN RHODE ISLAND

There is an unfortunate dearth of statistical material concerning murder in Rhode Island. Homicide statistics indicate the actual loss of life through felonious violence.² Judicial records demonstrate society's reaction to violence by stamping a decree of moral or legal responsibility upon the offender. In several important respects both sources of information are faulty. Materials are available concerning homicide death rates from 1852 to 1927, indictments for crimes of

²It is necessary to remember that homicide in this article follows the definition of the International Classification of Causes of Death, namely, homicide by firearms (182), by cutting and piercing instruments (183), by other means (184), such as poison, strangulation, etc., and infanticide (200). Accidental deaths, especially automobile accidents, regardless of the degree of negligence, are not classified as homicides. Such offenders may be charged with manslaughter.

violence and the procedure of the trial to the sentences imposed from 1896 to 1927, and the records of prisoners sentenced for murder and manslaughter from 1838 to 1927. With these data an attempt will be made to evaluate the experience of Rhode Island with the problems of murder.

While the frequency of homicidal deaths is not a good index of the murder rate in any community, it is the only measure now available by which comparisons may be made between different communities. Since the homicide rate refers to the victim not to the possible murderer, there is obviously the danger of misplaced emphasis. But representative students of homicide and murder, among them Frederick L. Hoffman, are inclined to favor the homicide death rate as a reliable indication of the actual rate of murder. Since the fact of murder is decided by the courts, there is apt to be some discrepancy between court records of murder and the best regulated system of coroner's jury or medical examination. Attention will be given in another section to the frequency of murder, judged by the number of indictments in court records for offenses resulting in violent deaths. For the present conclusions concerning the homicide rate which includes the murder rate will be made.

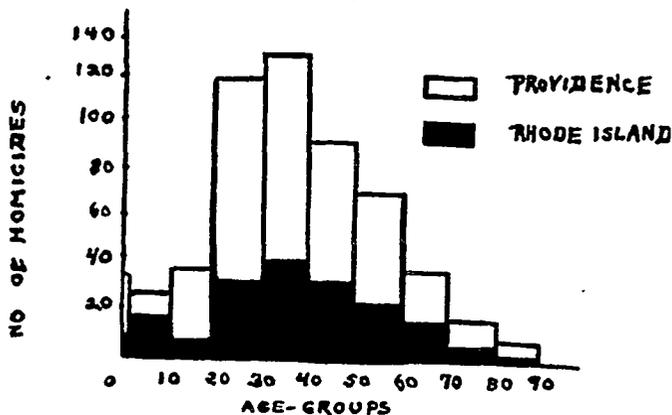
Taking the homicide death rate as a basis of comparison, there is no indication that Rhode Island, enforcing life imprisonment for murder, has been less effective in repressing violence than Connecticut and Massachusetts with the death penalty. Figures alone give the opposite impression. Since death records have been kept in comparable form Rhode Island has maintained for many years a smaller death rate from homicide than either Connecticut or Massachusetts. During the 75 years prior to 1927 the homicide rate in Rhode Island exceeded that of Massachusetts in 19 years, and over a period of 42 years has exceeded that of Connecticut in 15 years. Comparison between this state and others dissimilar in population and economic development would be futile. The three states are very comparable in the degree of industrialization, urbanization (density of population), and heterogeneity of population, which are stressed by students of murder as important factors in determining murder rates. Indeed there is very little difference between the homicide rates in these states. There have been no excessive rates, such as certain Southern states have, nor has there ever been a rising tide of murder. Throughout the period under consideration, the rate has fluctuated in Rhode Island and its adjoining states from 1.5 to 3.5 per 100,000, rarely going as high as 4.0 or 5.0 per 100,000. Debaters find scanty hope

for argument one way or another in the study of capital punishment in Connecticut and Massachusetts and of life imprisonment in Rhode Island. Tentatively this comparison indicates that there is little relation between the conditions which make murder and the penalty, be it life imprisonment or capital punishment. The costly social consequences of violence must be looked for in another direction.

There can be no doubt that the homicide rate is too high, simply because it is a reflection of disorganized, social conditions. If more attention were paid to the offender in cases of violence, and less to the offense, a number of abnormalities responsible for our violence rate might be revealed which are now hidden in legal technicalities. It is in the total incidence of homicidal deaths that the deplorable situation of violence and destruction of life is most apparent. Figure 1 illustrates graphically the age-distribution of homicidal victims from 1855 to 1925 inclusive. Figure 2 distributes the same material by sex. In Figure 1 the shaded area indicates the contribution of all towns and cities outside of Providence; the unshaded area represents the homicidal incidence of Providence.

Figures 1 and 2

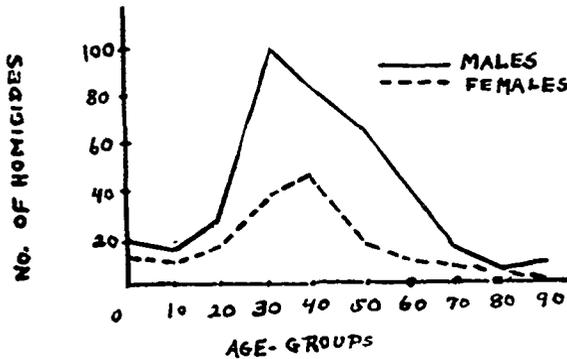
Figure 1. Distribution of Homicidal Deaths by Age-Groups—Providence and Rhode Island, 1855-1925



From a social and economic point of view the age and sex of the persons meeting violent deaths emphasize one important factor in the general problem of violence. Homicide and murder occur most frequently in the age groups when the value of human life is greatest to the community. This obvious conclusion has been indicated in several surveys of the homicide problem. It is this loss of life,

family disorganization, widowhood, dependency, and other social problems, which can scarcely be evaluated in terms of money, that emphasize the seriousness of violence and the need for social control. It is an excessive homicide rate, quite apart from the problems of murder, in which any community might interest itself, successfully to construct barriers against increasing violence. It is against individuals who are prone to use violence, even though by chance this violence does not lead to loss of life, that the most powerful threat will be made against murder and its consequences.

Figure 2. Males and Females, 1855-1925



Source: Registration Reports of Providence and Rhode Island

Comparison between the number of indictments for murder and manslaughter and the number of homicidal deaths affords one indication of the actual rate of violence and of the activity of the police in apprehending the offender. From 1896 to 1927 there were 452 deaths from homicide in Rhode Island. Of this number 421 deaths were reported by the medical examiners as being especially suspicious. During the same period which is taken as the basis of comparison because of the availability of the court records, there were 193 murder cases involving 197 individuals charged with murder and 133 cases of manslaughter. A total of 330 individuals charged with illegal killing compared with 421 homicidal victims suggests the accuracy of homicide statistics as a measure of indictable violence. Legal murder, being a court decision, is, of course, considerably less. Unfortunately there is no information upon the disposition of the remaining cases of homicide. These include 91 or 21.6% of the homicidal deaths. If it may be reasonably assumed that over a period of years there is one person responsible for every homicidal victim, these 91 cases in which there is no record of legal action constitutes one source

of error which makes the number indicted for violence an unreliable indication of the actual number of persons who engaged in violence leading to loss of life. There are no reliable or definite sources of information upon this part of our study. But if more than one-fifth of the cases of homicide represents the proportion of homicide cases in which no legal action takes place, it indicates a serious problem and a significant handicap to the legal threat against violence and murder.

However it is possible to judge the effectiveness of the courts in dealing with cases of violence and to come to some conclusion concerning the importance of this portion of the state's attempt to repress murder. Reference to Tables 1 and 2 indicates the results of court action in murder and manslaughter cases. They are distributed by counties, but the following summary will deal only with totals.

MURDER AND MANSLAUGHTER IN THE COURTS OF RHODE ISLAND

Rhode Island's first and most serious threat against violence involving death is to be found in the number of persons indicted for murder and manslaughter. Table 1 shows the disposition of murder

TABLE I
DISPOSITION OF MURDER INDICTMENTS BY THE SUPERIOR COURTS OF RHODE ISLAND,
1896-1927

Disposition	Providence and										Per Cent
	Bristol Counties		Newport County		Kent County		Washington County		Total		
	M	F	M	F	M	F	M	F			
Convicted of											
First-degree murder.....	18	..	2	..	..	..	3	..	23	11.7
Second-degree murder.....	36	1	3	..	..	..	3	..	43	21.8
Manslaughter	45	4	4	..	6	..	2	..	61	31	
Assault with dangerous weapon.	2	..	..	..	..	..	..	..	2	1
Not guilty (insanity).....	8	..	1	..	1	..	2	..	12	6.1	
										71.6	
Not guilty	18	5	..	..	1	1	1	..	26	
Nol prossed.....	6	1	..	..	..	..	..	..	7	
Capias ordered.....	12	..	..	..	2	..	..	..	14	
Out on bail.....	3	..	..	..	..	..	..	..	3	
Pending	5	..	..	..	1	..	..	..	6	
Totals										28.4	
Number of defendants	153	11	10	..	11	1	11	..	197	100	
Number of cases	157	11	12	13	193						

Source: Dockets and Indictment Records of the Superior Courts of Rhode Island.

cases in the courts of Rhode Island from 1896 to 1927. These cases are grouped accordingly as the persons were convicted or failed to be

convicted of murder. The per cents in the last column refer to the significant items in this table.

During this period of 30 years, 141 individuals or 71.6% of the total number indicted received some penalty for their illegal act. At first sight this looks like a very good record for convictions. But when this ratio is subdivided, it indicates that homicidal violence is becoming a less serious offense, judged by the penalty assigned:

Convicted of murder in the first degree.....	11.7%
Convicted of murder in the second degree.....	21.8%
Convicted of manslaughter	31 %
Convicted of assault with dangerous weapon.....	1 %
Not guilty (insanity)	6.1%
	<u>71.6%</u>
Not guilty and cases untried or incompletd.....	28.4%
	<u>100 %</u>

Since it has only been possible to give a conviction in second degree murder during the last 12 years of the period under consideration, a proportion of 21.8% of the entire cases resulting in this sentence is a definite symptom of leniency or inability to convict in the first degree. However by comparing the convictions for first degree murder and manslaughter prior to 1915 with the convictions for first and second degree murder and manslaughter thereafter, there is a pronounced tendency to give fewer manslaughter convictions in preference to convictions in second degree murder. Since second degree murder does not require proof of intent or premeditation, the courts are apparently finding this to be a convenient settlement in murder cases. This tendency may be in the direction of longer sentences for homicidal violence, but it is too early to make any definite statement concerning this development. Inability to establish guilt is suggested also by the number of convictions for manslaughter, and there is ample evidence of the characteristic incapacity to convict female offenders. Further investigation into the reasons for the incompletd cases or for the instances when escape was effected would throw considerable light on the responsibility of the police and courts respecting this problem.

In Table 2 the disposition of the 133 manslaughter cases is stated. Briefly summarized 43 or 32.3% of the cases were found guilty of violence and committed to an institution. These cases include individuals who were committed without bail or continued for sentence, who were guilty of homicidal killing but not guilty of manslaughter because of insanity, or who were sentenced to prison for a variable term. Of the remainder 27 or 20.3% of the cases were found not

guilty and 63 or 47.4% of the cases were incomplete so far as conviction of violence is concerned. Consequently, of the total 133 indictments for manslaughter, the courts of Rhode Island were able to prove homicidal violence in only 32.3% of the cases.

TABLE II
DISPOSITION OF INDICTMENTS FOR MANSLAUGHTER BY THE SUPERIOR COURTS OF RHODE ISLAND, 1896-1927

Disposition	Providence and Counties								Total	Per Cent
	Bristol County		Newport County		Kent County		Washington County			
	M	F	M	F	M	F	M	F		
Out on Bail.....	26	..	2	..	..	..	5	2	35	
Capias ordered.....	3	..	..	..	..	..	..	..	3	
Nol prossed.....	7	..	1	..	1	..	..	..	9	
Deferred sentence.....	7	..	1	..	2	..	..	..	10	
Plea in abatement filed.....	2	..	..	..	..	..	..	..	2	
Jury disagreed.....	2	..	..	..	..	..	..	..	2	
Indictment quashed.....	1	..	..	..	..	..	..	..	1	
No action.....	..	1	..	..	..	..	..	..	1	
										47.4
Not guilty (insanity).....	3	..	..	..	..	..	..	..	3	
Continued for sentence.....	2	..	..	..	..	..	..	..	2	
Committed without bail.....	1	..	..	..	..	..	..	..	1	
Sentenced to prison										
2 months	2	..	..	..	..	..	..	..	2	
3 months	1	1	..	..	..	..	..	..	2	
4 months	2	..	..	..	..	..	..	..	2	
7 months	1	..	..	..	..	..	..	..	1	
8 months	1	..	..	..	..	..	..	..	1	
9 months	1	..	..	..	..	..	..	..	1	
11 months .....	..	..	1	..	..	..	..	..	1	
1 year	6	..	..	..	1	..	..	..	7	
1 year, 3 months.....	2	..	..	..	..	..	..	..	2	
1 year, 6 months.....	1	..	..	..	..	..	..	..	1	
2 years	2	..	..	..	1	..	..	..	3	
2 years, 6 months.....	1	..	..	..	..	..	..	..	1	
3 years	3	..	..	..	..	..	..	..	3	
5 years	2	..	..	..	1	..	..	..	3	
7 years	1	..	..	..	..	..	..	..	1	
8 years .....	..	..	..	..	1	..	..	..	1	
10 years	3	..	..	..	..	..	..	..	3	
11 years	1	..	..	..	..	..	..	..	1	
13 years	1	..	..	..	..	..	..	..	1	
										32.3
Not guilty.....	21	1	3	..	..	..	2	..	27	
										20.3
Totals	106	3	8	..	7	..	7	2	133	100

Source: Dockets and Indictment records of the Superior Courts of Rhode Island.

It is now possible to summarize all cases in which violence and illegal killing are suspected, in order to determine the legal risks involved by the indicted persons. This can be accomplished by a

resumé of the previous sections, comparing all homicides with the disposition of indicted cases for the 30 year period:

	No.	Per Cent
Total number of homicides (Medical Examiners' Returns).....	421	100
Total number of individuals indicted for violence.....	330	78.4
Total number of cases unaccounted for.....	91	21.6

In homicide cases therefore 8 persons in every 10 run the risk of being suspected and indicted for violent killing:

	No.	Per Cent
Total number of individuals indicted	330	100
Total number of individuals convicted	184	55.8
Total number unconvicted	146	44.2

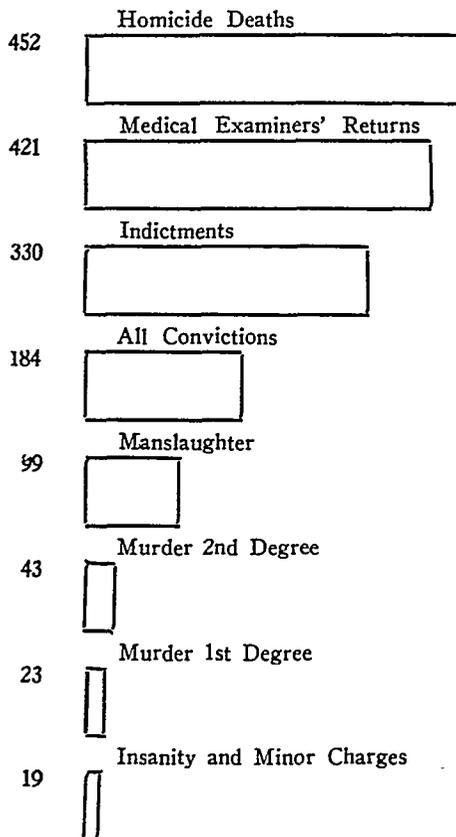
Of the number indicted slightly more than one-half run the chance of being convicted for some offense. Or compared with the total number of homicidal victims (421) and assuming an equal number of offenders, there were 184 persons punished, approximately 4 convictions for every 10 homicides. This is the legal proportion of violence or the legal rate of violence in Rhode Island during the past 30 years as determined by the courts.

But this is not the murder rate. Reference to Table 1 shows that 78 of the total 184 persons convicted were found guilty of murder either in the first or second degree, though 12 of these persons were not considered legally responsible due to insanity. Taking the total 78 as the index of murder, it represents 39.5% of the individuals indicted for murder and 18.5% of the total number of homicides. The murder rate, then, is approximately 4 of every 10 persons suspected and indicted and 2 of every 10 homicides.

The severity of Rhode Island's threat against violence and murder through the courts may be gauged more obviously in another manner. Of the total number indicted for murder (Table 1), it has been the experience of Rhode Island during the last 30 years that one in every 10 will receive the life sentence, 2 of every 10 will be found guilty in the second degree, 3 in every 10 will be convicted of manslaughter, and 3 will not be convicted. The remainder includes persons judged insane or guilty of a lesser offense. In cases of violence involving charges of manslaughter (Table 2) it is shown that during the same period the courts have convicted only 3 of every 10 and have failed to convict or returned a verdict of not guilty in the remaining 7. These results are combined and shown graphically in Figure 3, where the total convictions in murder and manslaughter cases are compared with the number of indictments and the number of homicides. This

figure shows roughly the chances of conviction on some charge in cases of violence resulting in homicide. Of course it does not show how extensively court action represses such crimes. But if punishment itself is a deterrent factor, one comparison, namely, the chance of a person indicted for murder being convicted of murder in the first degree, suggests that there is ample opportunity for the individual to escape the maximum penalty. If we grant that it is only reasonable to suspect murder in 4 of every 10 cases of homicide, deterrence of violence through court action is minimized when only one person in every 10 indicted for murder receives the life sentence.

Figure 3. Comparison between the Number of Homicides and Convictions for Homicidal Violence, 1896-1927



Source: Registration Reports of R. I. Docket Records of the Superior Courts

The story of these offenders' experience in prison is the final stage in Rhode Island's attempt to repress violence.

PRISON EXPERIENCE OF OFFENDERS IN CASES OF HOMICIDE, 1838-1927

Prison records of offenders convicted in Rhode Island in cases of homicide are available since the opening of the prison in 1838. These records will be summarized in four tables, which show the number of persons imprisoned and the sequence of every murder and manslaughter case for the past 89 years. It is interesting to note that only one person during this entire period was executed, the death penalty in three cases prior to 1852 being changed to life imprisonment. With this background it will then be possible to analyze the prison experience of the 165 cases³ sentenced to prison during the last 30 years and to indicate the severity of Rhode Island's final treatment of the problem of violence.

In Table 3 the total number of persons imprisoned for murder or other forms of homicidal violence is presented. During this period of 89 years 32.2% of the criminals convicted of murder were given the maximum penalty of life imprisonment; 16.5% went to prison for second degree murder, but in comparing these figures it must be remembered that the law permitting the second degree sentence has operated only during the last 12 years; 50.8% were imprisoned for manslaughter. The last two female offenders were convicted and imprisoned in 1886, one for murder and the other as accessory to murder. Since then no woman has been imprisoned on a murder charge.

Tables 4, 5 and 6 indicate the disposition of all prisoners shown in Table 3. In each table the group "now in prison" includes recent admissions and consequently increases its proportion unduly. Rather than to assume an arbitrary date which would minimize this factor, the summary includes the experience of all prisoners to 1927.

TABLE III

TOTAL COMMITMENTS TO THE RHODE ISLAND STATE PRISON, 1838-1927				
	Males	Females	Total	Per Cent
Murder (first degree).....	71	5	76	32.2
Murder (second degree).....	39	..	39	16.5
Manslaughter	116	4	120	50.8
Accessory to murder.....	...	1	1	.5
Totals	226	10	236	100

Source: R. I. State Prison Records of Admissions and Releases.

Up to the present exactly one-half of the prisoners convicted of first degree murder have served less than life. During this period two

³From Tables 1 and 2, omitting convictions on minor charges and cases in which insanity was proved.

TABLE IV
DISPOSITION OF PRISONERS CONVICTED OF FIRST DEGREE MURDER, RHODE ISLAND,
1838-1927

	Males	Females	Total	Per Cent
Pardoned	36	1	37	48.7
Expiration of Sentence.....	1	..	1	1.3
Died	17	2	19	25
Now in prison.....	14	..	14	18.4
Insane	3	2	5	6.6
Totals	71	5	76	100

prisoners were sentenced for less than life, one in 1843 for 15 years being pardoned after serving 6 years; the other was sentenced for one and one half years in 1857 which he served. So far only one-fourth of the persons convicted of murder in the first degree have served their sentence.

TABLE V
DISPOSITION OF PRISONERS CONVICTED OF SECOND DEGREE MURDER, RHODE ISLAND,
1915-1927

	Totals—Males	Per Cent
Now in prison.....	23	59
Pardoned	8	20.5
Paroled	6	15.4
Died	2	5.1
Totals	39	100

As the sentence of murder in the second degree has been in operation only since 1915, the proportion of prisoners who have been pardoned or paroled is minimized by the number of recent admissions. The average sentence for this offense (18.9 years) indicates that the precise relationship between sentences served and pardons and paroles cannot be stated accurately for some time. There is no prison record of any woman imprisoned for this offense, though there is a court record of one conviction.

TABLE VI
DISPOSITION OF PRISONERS CONVICTED OF MANSLAUGHTER, RHODE ISLAND,
1838-1927

	Males	Females	Total	Per Cent
Expiration of sentence.....	46	2	48	40
Pardoned	30	1	31	25.8
Paroled	18	..	18	15
Now in prison.....	12	1	13	10.8
Died	6	..	6	5
Insane	4	..	4	3.3
Totals	116	4	120	99.9

In cases of manslaughter for which an average sentence of 8.3 years has been given, the number of prisoners who have been re-

leased prior to the expiration of their sentence practically equals the number who have served their sentence. The significance of the items in each of the last three tables is stressed by the following summary of every prison record of convictions for homicidal violence:

SUMMARY OF PRISON DATA

MURDER IN THE FIRST DEGREE, 1838-1927

Total number of persons sentenced.....	76
Total number now in prison.....	14
Average time of persons who served their sentence.....	9 yr. 9 mo. 3 da.
Average time of persons who were pardoned.....	13 yr. 7 mo. 8 da.
Average time of persons transferred to insane hospitals....	6 yr. 7 mo. 16 da.
Longest sentence served	47 yr. 1 mo. 25 da.
Longest sentence served by person who was pardoned.....	26 yr. 9 mo. 26 da.
Shortest sentence served by person who was pardoned.....	7 mo. 29 da.

MURDER IN THE SECOND DEGREE, 1915-1927

Total number of persons sentenced.....	39
Total number now in prison.....	23
Average sentence given.....	18.9 yrs.
Average time of persons who were pardoned	4 yr. 8 mo. 22 da.
Average time of persons who were paroled	6 yr. 5 mo. 12 da.
Longest sentence for this offense.....	30 yrs.
Shortest sentence for this offense.....	10 yrs.

MANSLAUGHTER, 1838-1927

Total number of persons sentenced	120
Total number of persons now in prison.....	13
Average sentence for manslaughter.....	8.3 yrs.
Average time of persons who served their sentence.....	4 yr. 3 mo. 14 da.
Average time of persons who were paroled	5 yr. 7 mo. 7 da.
Average time of persons who were pardoned	5 yr. 7 mo. 2 da.
Average time of persons who died	3 yr. 7 mo. 29 da.
Average time of persons transferred to insane hospitals.....	1 yr. 2 mo.
Longest sentence for manslaughter.....	20 yr.
Shortest sentence for manslaughter.....	1 yr.

It is now appropriate to seek some tangible index of Rhode Island's repressive measures against murder by analysis of the prison records of the 127 individuals indicted for murder and sentenced for first and second degree murder and manslaughter and of the 38 individuals indicted and sentenced to prison for manslaughter since 1896 (Tables 1 and 2). This material is combined in Table 7. The discrepancy between the total number of 165 persons sentenced in the above charges and the total of 142 for whom there are prison records is worthy of attention. This difference may be due to legal action prior to incarceration, to faulty records, or in the case of women to imprisonment in another institution.

Tracing the persons convicted of murder in the first degree and sentenced to prison during the last 30 years, 6 of every 10 serve their sentence or are serving their sentence, while 4 in every 10 are pardoned. The same ratio holds roughly for cases of murder in the second degree

and for cases of manslaughter, where parole swells the number of incompletd sentences. Reference to Tables 4, 5, and 6 suggests that this ratio is a very conservative estimate of completed and incompletd sentences.

TABLE VII
PRISON RECORDS FOR MURDER AND MANSLAUGHTER CASES, RHODE ISLAND,
1896-1927

	Murder		Manslaughter		Total	Per Cent
	First Degree	Second Degree	First Degree	Second Degree		
	No.	%	No.	%	No.	%
Pardoned	10	43.5	8		22	
Paroled .....	..		6	35.9	18	50
Died	1		2		3	
Now in prison.....	12	56.5	23	64.1	13	
Sentence served.....	..		..		22	
Insane .....	..		..		.2	50
*Totals	23	100	39	100	80	100
					142	100

The type of sentences given by the courts for murder and manslaughter and the chances of release by pardon or parole, outlined in this section, demonstrate the severity of Rhode Island's final threat against murder and violence.

CONCLUSION

The material in the previous sections of this study may be digested to show their direct relation to the problems of violence and murder. It is not easy, however, to evaluate with any degree of precision the effectiveness of these repressive agencies, simply because there are too many unknown factors. In the first place there is no way to determine the potential volume of crime which never appears due to other repressive agencies than the police, courts and prisons. And secondly, there is too little information on the personal causes that select certain types of people who require special agencies to prevent them from engaging in criminal acts. Consequently it is necessary to assume that the homicide rate and the persons who are responsible for homicidal deaths designate the range of violence and the personnel which require these special social controls. The following conclusions about violence and murder may be justified from the study of murder and its punishment in Rhode Island.

1. So far as the homicide rate itself is concerned, Rhode Island, like every other state, has an excessive number of deaths from this cause. It is greater than that of any other civilized country, and there is every symptom that this rate is gradually increasing, an actual increase not due to more careful records. Since the homicide rate in Rhode

Island is greater than that of the several foreign countries from which the varied types of population in the state are derived, attention might well be fixed upon local conditions which generate murder. When all the official records are collected concerning homicidal deaths, there is altogether too little information to institute any scientific program for the control of this problem. Presumably this is the first step in the repression of violence leading to murder.

2. Comparing the special cases of homicide reported by medical examiners with indictments for murder and manslaughter, 8 persons connected with every 10 homicidal deaths are suspected of crime and indicted for murder or manslaughter. This is the first line of defense in Rhode Island's war against murder. Of the number indicted slightly more than one-half are convicted of some criminal act, but only 1 in 10 is given the maximum penalty. This result of court action is the second step in the attempt to repress murder. Tracing these convicted persons to prison, whether they are convicted of murder or manslaughter, the chances are, based upon the experience of the past 30 years, that 4 of every 10 persons imprisoned will not serve their sentence. This proportion of releases is slightly greater, when the entire period of 89 years is considered. And the maximum penalty for murder is on the average about 13 years in prison. This roughly is the severity of the final stage in the control of offenders in homicide cases.

3. Whether Rhode Island's threat against murder is effective as it is humanly possible to make it, or whether it compares favorably or unfavorably with other communities, are matters upon which it is difficult to come to any definite conclusions. There is ample evidence that between the commission of the homicide and the various stages of legal control too many persons, probably guilty of some crime, are lost in the shuffle. More careful records are needed not only concerning cases which are indicted or in which no indictment occurs but also concerning the sequence of the case to its final disposition. Apparently as the law and courts now operate, the individual is protected more than the interests of the group. If this condition exists, it is a serious criticism of the function of law. We need a more careful distinction between types of murder and manslaughter and a more thorough classification of offenders. Otherwise the disposition of particular cases either by court or prison is apt to work in direct opposition to any ideal of justice. We need a redefinition of murder.

If murder were a matter of intent and premeditation as the law implies, punishment might be carried on ruthlessly without regard

to individual differences or extenuating circumstances. But there is no evidence in criminal investigations that such is the case.⁴ Murder generally appears when groups or individuals resort to violence on slight provocation or when social conditions render violent methods feasible, i. e., in cases of robbery, strikes, etc. The results of violence are rarely contemplated. Murder itself is largely an accident. In consequence penalties attached to specific acts would not be repressive agents against the general use of violence. Probably the most successful attack against murder would be a general campaign against violence, and probably attention could be given more profitably to the social background and individual variations of persons liable to violence regardless of their crime than to concentrate every effort on the indictment and imprisonment of a few.

⁴E. H. Sutherland, "*Criminology*," p. 65. E. H. Sutherland, "*Murder and the Death Penalty*," *Journal of Criminal Law and Criminology*, Vol. XV, pp. 522-529.