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SETTING THE MINIMUM SENTENCE IN WASHINGTON STATE

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The author is Professor of Sociology at the University of Washington. He was on leave from April, 1951, to September, 1956, to serve on the Washington State Board of Prison Terms and Paroles. He has published chapters or articles on: deviant activities of hotel dwellers; delinquency areas and prison communities in the Pacific Northwest; the criminal behavior of American Indians and Orientals; and on correctional procedures in England, Germany, Spain and Mexico.—EDITOR.

It has long been recognized that judges empowered to try and sentence felons in a given state vary greatly in the punishments they impose, even though the offenders have similar backgrounds and attitudes and have committed comparable crimes. Such variations in sentencing practices reflect divergent philosophies and personalities. In Oregon, as in many other states, one circuit court judge may impose a term of five, another judge a term of fifteen years, for armed robberies almost identical in the facts of the crime and the character of the offender. Students of the problem have recommended that the trial and sentencing functions of judges be separated, placing the latter in the hands of an administrative board. In the state of Washington this was done by act of legislature in 1935.

During the past five years it has been my exciting duty to serve as a member, or as chairman, of the Board of Prison Terms and Paroles in Washington State. The board is composed of three men appointed by the governor for staggered six-year terms. They have a full-time job. A superior court judge tries each felon, and if the man has pleaded guilty, or is found guilty by a jury, imposes a maximum sentence, the length of which is largely determined by statute. The most frequent maximum terms are ten, fifteen, and twenty years. The prosecuting attorney then prepares for the board a statement on the facts of the crime. Both the judge and the prosecutor recommend minimum sentences. After careful study of the case and within six months of the sentence date, it is the responsibility of the Board of Prison Terms and Paroles to set that minimum. In the five-year-period during which I have served on this board we set 4,233 minimums and 1,219 "continuations" for parole violators.

What factors influenced us in setting these minimum terms? What could a sociologist learn from this experience and what could he contribute?

Certain crimes cause more social damage than others, or more grievously offend the public conscience. Homicide, sexual abuse of small children, and crimes involving deadly weapons are offenses which call for longer sentences. A public opinion poll that would measure more accurately the reaction of a representative sample of people to various types of crime would be helpful to any judge or board responsible for sentencing. These reactions would no doubt vary considerably in different countries and even between regions of the same country. They would also change with time. This is an aspect of sentencing to which the academic criminologist could make a scientific contribution. It is generally recognized by experienced parole board members that too short a sentence or too early a parole after a particularly heinous crime could wreck an entire parole system.

Except when the crime has been of an especially serious nature, a first offender should, of course, receive a lighter penalty than one who has offended repeatedly. The best risks in this group, as determined by presentence investigations, should be placed on probation so that they may be given help with their problems in the community, support their families, pay restitution if indicated, and pay taxes.

On the other hand, as credit bureaus know well, a man's habits in relation to past obligations suggest his probable future behavior. If the "F.B.I.", i.e. the record of misdemeanors and felonies supported by fingerprints, shows a pattern for homicide, assault, indecent liberties with a female child, burglary, forgery, or some other crime, the sentence should usually be longer. Society needs to be protected from such individuals. The crucial question: Is this man a menace or "just a nuisance"? Is he a "con forger" who makes a business of writing no-account checks or is he an "alcoholic forger" who writes N.S.F. checks when he runs out of money on a drinking spree? If a men-

ace, he needs more time; if "just a nuisance", he can be released after a shorter sentence with no real danger to society.

For six weeks after his arrival at the prison each new inmate, as well as each parole violator, is studied in the Reception and Guidance Unit. At both the reformatory and the penitentiary the professional staff of this unit includes a chief sociologist who administers the diagnostic center, an assistant sociologist, a clinical psychologist, a psychiatrist, and a vocational counselor. The inmate may need to be trained in some vocation which he can follow on the outside. Examples are barbering, shoe or typewriter repairing, auto mechanics, body and fender work, dairying. A review of basic grade school subjects may be needed before approval for vocational training. Special correspondence courses or graduation from high school may be recommended. Perhaps the man doesn't have what it takes to acquire a skill but could benefit from regular work of any nature. In addition to educational needs the inmate may have emotional difficulties which could be helped by small-group therapy. An alcoholic forger, for example, may be encouraged to join a guided discussion group composed of prisoners with a similar problem. Whatever the recommendation from the R. and G. Unit, the crucial point for the sentencing board is the attitude of the man toward these recommendations. Is he, or is he not, eager to make full use of the treatment possibilities provided by the institution in which he is confined? Extreme personality disturbances in the convict, such as a strongly paranoid attitude, or evidence that the crime is compulsive in etiology, are obviously also important in the fixing of terms.

The procedure followed in setting the sentence begins with a careful study by all board members of the file on the man or woman whose minimum term must be fixed. This file includes detailed information on any prior felony committed in the state of Washington. There are also the prosecutor's statement and the "F.B.I." mentioned above. In addition there is a 7-15 page "admission summary" prepared by the staff of the R. and G. Unit. Included in this summary are data on the developmental history, personality characteristics, vocational status and, in selected cases, a psychiatric evaluation. There is often a statement by the defense lawyer. There may be letters from relatives and friends and written reports on interviews with them.

Every month a sentence hearing for an average of 35 convicts is held at each of the two correctional institutions. Every prisoner to appear, unless he needs an interpreter, comes alone before the board. No visitors other than professional observers are permitted. A representative of the prison, usually the superintendent or an associate superintendent, is at one end of the long table, but takes no active part in the questioning. The inmate sits in a chair on the side of the table opposite the board. His guilt and his maximum sentence have already been determined by the court. The purpose of this session is to fix the time he is to stay in prison. A sincere effort is made to put the man at ease and to encourage him to speak freely. The board is alert to note his attitude toward the crime. Does he accept responsibility for what he has done? Does he project the blame onto others? Does he attempt to conceal or minimize the importance of his past record or of crucial aspects of the current offense? Does he completely deny his guilt in spite of convincing evidence to the contrary? There is always an effort on the part of the board to look toward the future and to point out ways in which the man can use his time constructively. As already indicated his response to the opportunities offered is a factor in the final decision. Ten or twelve minutes are usually sufficient for such an interview, but sometimes much longer is needed.

After the prisoner has been dismissed from the room we compare our individual judgments as to the time he should serve. Our independent opinions are usually similar. When there is divergence a compromise is ordinarily indicated. After all sentence cases have been heard, a copy of the minimums fixed is left with the institution authorities. Within a few days each inmate is informed as to the length of his term. About two weeks later the sentences are released to the press from the governor's office. In the five-year period under discussion Governor Arthur B. Langlie has never made any change in a sentence.

At present, in addition to the sociologist, the board is composed of a journalist with more than seven years of experience as its member, and a law enforcement man with a year and a half. The journalist, perhaps more clearly than the others, sees the implication of a particular crime from the standpoint of the larger society. The expolice chief is the least likely to be taken in by a clever convict story and is more likely to think in

terms of the deterrent effect of the sentence. The sociologist is more concerned than the others with a man's background and his present attitude. Working together, a balanced judgment is achieved.

Usually, after his minimum sentence is fixed, a prisoner can earn only one-third off for good behavior. A law (Senate Bill 201) passed by the 1955 legislature does, however, make it possible for the board to reconsider the minimum sentence of any eligible inmate after he has served one year. There are restrictions on this authority in the cases of mandatory lifers, habitual criminals, those who used a deadly weapon and certain embezzlers. The resident parole officers at each institution prepare periodic progress reports for the board. At the penitentiary these reports are prepared annually; at the reformatory every six months. They are carefully reviewed by the board. After one-third of the sentence, or five years if that is shorter, we interview all inmates eligible for reconsideration. Only when there has been from the beginning an excellent work and conduct record, or a clear-cut change for the better in attitude and behavior has occurred, will a minimum sentence be reconsidered and the prisoner released on parole in less than the usual two-thirds. Inmates who meet the high standards required for transfer to a forestry camp, however, may be granted by the board an extra one-fourth off their remaining sentence time.

It is clear, of course, that the opposite holds true. A man can be denied good time by the board (or have his minimum sentence increased) for participating in a riot, for escape or attempted escape, for major rule infractions, such as assault with a knife, using valio, or having real money in his possession, or for change of attitude in the wrong direction.

The most promising research project encouraged by the board has been a follow-up study of 1,200 parolees from the two correctional institutions. This project was financed over a four-year period (1952-56) by the University of Washington. It was directed by Clarence Schrag, Assistant Professor of Sociology, who has been on leave during the past two years to serve as Supervisor of Adult Corrections in our Department of Institutions.

By 1954 a tentative prediction table had been worked out for the reformatory. Thirty out of some forty factors were found to have a significant relationship to success or failure on parole. The scores ranged from a low of -14 to a high of 17. All of the reformatory parolees who received scores of -11 to -14 (24 out of 688 cases) eventually failed on parole, whereas none of the parolees with scores of 13 to 17 (15 cases) were failures. Most cases, of course, fall into middle classifications. High negative scores do not necessarily mean that an inmate should be denied parole. They do indicate a need for more careful planning and closer supervision on parole. Unfortunately a further testing of this instrument was needed to establish its validity. It is clear that a dependable prognostic table would be helpful to the board, but it would be only one factor influencing the parole decision.

A doctoral dissertation completed during the summer of 1956 by Donald Garrity used data from this project. It centered on the relation between time served in prison and success on parole. Roughly stated Garrity found that the "square john" (anti-criminal, pro-administration) had a high success rate regardless of time. The "outlaw", with no loyalties to either convicts or officials and a resulting proneness to act ruthlessly, had less than fifty per cent chance for success when released early and his success rate decreased as time served increased. The "politician", who tries to use both officials and inmates to his own advantage, had a high success rate if released early, the rate decreasing rapidly as time served increased. The "right guy" (pro-con and anti-administration) had a very low rate for success after a short sentence, but success increased as time served increased. These findings, if supported by other studies, would have significance for sentencing.

Returning now to the work of the board, the dramatic events of these five years suggest that every college criminologist might profitably spend at least his sabbatical leaves in practical correctional positions. Such experiences would keep him in closer touch with the actualities of his field. They should make more effective his teaching and research.