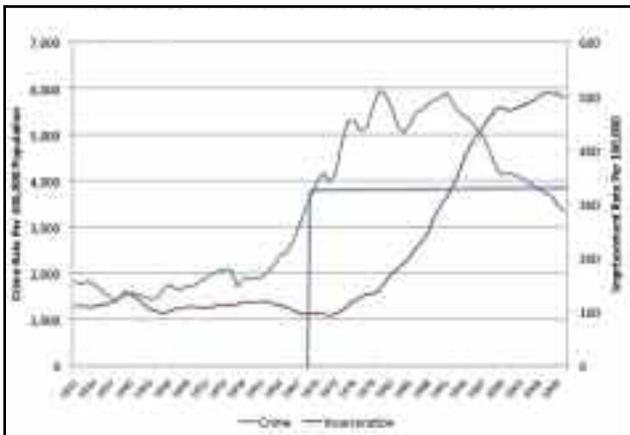


How Much Time Should Prisoners Serve?

By James Austin

While much attention has been paid to the dramatic increase in the nation's prison population, less attention has been directed to understanding of the core factors that have produced this increase. The prison population began a sharp increase beginning in the mid-1970s (see Figure 1). Prior to the 1970s, the prison population and the rate of imprisonment had remained quite stable. The only noticeable declines were during World War II and the Vietnam War when large numbers of males were drafted into military service. However, since 1975, the incarceration rate has continued with historic increases. Only recently have both the national rate and number of state prisoners begun to stabilize — at about 500 per 100,000 population. The federal prison population, however, continues to increase.

Figure 1. Crime and Prison Incarceration Rates, 1931-2010



Sources: Bureau of Justice Statistics' *National Prisoner Statistics* data series, and Federal Bureau of Investigation's *Uniform Crime Reports*.

It is also worth noting that the crime rate began its increase nearly 10 years before the increase in the incarceration rate, which negates the premise that a lowered incarceration rate triggered the increase in crime. Finally, the dramatic drop in the crime rate has been so significant that it is now at the level that it was in the late 1960s — when our incarceration rate was one-fourth of what it is today.

The time is ripe, given the low crime rate, to reevaluate those same factors that produced the historic increases in imprisonment, as well as probation, parole and the populations. As shown in Table 1, a well-kept secret has been similar dramatic increases in all forms of correctional supervision, and not an increase in prison populations and

Table 1. Changes in the Adult Correctional Populations, 1980-2010

	1980	2010	% Change 1980 to 2010
Prisons	319,596	1,218,104	+375%
Probation	1,118,097	4,655,514	+416%
Parole	220,436	840,786	+281%
Jails	162,288	746,728	+361%
Total	1,890,400	7,766,200	+310%
U.S. Population	227 million	309 million	+36%
Reported Index Crimes	13.4 million	11.4 million	-15%
Index Arrest Rate Per 100,000	1.856	.763	-28%

Sources: Bureau of Justice Statistics' *National Prisoner Statistics* data series, and Federal Bureau of Investigation's *Uniform Crime Reports*.

an associated decline in the probation or parole populations. These increases in the nation's correctional system far outpace increases in the U.S. population and reductions in crimes reported to police.

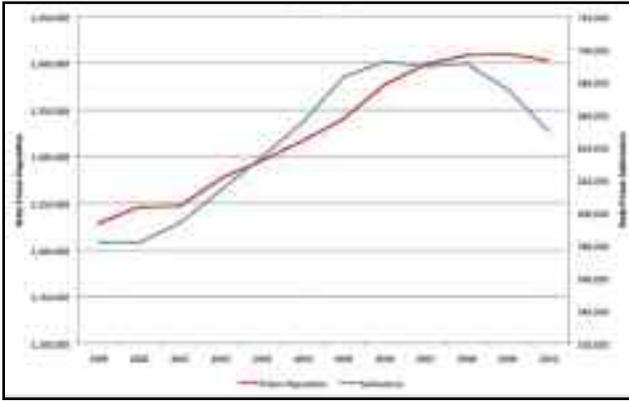
Drivers of Prison, Parole, Probation and Jail Populations

Prison populations (and all other correctional populations) are the result of the following basic formula: "Admissions x Length of Stay (LOS) = Correctional Population." As either, or both, of these two population drivers change, so too will the resulting correctional population. While this is a straightforward formula, it masks the various factors and decisions that produce an admission or LOS. In order to propose reforms that would lower correctional populations, one must understand these various factors and dynamics that have fueled historic increases.

There is no doubt that prison admissions, fueled in part by demographics and a higher crime rate, helped fuel significant increases in prison admissions. As shown in Figure 2, prison admissions, which have only been collected on a national basis since 1999, were steadily increasing. But beginning in 2005, admissions stabilized and then declined. This decline is related to sharp decreases in crime rates, and more important, a decline in the number of people being arrested for serious crimes.

But a more pressing question is, why hasn't the state prison population declined as prison admissions have been reduced? The simple answer lies in the LOS part of the equation. Due to a variety of legislative and policy initiatives, states have been increasing the amount of time served by inmates, which has served to negate the reductions in

Figure 2. State Prison Admissions and State Prison Populations, 1999-2010



Source: Bureau of Justice Statistics, *National Prisoner Statistics*

Table 2. Changes in Sentence, LOS and Parole Supervision Lengths, 1993-2009

Length of Supervision	1993	2009	Change
Sentence Length			
Median	48 months	36 months	-12 mos
Mean	66 months	60 months	-6 mos
Average Prison Time Served			
Median	12 months	16 months	+4 mos
Mean	21 months	29 months	+8 mos
Average Parole Supervision	19 months	26 months	+9 mos
Average Total State Time	40 months	55 months	+15 mos

Source: Bureau of Justice Statistics, *Corrections Reporting Program*

prison admissions. Specifically, passing truth in sentencing laws, reducing parole eligibility and reducing parole grant rates that have served to extend the period of imprisonment.

The only national source of LOS or period of incarceration comes from the Bureau of Justice Statistics (BJS) Corrections Reporting program, which is now based on 41 states. Table 2 compares 2009 data, based on 41 states, with data from 38 states in 1993. While it does not reflect all state prison systems, it does provide for some trend data over time. As shown in Table 2, LOS significantly increased by 38 percent from an average of 21 months in 1993 to 29 months by 2009. Such a percentage increase in LOS directly produces the same 40-percent increase in prison populations. For example, if a state admits 10,000 people per year and has a LOS of two years, that will produce a 20,000-inmate prison population. If LOS is increased to three years (a 50 percent increase in LOS) with the same 10,000 prison admissions, the prison population also increases 50 percent to 30,000 people.

It should also be noted that the LOS shown in Table 2 actually underestimate the total period of imprisonment. Virtually all people who are admitted to prison experience several months of confinement in local jails awaiting the disposition of their cases. This time in pretrial status also contributes significantly to the jail population. In most states, this period of pretrial detention is “credited” to a prisoner’s sentence. In general, the amount of “jail credits” is in the range of three to seven months. Further, many prisoners released on parole violate the terms of parole

and are reincarcerated again for technical violations. These offenders often serve another 12-24 months in prison before being rereleased. Finally, if one includes the period of parole supervision in Table 2, for those that are released and make it through parole without a violation, they will spend about five years either in jail, prison or under parole supervision.

Justifications for Longer Prison Terms

There are four key philosophies for sentencing people to prison. Deterrence is a key concept that assumes the threat (general deterrence), or the actual pain of imprisonment (specific deterrence) will serve to either reduce crime in general or reduce the recidivism of individual offenders.

The other and more controversial justification would be incapacitation. This theory assumes that many criminals have long careers during which many crimes will be committed, unless the person is imprisoned. There have been a number of criminologists and some major studies that have greatly contributed to the scientific basis for expanding incarceration.

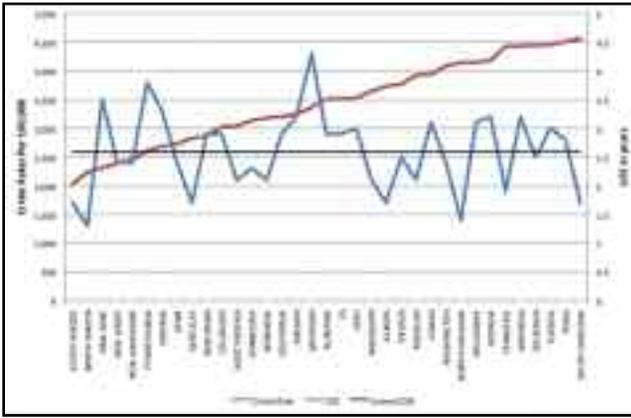
Much of this “science” is grounded in a small number of studies funded by the U.S. Department of Justice in the 1970s conducted by the Rand Corporation and its leading researchers (Jan and Marcia Chaiken, Joan Petersilia, Peter Greenwood and Alan Abrahamse). These studies consisted of having newly admitted prisoners self-report how many crimes they had committed prior to being incarcerated. Based on these survey results, the Rand researchers concluded that a small number of prisoners admitted to having committed a very large number of crimes before they were incarcerated. Assuming they would continue to commit crimes at the same rate for an extended period of time, crime rates could be lowered by “selectively incapacitating” them. Selective incapacitation assumes that only a small percent of sentenced prisoners are committing large numbers of crimes per year. By selectively extending the period of imprisonment for these “career criminals” for many years, large numbers of crimes would be prevented. This theory became the scientific justification for three strike, mandatory minimum and truth in sentencing laws that swept the country in the 1990s.

However, a review by the National Academy of Sciences and Rand’s own follow-up research later discovered that the selective incapacitation policy was incorrect for two reasons. The National Academy reanalysis of Rand’s research found it had significantly overestimated the incapacitation effects of its proposed selective incapacitation policy. Rand itself found that its criteria for identifying high-risk inmates at the time of sentencing was invalid, but these findings did not deter others from arguing that incapacitation was a proven, cost-effective approach to fighting crime.¹

What the Evidence Shows

There is a series of data and analysis that seriously questions the effectiveness of longer prison terms, in terms of reducing crime rates or recidivism. On the crime reduction question, the 50 states provide an interesting natural

Figure 3. Crime Rates Versus LOS by State - 2009



Sources: Pew Center on the States, Public Safety Performance Project. June 2012. *Time served: The high costs of longer prison terms*. Washington, D.C.: Author; and Uniform Crime Reports. 2009. *Crime in the United States, 2009*. Washington, D.C.: Author.

Table 3. Three-Year Follow-Up Rate of Rearrests of State Prisoners Released in 1994 by Time Served

Time Served	3-Year Rearrest Rates
6 months or less	66.0%
7-12 months	64.8%
13-18 months	64.2%
19-24 months	65.4%
25-30 months	68.3%
31-36 months	62.6%
37-60 months	63.2%
61 months or more	54.0%

Source: See Bureau of Justice Statistics. *Prison statistics*. Retrieved Aug. 1, 2006 from <http://www.ojp.usdoj.gov/bjs/prisons.htm>.

experiment. There is considerable variation in the lengths of imprisonment being imposed by states. In a study conducted by the PEW Center on the States, it was shown that some states, such as Michigan and New York, have average LOS rates that greatly exceed the national average of 29 months. Conversely, there are several states — Illinois, Kentucky, the Dakotas and the Carolinas — that have LOS rates below 20 months.² Figure 3 uses the PEW data to compare the states that report their LOS, with their reported crime rates. Rather than seeing an inverse relationship, there is no relationship at all. States that have longer LOS rates may or may not have lower crime rates. Similarly, states with lower LOS rates have both higher and lower crime rates.

The second piece of evidence is research on how LOS affects recidivism rates. There is no positive relationship between the length of imprisonment and recidivism rates. BJS first reported this finding in its study of prisoners

released in 1984. It was repeated in a study of inmates released in 1994 (see Table 3). Note that at a longer LOS range (beyond 50 months) the recidivism rates decline, which is associated with older prisoners being released rather than the effects of a longer LOS.

More current recidivism data from California, Maryland, New York and Texas show the same results. A recent summary assessment of 12 early release studies by the National Council on Crime and Delinquency found that all of the studies reported that inmates who had their prison terms reduced had the same or lower recidivism rates compared to those who were not early releases. Further, the state crime rates either declined or remained the same during the period that the early release program or policy was in effect.³ So in terms of public safety as measured by crime rates and recidivism, we are not getting any significant bang for our correctional bucks by increasing the average period of imprisonment by an average of eight months.

Policy Implications

The science on how much time prisoners should serve from a public safety perspective is very clear. Increasing or decreasing prisoner LOS has no impact on recidivism or crime rates. But it has an extremely dramatic impact on the size of the prison population. Were we to return the LOS that existed in the 1990s and that now exists in many states, the nation's state prison population would decline by more than 500,000 inmates. It would not impact existing recidivism or crime rates.

If we truly want to reduce the nation's prison populations, we will have to reverse and nullify all of the legislative and agency policies that have served to fuel the historic increases in the nation's prison population by increasing time served. This means reducing the lengths of imprisonment for all inmates — not just nonviolent offenders.

ENDNOTES

¹ For a review of the Rand research and its faulty application to sentencing policy, see: Zimring, F. and G. Hawkins. 1998. *The new mathematics of imprisonment*. *Crime and Delinquency*, 34 (1988): 425-436.

² Pew Center on the States, Public Safety Performance Project. June 2012. *Time served: The high costs of longer prison terms*. Washington, D.C.: Author.

³ Guzman, C., B. Krisberg and C. Tsukida. Jan. 2008. *Accelerated release: A literature review*. Oakland, Calif.: National Council on Crime and Delinquency.

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