Criminal Processing in California:

A Multistate Analysis of the Efficacy of Judicial Practices

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The following paper examines the criminal processing of three cohorts between 1985 and 1995 of persons incarcerated in California state correctional facilities via the multistate life table, utilizing Bureau of Justice Statistics data from 1985 to 2003. The multistate life table is a device that estimates the frequency of visits and duration in a particular life-state (e.g. incarcerated, paroled, freed from prison). Thus, it facilitates an assessment of California's judicial system during a period characterized by sentencing transformation such as the "three strikes" policy. The extant literature concentrates on specific deterrence analyses that have dichotomous outcomes (recidivate or do not recidivate) and rarely consider the severity of punishment. Investigating the link between changes in duration of stay in prison and parole and linking them to the number of visits to correctional life-states for the three distinct cohorts enables the current study to historically contextualize the efficacy of California's judicial system.

Description & Theoretical Focus

The Purpose of Punishment

Moore (1984) outlines two groups of theories that justify the infliction of punishment and stigma: retributive theory and utilitarian theories. Retributive theory is a non-consequentialist theory, and utilitarian theories are consequentialist. According to the retributive theory of punishment, or "just deserts", the crime itself justifies the punishment, whether it results in a net social gain or not. Utilitarian theories employ a forward-looking perspective, where punishment is appropriate only when the balance of evils tilts in its favor. In addition, it has the goal of preventing crime, where the future cost to society outweighs the current cost of punishment.

Utilitarian theory contains several justifications for punishment: incapacitation, specific deterrence, general deterrence, denunciation, and rehabilitation. Incapacitation confines prisoners, preventing them from committing additional crimes. Specific deterrence uses punishment to prevent future crimes after the release of the prisoner. General deterrence uses punishment to prevent future crimes committed by the general population by means of fear. Denunciation aims to reduce crime by maintaining respect for the law through the denunciation of crime via punishment. This form is also aimed at the general population, but is more educative in nature than general deterrence. The non-paternalistic form of rehabilitative theory falls under utilitarian theory. It asserts that the harshness of the prison environment leads to remorse for the crime or a severe aversion to wanting to be in the environment again, which results in a reduction of crime. Thus, according to utilitarian theories, prison is sometimes a necessary step once a person commits a crime to reduce future crimes.

Utilitarian theories hinge on the work of Beccaria (1764) who asserted that punishment is a necessary evil to prevent crimes from occurring. To achieve this goal of preventing crimes, punishments should be prompt, certain, and the punishment should be proportionate to the severity of the crime. This idea of proportionality in the severity of punishment was important because it supported deterrence of crime rather than retribution. Beccaria hypothesized that excessive severity actually caused crime, rather than prevented it.

My concerns parallel some of the assertions made by Beccaria. How does the severity of the punishment impact specific deterrence? Specifically, does the punishment given for a crime impact the future opportunities and actions of those convicted of a crime (recidivism)? If the decision is made to incarcerate, how does sentence length influence the overall goal of public safety and deterrence?

Previous Studies of Specific Deterrence

Studies focused on the relationship between sentence severity and specific deterrence generally illustrate that longer prison sentences provide little or no additional benefit. Beck and Hoffman (1976) study the release outcomes of 1,546 federal adult prisoners. They partition the population into three groups according to sentence severity. Controlling for background characteristics, they find little evidence that increased sentence alters the recidivism in a positive or negative direction. Gendreau, Goggin, and Cullen (1999) conducted a meta-analysis to examine the effect of prison sentences on recidivism. One component of their analysis examined the impact of longer sentences, finding that spending more time in prison rather than less had a slight increase in recidivism (29% vs. 26%). In addition, the decision to incarcerate versus community supervision, led to divergent future behavior. Those incarcerated had a recidivism rate of 49%, while those who were sentenced to community supervision had a recidivism rate of 42%. One might argue that these results are merely an artifact of the difference in things that

might be accounted for if risk level were included. That is, perhaps those who commit harsher crimes are more likely in general to commit future crimes or have parole violations. However, when Gendreau, Cullen, and Cullen separated the sample into high vs. low risk groups, those who spent more time in prison still had higher recidivism rates. Though the difference was small (3% for the high-risk group and 4% for the low-risk group), it still makes the point that nothing is gained in terms of specific deterrence by longer sentences.

The Life Course Perspective

Elder (1985) outlines four key issues necessary for the assessment of the lifetime effects of events: (1) the characteristics of the event such as its duration and influence, whether good or bad; (2) the principles, values, and human capital people bring to the event; (3) the connotation of the event; and (4) consequences of the event itself. In synopsis, it is important to know the initial life-state and its characteristics, the event, and the impact of the event on the availability and attainment of options and goals subsequent to the particular event.

The life course perspective in criminology acknowledges crimes as social events in the broader context of life (Hagan 1989). It allows the linking of life trajectories, while localizing the event in a more accurate assessment- an event is a single point sometimes initiating transition and change in trajectory in a person's entire life span (Hagan 1989). The events of interest are incarceration, release from prison to parole, unconditional release from prison, death while in prison, release from parole, parole revocation, and death while on parole. These events lead into or out of one of the following states:

(1)Incarcerated - the life-state where a person is serving time in prison. The person has been convicted of a crime and sentenced at a state correctional facility having custodial authority over persons sentenced to confinement.

(2) Paroled – the life-state of supervised conditional release of a convicted prisoner before expiration of the sentence of imprisonment.

(3) Freed – the life-state where one is unconditionally released from prison or parole, but has a prior conviction

The paper embraces this understanding of the judicial system, using the life-states described above to determine the length of time spent in each state, as well as the number of visits to each state.

The process of incarceration has several life-states, and their importance is minimized and maybe eliminated if we only considered a single or multiple decrement process. Past criminological studies in this area have utilized longitudinal data sets. While longitudinal studies are important, they come with limitations especially when studying prison populations, where the growth and composition has had enormous shifts in the past two decades (Blumstein and Beck 1999; Bonczar 2003). Namely, cohort data can be outdated. Period data, on the other hand, assume a synthetic cohort, where they assume that the experiences observed in the period conform to a real cohort. This depiction works in a stable population; however, we have already established the lack of stability in the prison population. Thus, the current study takes advantage of the strengths of longitudinal data and the benefits of incorporating period changes, studying the judicial process of California for three separate incarceration entry cohorts: 1985, 1990, and 1995. Unlike other studies of specific deterrence that have a dichotomous outcome and only sometimes incorporate severity of punishment, the current study integrates the changes in length of stay that were implemented in California, examining the judicial system as a continuous process that ends only once the person is unconditionally free. That is, rather than limiting the

study to the mere occurrence of recidivism, it measures the number of times people cycle back and forth from parole to incarceration, which implicates not only the effectiveness of various lengths of stay in prison, but the institution of parole and its formal and informal restrictions.

Data and Methods

Bureau of Justice Statistics

The National Corrections Reporting Program (NCRP) data, which come from the National Archive of Criminal Justice Data, provides comprehensive records of admissions, releases, and releases from parole for each calendar year from 1983 to 2003. The records are individual-level, providing descriptive information such as age, sex, education, race, state, ethnicity, the offense resulting in incarceration, prior prison time, and prior jail time for each inmate. The number of states reporting varies year to year. Thus, these data sets are not comprehensive at the national level, but only for the states that choose to report. The study utilizes each of the yearly data from the NCRP between 1985 and 2003 to examine the amount of frequency of visits and duration of stay in the life-states in the state of California, which reported entries and exits for each year of interest.

Overview of the Multistate Process

The multistate life table, the central tool of analysis in this paper, contains at least two living life-states and allows persons to move from one life-state to another. Everybody begins incarcerated. From the life-state of incarcerated, three events can occur – (1) death, (2) unconditional release from prison, or (3) parole. Thus, he/she enters either the absorbing life-state of death or freed (previously incarcerated, but now released without condition) or the non-absorbing life-state of paroled. From the life-state of paroled a person can return to the life-state of incarcerated, be released from prison, or die while paroled. Figure 1 depicts this process.

The multistate life table is a continuous-time non-homogenous Markov process having finite life-state space. More description of the mathematics can be found in Namboodiri and Suchindran (1987). The life-state space is the space occupied by the four life-states: incarcerated, paroled, freed, and dead. One of the defining assumptions of a Markov process is that the chance of going from life-state *i* to life-state *j* within a particular life-state space does not depend on any history prior to arriving in state *i*. It only depends on the duration in the current life-state. In other words, the process has no memory.

The letters in Table 1 correspond to the entry and exit rates in the $R(t, t+n)$ matrix, which provides the matrix notation of the Markov chain utilized in many of the computations. In this matrix, t is the age at the beginning of the interval and n is the length of the interval[1]. For example, the letter A in the matrix corresponds to the rate observed when the origin life-state is incarcerated and the destination life-state is paroled. Another way to express a particular element in the rate matrix is r_{ij}, where *i* is the initial life-state and *j* is the destination life-state. The non-diagonals, r_{ij}, represent the observed rates. They convey the rate of passage from life-state *i* to a life-state different from *i* and will require information from one of the data sets used. The diagonals, $r_{ii,}$ are equal to the negative row sums. An element in the diagonal represents those who stay in the current life-state. There are several zeros in Table 1 because this paper is concerned with the effectiveness of the judicial system per offense rather than per person. The former is certainly a question of interest, and one that should be studied if/when there are data available to do such.

[1] The data permit use of one-year intervals, so *n* is always equal to one for this analysis.

Expected Findings

Blumstein and Beck (2005) conducted a study of California prisons that followed the 1995 release cohort through 2001, finding nearly 10% of California prisoners cycled 6 or more times through the system. This certainly indicates that the current study can expect to see similar patterns for one of more of the entry cohorts studied. While the mean length of stay in prison has increased over time, the current study has 18 years of data for the first cohort of interest and nine years of data for the last cohort of interest, allowing an ample observation period to determine shifts. The Blumstein and Beck study certainly presents a piece of the chaos in the California system; however a release cohort is an amalgamation of several entry cohorts – cohorts punished under different sentencing regimes. The entry cohorts in the current study cover the array of changes in the political climate and the policies that resulted, allowing one to place the findings in a historical context and not only study the cycling between states, but the initial sentence that launched the cycle to commence. I expect that increased length of stay in prison will actually result in more visits to the states of incarceration and parole, and a lowered probability of unconditional release.

Once a person enters into the cyclone of the American Judicial system, life remains conditioned on prior prison conviction, limiting the available trajectories or opportunities available to the individual. The restrictions reinforce the pull factors towards criminal behavior. If one cannot obtain a legal job, it does not eliminate the necessity for food and shelter. Rather, it exacerbates the necessity to survive life by any means necessary, and lessens the benefit to adhere to conditions of parole. This, indeed, was fundamentally Beccaria's prediction. If it is the goal of punishment to deter crime and the purpose of release from prison is to reintegrate into society, then it follows that continued punishment would be perceived as unjust. Thus it would result in an increase, rather than a decrease in the adherence to the rules of society.

References

Beccaria, C. 1764. *On Crimes and Punishment*. New York: MacMillan.

Beck, James L., and Peter B. Hoffman. 1976. "Time Served and Release Performance: A Research Note." *Journal of Research in Crime and Delinquency* 13:127-132.

Blumstein, Alfred, and Allen J. Beck. 1999. "Population Growth in U.S. Prisons, 1980-1996." Pp. 17-62 in *Prisons*, edited by Michael Tonry and Joan Petersilia. Chicago: The University of Chicago Press.

Blumstein, Alfred and Allen J. Beck. 2005. "Reentry as a Transient State Between Liberty and Recommitment," in Jeremy Travis and Christy Visher, eds., *Prisoner Reentry and Crime in America*, Cambridge University Press, Cambridge, Massachusetts.

Bonczar, Thomas P. 2003. "Prevalence of Imprisonment in the U.S. Population, 1974-2001." Pp. 1-12 in *Bureau of Justice Statistics Special Report*: U.S. Department of justice, Office of Justice Programs.

Gendreau, Paul, Claire Goggin, and Francis T. Cullen. 1999. "The Effects of Prison Sentences on Recidivism." Ottawa, Ontario, Canada: Public Works and Government Services Canada.

Moore, Michael S. 1984. *Law and Psychiatry: Rethinking the Relationship*. Cambridge: Cambridge University Press.

Namboodiri, Krishnan, and C. M. Suchindran. 1987. *Life Table Techniques and Their Applications*. San Diego: Academic Press.

Figure 1. Incarceration Life-States

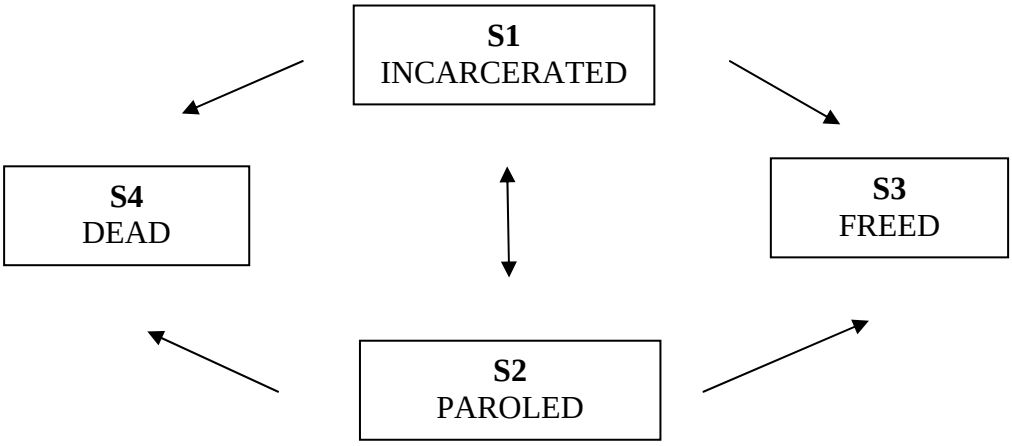

Table 1: Possible Transitions between Origin and Destination States

	DESTINATION LIFE-STATE			
ORIGIN LIFE-STATE	**Incarcerated**	**Paroled**	**Freed**	**Dead**
Incarcerated	-(A+B+E)	A	B	C
Paroled	D	-(F+G+H)	E	F
Freed	0	0	0	0
Dead	0	0	0	0