

POST-RELEASE JUDICIAL CAREERS OF A COHORT OF ENTERING PRISONERS

Pierre Tournier is researcher at the CNRS, and a specialist of prison demography. He has recently completed a long-term research program on time and confinement, and how prison populations are renewed, in collaboration with France-Line MARY and Carlos PORTAS.

This program consisted of following up a cohort of entering prisoners, with the initial objective of achieving a better understanding of the sociodemographic and criminological structure of that population, measuring durations of confinement and studying the correctional itineraries of a sample group, from committal to dis-charge. In the last part of the project, the part described here, we looked at prisoners released from pretrial detention although the investigation of their case had not been completed (about 40 % of the cohort) : the examining judge in charge of the case decided, for one reason or another, that it was unnecessary to prolong detention, and signed a release order. The question, then, is whether the person discharged in this manner will subsequently be sentenced for the offence, and to what type of punishment. In other words, was the pretrial detention served previous to pretrial release subtracted from an unsuspended prison sentence, or not ? To answer a question of this type once some time has elapsed, recourse to the criminal record is required.

Criminal records are valuable for other reasons as well, for the entire cohort of discharged individuals : for determining the frequency, following release, of involvement in other criminal cases sanctioned by a sentence written into the criminal record. Most of the quantitative investigations done in France over the last fifteen years on the itineraries of people who had been the object of a penal measure or sanction have dealt with cohorts of freed prisoners originally sentenced to long prison terms. The analytic approach used in the latter part of this project therefore considerably enriches the corpus on the subject, in that it covers prison-leavers of all sorts.

Methodological remarks

- ◆ *The sample examined here is a stratified one, representative for gender, age, nationality, marital status, educational level, occupational category, pre or post-trial detention and nature of offence, of the 85 333 people incarcerated in the year under study (1983).*
- ◆ *419 prisoners released in accordance with a release order were followed up, whereas the entire sample of released prisoners (1,147 case files) was studied for the frequency of their involvement in new cases.*
- ◆ *In both instances, criminal records were examined as they stood on an average of 5 years after release.*

1. Beneficiaries of a release order : outcome of their case

The first question that arises with respect to these prisoners released prior to any conviction is, what was the judgement in the affair for which they were placed in detention ? The answer is :

- ◆ 22 % were not convicted (no entry on their criminal record),
- ◆ 36 % were found guilty but not given an unsuspended custodial sentence,
- ◆ 42 % were sentenced to unsuspended imprisonment (with or without partial suspension).

The majority of these individuals (22 % + 36 %) served pretrial detention without subsequently being sentenced to unsuspended imprisonment.

For the 36 % of released prisoners who were convicted but not given an unsuspended sentence, the alternative chosen was total suspension in 85 % of cases, a fine in 9 %, and a measure other than a fine in a mere 6 %.

Those who were convicted were judged on an average of 14.3 months after their release. 42 % were judged more than one year after release, and 20 % over two years thereafter. On the average, some 22.4 months elapsed between the offence and sentencing, with this period exceeding two years in more than one third of cases.

Influence of the length of pretrial detention on the sentence

First question : is there a link between the length of pretrial detention and the fact of being convicted or not ?

A look at Table 1 (column C) shows the absence of a correlation between the time spent in pretrial detention and the proportion of convicted individuals among those released. The rate of convictions fluctuates between 70 % and close to 90 % and is unrelated to the amount of time spent in prison.

2nd question : is there a link, for those who are convicted, between the length of their pretrial detention and the nature of the punishment ?

For those who are convicted, the proportion of unsuspended imprisonment in their sentence increases with the length of the pretrial detention period (Table 1, column E). This rate ranges from 28 % for periods of "less than 2 weeks" to 92 % for durations of "six months or more".

3rd question : when a sentence involving personal restraint is pronounced (with or without partial suspension), is there a link between the length of pretrial detention and the length of the unsuspended prison term ?

The answer is yes, and the correlation is increasingly strong as pretrial detention lengthens (Table 2). In 54 % of cases, the unsuspended portion of the sentence is in the same duration bracket as the pretrial detention served : it may be said, then, that the sentence covers the pretrial detention, **strictly speaking** (see the diagonal line across the table). With longer

pretrial detention this proportion tends to increase. In 42 % of cases, the length of the unsuspended prison term is located in a higher bracket for duration than the pretrial detention already served : in these cases the sentence may be said to cover pretrial detention in the **broad sense**.

In the remaining 4 % of cases, the length of the unsuspended prison sentence is located in a lower bracket than the pretrial detention already served.

Table 1 - Length of pretrial detention and post-release judgements

Length of pretrial detention	Released	Convicted	% convicted	Sentenced to unsuspended imprisonment	% of sentences to unsuspended imprisonment
	(A)	(B)	(C) = (B) / (A)	(D)	(E) = (D) / (B)
Total	419	327	78.0	177	54.1
under 2 weeks	134	101	75	28	28
2 wks - 1 mo.	82	71	87	40	56
1 - 2 mo.	78	61	78	32	52
2 - 3 mo.	43	36	84	27	75
3 - 6 mo.	64	45	70	38	84
6 mo. and over	18	13	72	12	92
average (days)	55.7 d.	52.7 d.		74.0 d.	

Table 2 - Length of pretrial detention and length of unsuspended custodial sentence pronounced (n = 177)

Amount unsuspended	Pretrial detention					
	- 15d.	15 d. - 1 mo.	1 mo. - 2 mo.	2 mo. - 3 mo.	3 mo. - 6 mo.	6 mo. and over
Total	28	40	32	27	38	12
	100.0	100.0	100.0	100.0	100.0	100.0
under 2 weeks	26.0	2.6	0.0	0.0	0.0	0.0
2 wks - 1 mo.	18.5	43.6	0.0	0.0	0.0	0.0
1 - 2 mo.	14.8	17.9	68.7	3.7	7.9	0.0
2 - 3 mo.	7.4	10.3	12.5	55.6	0.0	0.0
3 - 6 mo.	18.5	12.8	6.3	25.9	57.9	7.1
6 mo. and over	14.8	12.8	12.5	14.8	34.2	92.9

Terminology

The terms used here are "new case rate", or "rate of returns to prison", rather than "rate of recidivism". What is involved here is clearly not "legal recidivism", as defined in the criminal code, any more than it is the common sense definition of the term "recidivism" (the fact of committing another offence after having been sentenced for a previous one", *Petit Robert Dictionary*). There are at least two reasons for this.

◆ For a number of freed prisoners - about 8 % - there was no subsequent sentence confirming the initial, homogeneous period of confinement. For these people, the first offence to which possible recidivism would hark back is not judicially established.

◆ For the others, the originally sentenced prisoners, all that is known about their career after release is what their criminal record tells us. We are naturally unable to deter-

mine the proportion of individuals who committed other offences that went unpunished by the criminal justice system. Strictly speaking, it would be abusive to speak of the rate of returns to prison. It is a fact that some discharged individuals may have been reincarcerated without having received any unsuspended custodial sentence (pretrial detention followed by dismissal, totally suspended prison sentence, etc.). Conversely, others may have been sentenced to unsuspended imprisonment, recorded on the criminal record, but never committed to prison (this is the case when there was no pretrial detention and the sentence was not enforced by the Public Prosecutor's Office).

2. Freed... and subsequently involved in another criminal case

Taking the entire cohort from here on, we attempted to discover whether these freed pretrial prisoners were later involved in another criminal case sanctioned by a sentence found on their criminal record, within an average period of five years following their release from prison.

We used four "new case rates", defined on the basis of increasingly restrictive criteria based on the severity of the punishment and including, in the last category, the nature of the offence.

59 % of freed individuals were involved in another case for which punishment - irrespective of its nature - was entered on their criminal record during the five years following their release from prison.

46 % were involved in a case punished by a sentence involving personal restraint, with unsuspended, partially or totally suspended imprisonment.

39 % were involved in a case punished by an unsuspended custodial sentence with or without partial suspension.

17 % were involved in a violent offence punished by an unsuspended custodial sentence with or without partial suspension.

In our opinion, for the first group the only logical expression is "new case rate".

The second may be termed "rate of potential returns to prison", inasmuch as the criteria used includes totally suspended sentences.

The other two categories may be called "rate of returns to prison", specifying "overall rate of returns" and "rate of returns for intentional violent offences".

Variations in rates

We were able to study how these different rates varied with gender, age at committal, nationality, marital status at committal, educational level at committal, occupation at committal, previous problems with the law (measured by the presence or absence of a conviction previous to the reference detention period), the nature of the offence connected with that confinement and the reason for discharge.

To take the variations in the new case rate involving punishment of any sort :

- ◆ The rate is 29 % for women versus 60 % for men.
- ◆ It declines for older released individuals, falling from 73 % for those under 21 to 45 % for those aged 30 or over.
- ◆ The rate is lower for aliens than for French citizens (46 % versus 64 %). The fact that some aliens subsequently left France (freely or under constraint) accounted partially for this difference.
- ◆ It is 41 % for married individuals, and 63 % for the others.
- ◆ The difference between people with an "elementary school education or less" and those with "secondary schooling or more" is very slight. The same is true of the difference between "of age to work - no occupation" and

the others. This seems mostly to indicate the relative lack of significance of statements pertaining to these variables, recorded in an extremely imprecise manner upon committal. They definitely do not yield any concrete image of the occupational qualification of the people composing the cohort, and therefore of their situation on the job market when released.

- ◆ People with a previous conviction (irrespective of the reason) had a higher rate than those whose criminal record did not show any sentence pronounced prior to the reference detention : 71 % versus 45 %.
- ◆ Given the nomenclature for offences used, new case rates range from 37 % for the category "public order and breaking regulations" to 88% for the category "theft and receiving + motoring offences".
- ◆ Last, analysis of variations connected with reasons for discharge essentially shows the relatively low proportion of releases on parole as opposed to completions of sentence (45 % versus 60 %). Here again, findings are similar to those for cohorts of "long prison terms". This illustrates one selection effect of beneficiaries of release on parole : those people for whom assessment of the prognosis as to how they would behave when freed led to their release on parole actually did return to prison less often than those for whom that prognosis was negative. Moreover, it seems undeniable that release on parole has a positive effect on crime prevention (Preparation for release requires the establishment of a sufficiently solid dossier, to be examined by the commission for the enforcement of sentences, followed by supervision by the probation committee after release and during the remainder of the term).

The differentials within the category "returns to prison" are very similar to those listed above. All of the variables studied are not statistically independent however. We therefore attempted to complete these "flat findings" using "multicriteria analysis".

Multicriteria analysis

This analysis, conducted on the male sub-cohort, showed three parameters to command great variations in these rates : previous conviction, age at committal (practically the same as age at discharge, since the periods of detention studied are short) and the nature of the first offence). For the rate of returns to prison, then, the picture is as follows (classification by decreasing rates of return) :

Table 3 - Rates of returns to prison (based on criminal records five years after discharge) : male sub-cohort

Offence	Age at committal	Previous conviction	Rate of returns to prison
theft - receiving mo	under 21	yes	72
theft - receiving so	21 - 29	yes	68
theft - receiving so	under 21	yes	59
theft - receiving so	under 21	no	54
theft - receiving mo	under 21	no	54
theft - receiving so	30 or over	yes	48
theft - receiving so	21 - 29	no	31
intentional violence	21 - 29	yes	28
intentional violence	30 or over	yes	25
theft - receiving so	30 or over	no	17
intentional violence	21 - 29	no	14
intentional violence	30 or over	no	10

so = single offence, mo = multiple offences

N.B. : only the most frequently found categories are shown here.

The main distinction here, then, is between "property offences" and "intentional violent offences", followed by age, then by previous dealings with the law.

There is an enormous difference between released individuals aged 30 or over, with no prior conviction, originally detained for an intentional personal offence, on the one hand, and those under 21 who had previously been sentenced at least once, and were initially detained for several thefts, on the other ! The former have a 10% rate of returns to prison, whereas for the latter the rate is 72%. This should - theoretically - be dissuasive of any oversimplification on the subject.

Limits

Given the methodology applied here, analysis of the variations in new case rates is necessarily based on information collected from courthouse documents and criminal records. Data is scarce, then, and what does exist is exclusively judicial. It would be most interesting, for instance, to complete multivariate analysis with information on whether or not the prisoner showed signs of addiction (to alcohol, drugs or medication). Another valuable type of information would pertain to facts occurring during detention : whether or not family ties were maintained, for instance, or whether or not there was preparation prior to discharge, and more generally, the conditions surrounding discharge. Analysis of this type requires recourse to other sources of information within the correctional establishment - independently of the Court Clerk's Office - which can only be obtained through cooperation with people working within the institution, such as socio-educational, medical and other workers, who must be assured that the information collected will be put exclusively to statistical - and therefore anonymous - use. To delve any deeper into the subject, an approach of this type is essential.

Pierre TOURNIER

For further information, the reader is referred to :

TOURNIER (P.), MARY (F.L.), PORTAS (C.), *Au delà de la libération. Observation suivie d'une cohorte d'entrants en prison*, Guyancourt, CESDIP, Coll. Etudes & Données Pénales, n° 76, 1997, 117 pages.

Director : René LÉVY
 Coordinator : Renée ZAUBERMAN
 Translator : Helen ARNOLD
 Diffusion : Sylvie DUFOUR-ZEMB
 Lay-out : Isabelle PASSEGUÉ
 Printer : Ministry of Justice - RRJ

Tél. : 33.(0)1.34.52.17.05 - Fax : 33.(0)1.34.52.17.17