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TIME SERVED IN PRISON COMPARED WITH LEGAL SENTENCE

RAY MARS SIMPSON¹

This paper deals with 4279 prisoners discharged or paroled from The Illinois State Penitentiary (Joliet Branch) since 1920. It is presented to show the relationship between legal stipulations and the actual release or parole practices in Illinois. An attempt is made to present an unbiased account of established precedent covering the past sixteen years.

In Table I the average time actually spent in prison for a given crime is compared with the penalty imposed by the law. For example, the average time spent in prison by the group of 176 murderers considered at the top of the list was 11 years while the statutes impose the death penalty or a sentence of from 14 years to life depending upon the circumstances involved in the crime. Many readers will no doubt be surprised to learn that this group of murderers actually served less time in prison than the minimum established by law!

The averages used in Table I deal only with individuals released from prison. Since in actual fact very few persons spend a lifetime in prison the data presented here should prove of particular interest. It might clarify matters to state that on December 31st, 1930 (for example) there were 319 men in a total population of 4426 inmates who were serving life sentences in the Joliet Branch of The Illinois State Penitentiary for murder, robbery, burglary or sex offenses. With possibly four or five exceptions the number of cases considered in the table should give fairly reliable averages.

Several agencies are employed in determining the amount of time a prisoner actually remains in prison for committing a crime in Illinois. In the first place the Indeterminate Sentence Law (1899) stipulates that all prisoners are eligible for parole upon the expiration of the minimum period of sentence. Prisoners sentenced for life are entitled to parole after serving twenty years. All of the 4279 prisoners considered in this study were under indeterminate sentence with the exception of those committed for murder, rape or kidnaping. If the offender did not plead guilty the jury set a

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TABLE I
Legal Penalties¹ and Release Practice in Illinois

<i>Crime</i>	<i>Legal Penalty</i>	<i>Average Time Actually Spent in Prison</i>	<i>No. of Cases</i>
1. Murder	14 yrs.-Life or Death	11 yrs.	176
2. Rape	1 yr.-Life	2 yrs. 8 mo.	254
3. Kidnaping	1 yr.-Life	2 yrs. 10 mo.	6
4. Robbery (armed)	1 yr.-Life	6 yrs. 10 mo.	244
5. Burglary	1 yr.-Life	3 yrs. 8 mo.	836
6. Incest	1 yr.-20 yrs.	3 yrs. 9 mo.	32
7. Crime vs. Children	1 yr.-20 yrs.	3 yrs. 5 mo.	35
8. Arson	1 yr.-20 yrs.	2 yrs. 3 mo.	16
9. Robbery (unarmed)	1 yr.-20 yrs.	4 yrs. 8 mo.	461
10. Larceny of Auto	1 yr.-20 yrs.	1 yr. 8 mo.	45
11. Extortion	\$500 - 20 yrs.	1 yr. 8 mo.	3
12. Manslaughter	1 yr.-14 yrs.	3 yrs. 8 mo.	197
13. Assault to Kill	1 yr.-14 yrs.	4 yrs. 6 mo.	104
14. Assault to Rape	1 yr.-14 yrs.	3 yrs. 11 mo.	39
15. Assault to Rob	1 yr.-14 yrs.	3 yrs. 11 mo.	82
16. Forgery	1 yr.-14 yrs.	2 yrs. 6 mo.	156
17. Perjury	1 yr.-14 yrs.	1 yr. 10 mo.	7
18. Pandering	1 yr.-10 yrs.	2 yrs. 7 mo.	1
19. Larceny	1 yr.-10 yrs.	2 yrs. 10 mo.	1002
20. Embezzlement	1 yr.-10 yrs.	1 yr. 11 mo.	83
21. Confidence Game	1 yr.-10 yrs.	2 yrs. 10 mo.	259
22. Receiving Stolen Property	1 yr.-10 yrs.	2 yrs.	71
23. Crime vs. Nature	1 yr.-10 yrs.	3 yrs. 4 mo.	46
24. Malicious Mischief	\$100 - 10 yrs.	3 yrs. 6 mo.	4
25. Conspiracy	1 yr.-5 yrs. or \$2000 or Both	2 yrs. 1 mo.	31
26. Bigamy	1 yr.- 5 yrs.	1 yr. 7 mo.	59
27. Child Abandonment	1 yr.- 3 yrs.	1 yr. 2 mo.	1
28. Having Burglary Tools	1 yr.- 2 yrs.	1 yr. 7 mo.	17
29. Violating Liquor Laws	\$100 - 2 yrs.	1 yr. 3 mo.	12

¹ Penalties taken from Cahill's "Revised Statutes" for Illinois (1929).

flat term to be served for these three crimes. If the offender pled guilty the judge pronounced sentence.

The actual length of time served in prison depends to a marked extent upon the good behavior of each individual while in prison (second factor). The Progressive Merit System was adopted in

Illinois in 1920. This system operates to reduce the "final setting" made by the Parole Board if the inmate maintains good behavior while in prison. Since the highest number of violations of prison rules was found by the author to be only .05 violations per man per month for any crime group (or an average of about one violation of rules every year and a half) it seems evident that the merit system serves to reduce the time spent in prison fairly uniformly for the different crime groups under consideration. Since the reductions in time made by the merit system depend upon an arbitrary scale devised by a special committee in 1920 it seems evident that the whole system needs to be thoroughly investigated to determine the part it plays in reducing the sentences established by the law. Shrewd criminals are wise enough to keep out of trouble in prison in order to secure marked reductions in time to be served. The recommendations made by the Warden to the Parole Board usually include the so-called "good time allowance."

A third complicating factor was introduced in July 1933 by the establishment of two Diagnostic Depots. These depots are supervised by the State Criminologist who issues reports on each in-coming prisoner after precursory studies by the sociologist, psychologist and psychiatrist. These reports are given to the Parole Board at the expiration of the first year in prison. Since these reports are designedly couched in vague generalizations they lose much of their intended effectiveness.

A fourth factor to be mentioned is the report of the "Parole Actuary." During the past three years a staff of three "actuaries" has been employed to balance favorable factors against unfavorable items in each case history and make reports to the Parole Board concerning the probability of success or failure following release. A statistical technique is superimposed upon the case history method.

The report of the Parole Board is the fifth factor involved. The final decision (excluding the pardoning power of the Governor) concerning the amount of time to be spent in prison by each inmate is made by this board consisting of seven members. At the expiration of the first year in prison each offender is interviewed by two or three members of this board and a definite sentence is imposed. Friends and relatives are permitted to appear before the board in behalf of the prisoner at that time. The Parole Board takes into consideration the recommendations of the Warden, the Criminologist and the Parole Actuary in preparing its final decision. In certain

cases the States Attorney or the Prosecuting Attorney make recommendations at the time of committment. These recommendations are also considered by the Parole Board.

The combined influence of the foregoing five factors or agencies is reflected in the accompanying tables which show the amounts of time actually spent in prison for various crimes. Table II gives a more detailed analysis of release practices in Illinois. In this table the influence exerted by the past criminal record of each crime group is shown. For example, in the column marked "no previous record" it will be noted that 136 murders actually served an average of only 11 years and 1 month for their crimes. In the next column on the right one is surprised to learn that 22 murderers who had previously been in jail served an average of only 10 years 7 months in the penitentiary. In another column one murderer is listed who previously had served time in three penal institutions. However, in spite of this bad past record he served only 8 years and three months in Joliet prison.

In New York State under the Baumes Law (1926) chronic offenders receive life sentences. Usually a fourth offender is considered as a chronic offender and is given a life sentence. At the bottom of the seventh column in Table II it is interesting to note that the average time spent in prison by 56 individuals who previously had been incarcerated in four or more penal institutions was 5 years and 8 months!

The six kidnapers in Table II served an average of only 2 years and 10 months in prison for their crimes.

It is evident from the data in Table II that the penalty for a given crime becomes increasingly severe as the amount of recidivism increases. One more example should make this clear. Armed robbers with no previous record served only 5 years and 9 months in prison; while those who had been in three penal institutions on prior occasions served an average of 9 years and 6 months.

In Illinois it is evident that administrators of the law tend to emphasize the minimum requirements and to discount the maximum requirements. The information presented in this article makes this conclusion very evident. Furthermore, the administration of the law is not consistent with the legal penalties imposed by the law. The culprit may be required to serve about the same amount of time in prison regardless of whether the law sets the punishment at from one to fourteen years or from one year to life in the penitentiary.

TABLE II
Number of Years Served in Prison
 (4279 cases)

<i>Crime</i>	<i>No Previous Record</i>		<i>Jail Term Before</i>		<i>One Penal Institution Before</i>	
	<i>Average Yrs. Mo.</i>	<i>Number Cases</i>	<i>Average Yrs. Mo.</i>	<i>Number Cases</i>	<i>Average Yrs. Mo.</i>	<i>Number Cases</i>
1. Murder	11-1	136	10-7	22	11-9	16
2. Robbery (armed)	5-9	99	7-1	56	7-6	65
3. Robbery (unarmed)	4-0	223	4-8	100	5-7	107
4. Incest	3-8	30	6-1	1	...	..
5. Assault to Rape.....	3-5	25	4-7	9	5-0	4
6. Manslaughter	3-4	165	4-11	23	6-5	7
7. Assault to Murder.....	3-4	50	5-2	20	5-8	23
8. Malicious Mischief	3-3	2	1-2	1	...	..
9. Assault to Rob	3-0	46	4-4	14	5-5	16
10. Crime against Children..	2-11	25	4-0	6	7-3	4
11. Kidnaping	2-10	6	...	..	...	..
12. Crime against Nature.....	2-9	31	4-3	6	4-7	8
13. Pandering	2-7	1	...	..	...	..
14. Burglary	2-4	374	3-6	151	4-8	201
15. Rape	2-2	198	3-0	26	5-0	27
16. Larceny	2-2	505	2-9	191	3-7	208
17. Arson	2-1	12	5-4	1	2-3	3
18. Confidence Game	2-1	122	5-11	46	3-10	59
19. Forgery	1-11	104	2-9	17	3-10	25
20. Embezzlement	1-11	75	1-5	3	2-10	4
21. Extortion	1-8	3	...	..	...	..
22. Conspiracy	1-7	20	2-3	2	3-3	4
23. Receiving Stolen Property	1-6	42	1-10	14	3-4	12
24. Bigamy	1-6	48	1-11	5	2-5	6
25. Larceny of Auto.....	1-5	24	1-10	16	1-10	4
26. Having Burglary Tools...	1-5	8	1-9	1	1-8	3
27. Child Abandonment	1-2	1	...	..	...	..
28. Perjury	1-1	4	2-4	2	...	..
29. Violating Liquor Laws...	...	..	1-3	11	1-5	1
Total Number of Cases...		2379		744		807
Average Number Years Served	3 yrs. 2 mo.		3 yrs. 10 mo.		4 yrs. 9 mo.	

TABLE II (Continued)
 Number of Years Served in Prison
 (4279 cases)

	<i>Two Penal Institutions Before</i>		<i>Three Penal Institutions Before</i>		<i>Four or More Penal Institutions Before</i>		<i>TOTALS for 4279 Prisoners</i>	
	<i>Average Yrs. Mo.</i>	<i>Number Cases</i>	<i>Average Yrs. Mo.</i>	<i>Number Cases</i>	<i>Average Yrs. Mo.</i>	<i>Number Cases</i>	<i>Average Yrs. Mo.</i>	<i>Number Cases</i>
1.	8-3	1	8-3	1	...	...	11-0	176
2.	8-6	14	9-6	6	8-8	4	6-10	244
3.	5-7	25	6-2	4	7-1	2	4-8	461
4.	4-3	1	...	..	...	..	3-9	32
5.	8-3	1	...	..	...	..	3-11	39
6.	6-9	2	...	..	...	..	3-8	197
7.	6-4	9	8-3	1	5-7	1	4-6	104
8. ....	...	..	...	..	6-3	1	3-6	4
9.	6-11	5	...	..	8-3	1	3-11	82
10. ....	...	..	...	..	...	..	3-5	35
11. ....	...	..	...	..	...	..	2-10	6
12.	6-3	1	...	..	...	..	3-4	46
13. ....	...	..	...	..	...	..	2-7	1
14.	6-0	72	7-3	23	6-5	15	3-8	836
15.	8-3	2	12-9	1	...	..	2-8	254
16.	4-5	53	4-10	19	4-11	26	2-10	1002
17. ....	...	..	...	..	...	..	2-3	16
18.	3-9	21	4-3	9	4-0	2	2-10	259
19.	5-0	9	...	..	8-3	1	2-6	156
20.	2-10	1	...	..	...	..	1-11	83
21. ....	...	..	...	..	...	..	1-8	3
22.	3-1	3	2-6	2	...	..	2-1	31
23.	4-3	1	5-2	2	...	..	2-0	71
24. ....	...	..	...	..	...	..	1-7	59
25.	2-0	1	...	..	...	..	1-8	45
26.	1-9	2	1-5	1	1-9	2	1-7	17
27. ....	...	..	...	..	...	..	1-2	1
28. ....	...	..	...	..	3-8	1	1-10	7
29. ....	...	..	...	..	...	..	1-3	12
		224		69		56		4279
	5 yrs. 6 mo.		6 yrs. 2 mo.		5 yrs. 8 mo.			

It is possible that considerable disrespect for the law is engendered by the uncertainty which exists among those responsible for administering the indeterminate sentence law in Illinois. The chasm existing between parole practice, legal requirements and prison administration is very great. Release practice in Illinois needs to be more closely integrated with the legal statutes. Probably no feasible solution can be offered for improving release practices until the routine of prison life is radically altered and improved. Mere babble about time to be served will not solve the problem. What happens to improve the life of the offender while in prison is of paramount importance.

Considerable friction exists in Illinois between the Superintendent of Prisons, The State Criminologist and The Parole Board. Furthermore, there is considerable duplication of effort in the service rendered by the State Criminologist, the Parole Actuaries and The Parole Board. Probably the Director of The Department of Public Welfare might help matters a great deal by attempting to integrate these agencies which operate under his supervision. Yet, it should be repeated, any change in release practice should be coordinated with changes in the program of reform within the prison walls. The administration of criminal justice in Illinois needs careful revision.