

REINCARCERATION

Debates on "recidivism" are often filled with figures, referring to the famous but highly questionable "reincarceration rate". Figures of 40%, 50%, 70%, 90% have been cited, usually with no indication of the nature of the population involved, no definition of what is meant by recidivism (legal recurrence, another conviction, returning to prison ?) and no mention of the duration of the period for which these rates were calculated. It is nonetheless clear that the rates found may vary considerably with these three parameters.

In fact, there is little quantitative research on the subject in France: the last national survey dates back to 1981 (Tournier, 1983). It dealt with the "reincarceration" of individuals sentenced to 3 years or more and released in 1973. In order to update these findings, the Department of communication, studies and international relations (SCERI) of the French Correctional Administration and the CESDIP conducted another survey covering the "cohort" of prisoners released in 1982, originally sentenced to at least three years of imprisonment (Kensey, Tournier 1991).

A representative sample of these freed prisoners was established; their police records as of 15 June 1988 - that is, 6 years after their release - were examined. Given the time elapsed between the date of the offence and conviction, for one thing, and secondly, between sentencing and recording on police records, any very recent offences could of course not be exhaustively uncovered. A period of 4 years after release was therefore effectively covered. Examination of 1,016 police records for this sample showed the existence of 348 records in which a new affair had been punished by a prison sentence, representing a "reincarceration rate" of 34.3% for the 4-year period following release. For the 1973 cohort, the figure was 39.0% for the same period.

1. ANALYSIS OF THE REINCARCERATION RATE FOR THE 1982 COHORT

The overall rate of reincarceration may cover extremely different situations, depending on the socio-demographic and penal characteristics of the released individuals.

► **Age at time of release** - the reincarceration rate declines steadily as age at release rises : from 41% for those "under 25" to less than 18% for "50 or over".

► **Marital status** - there is a considerable difference between the reincarceration rate of married people and that of bachelors and divorcees : 24% versus 39 and 38% respectively.

This may be due to the fact that bachelors are younger, on the whole, than married individuals (age-linked effect). Actually, in both the "under 30" and "over 30" groups, reincarcerations are more frequent for bachelors than for married people : there is a 5-point difference in the younger group and a 17-point difference in the older group. Marital status does play a role, then, but mostly among older people.

► **Previous convictions** - these are unsuspended prison sentences prior to the detention that ended in 1982. Although this analysis is necessarily biased by the existence of amnesty laws, it is a fact that the rate is highest for those with the worst judiciary history, ranging from 23% for people with no prior sentence to 61% for those with two or more convictions.

► **Original offence** (motivating the detention ended in 1982) - the reincarceration rate is twice as high for moderately serious offences¹ as for major ones : 48% versus 26%.

► **Original sentence** (unsuspended prison sentence resulting in the detention ended in 1982) - the reincarceration rate was inversely proportionate to the duration of the term meted out : 40% for subjects sentenced to "3 to less than 5 years" to 24% for "15 years or more". Caution must be exerted in interpreting these overall findings. For instance, when the previous two variables are crossed, the offence is seen to be far more decisive than the sentence meted out. For moderately serious offences, the reincarceration rate is the same for sentences of "3 to less than 5 years" and for those of "5 to less than 10 years" (48 and 49%), while there were too few "10 years or more" to produce a truly significant rate. The amplitude of variations depending on length of sentence were also slight for major offenses. Conversely, the reincarceration rate was approximately twice as high for moderate offences as for major ones, for sentences of all lengths.

► **Combination of different factors** - the variables examined are not statistically independent. For instance, the structure of groups with "no previous conviction" and those "with previous conviction" are not the same depending on the other variables used : the former is younger and is involved in more major offenses. The problem, then, is how to account for the participation of each of these factors in variations in the reincarceration rate, since their effects may either be cumulative or counterbalance each other, depending on the situation. A detailed analysis of this question was performed using the "comparative rates" method. This technique, commonly employed by demographers, corroborates the particularly decisive effect of the factor "previous convictions"; it shows a lesser effect of the offence and conversely, indicates a heightened effect of age at release.

► **Type of release** : offenders who were released on parole in 1982 represent 1/3 of the cohort. There is a 1 to 2 ratio of reincarceration rates for different types of

1 - French law distinguishes between three categories of offenses on increasing seriousness :

- *contraventions* (termed "minor offenses" in the text) which are judged by *tribunaux de police* ;

- *délits* (termed moderately serious offenses in the text) which are judged by *tribunaux correctionnels* ;

- *crimes* (termed *major offenses*) which are judged by *cours d'assises*, in which a jury sits.

release : 23% for parolees as against 40% for prisoners who completed their term.

These findings may be partially attributed to the effects of the assistance and control measures attendant on release on parole. The reason for the great differences observed also resides further upstream, however, in the selection of those prisoners who are to benefit from this measure. "Selection of beneficiary inmates" and "assistance and control" have cumulative effects which are obviously difficult to sort out.

The nature of the criteria affecting the decision to grant parole or not may vary considerably, and some of these - conduct during custody, for instance - escape the present analysis completely. However, certain structural differences between individuals on different types of release may be clearly seen when the proportion of parolees is analysed. It is twice as high in the group "with no previous conviction" (40% versus 20%). Within this group, it is also higher for major offences than for moderately serious offences and rises with age. It is interesting, then, to measure these structural effects on the variations in the rate of reincarceration depending on type of release.

We again used the abovementioned comparative rates method, calculating the rates for different types of release for groups with the same "judiciary history", "type of offence" and "age at release" structure. The outcome is as follows :

	End of term	Release on parole	Difference
Comparative reincarceration rates	37.5 %	29.4 %	8.1 pts
Observed reincarceration rates	39.8 %	23.0 %	16.8 pts

The difference linked with type of release is then halved. While this method is too unsophisticated to have the pretention of separating the "selection of beneficiaries" factors from the "help and control" factors, it does simply point to the possible importance of selection criteria.

► **The proportion of the sentence actually served in prison** : the connection between sentence-serving and frequency of reincarceration may also be approached by the examination of the difference generally existing between the length of the unsuspended prison sentence originally meted out (Q) and the time actually spent in custody (T). It should be recalled that the difference between these two figures may be the result of release on parole, but also of reductions in sentences, pardons and amnesties.

For the cohort as a whole, the fraction of the sentence served in detention (called Po, with $Po = T/Q$) is 68%, with a highly concentrated distribution around this mean value : 80% of released prisoners in the 1982 cohort had served between 60% and 80% of their sentence in prison.

If the extreme groups, (Po below 50% and Po above 80%), whose numbers are small, are excluded, the reincarceration rate tends to increase with the fraction of the sentence spent in prison : from 29% when Po is comprised between 50% and 60%, to 38% when Po is comprised between 70% and 80%.

2. COMPARISONS BETWEEN 1973 COHORT AND 1982 COHORT

The reincarceration rate for the 1982 cohort - within 4 years of release - (34.3%) is, as we have seen, 4.7 points below the 1973 rate (39.0%), representing a relative drop of 12%. However, the direct comparison of overall rates must be completed whenever possible by analysis of the structural differences between the groups involved.

Measurement of structural effects

► **Age at release structure** - the 1982 group was younger than the 1973 group. As seen, the reincarceration rate decreases as age increases, in both cohorts. This effect therefore tends to increase the reincarceration rate. To measure it, we calculated what the reincarceration rate would have been for the 1982 cohort if its age structure had been the same as that of the 1973 cohort (comparative rate, 1982) :

comparative 1982	= 33.7 %
observed rate 1973	= 39.0 %
difference	= - 5.3 points.

The drop seen between 1973 and 1982 is therefore not the result of a change in the age structure. If the structure had been identical, the drop would have been slightly greater than what was actually observed.

► **Penal structure** - two variables should be considered, a priori : the number of previous convictions (unsuspended prison sentences) and the type of offence. The 1982 cohort contains a lower proportion of "moderate offences" than the 1973 group. At the same time, the reincarceration rate is almost twice as high for moderate offences as for major ones, in 1982 as in 1973. This structural effect therefore tends to lower the reincarceration rate. For an identical structure of offences, the rates would have been as follows :

1982 comparative	= 35.8 %
observed rate 1973	= 39.0 %
difference	= - 3.2 points.

The drop observed between 1973 and 1982 is therefore partially due to the change in the structure of offences. If the latter had been identical, the drop would have been slightly lower than it actually was.

The 1982 cohort contains a far higher proportion of "no previous convictions" than the 1973 group : 65% versus 57%. As seen, the reincarceration rate rises steeply with the number of previous convictions. This structural effect therefore tends to lower the reincarceration rate. An

identical structure of previous convictions would have produced the following rates :

comparative rate 1982 = 37.6 %
 observed rate 1973 = 39.0 %
 difference = - 1.4 points.

There is a possibility, then, that this effect explains much of the difference between 1982 and 1973. However, there is good reason to question the comparability of the data for previous convictions. The police records for the 1982 cohort - analysed in June 1988 - had been affected by the August 4, 1981 amnesty law, which covered acts committed prior to May 22, 1981, including unsuspended sentences to no more than 6 months of prison. The records of the 1973 cohort - analysed in January 1981 - had also undergone the effects of the July 16, 1974 amnesty law. It covered acts committed before May 27, 1974 and punished by a prison sentence of 3 months or less. The difference in the cut-off points defined in 1981 and in 1973 therefore at least partially explains the structural differences related to the number of previous convictions. This obviously seriously relativizes the value of the above calculations.

Only two structural effects, which in fact counterbalance each other, can therefore be retained : the "age" effect, which tends to increase the reincarceration rate and the "offence" effect, which tends to decrease it. Since these two variables are not independent (people convicted of a moderate offence are younger than those convicted of a major one), it is interesting to determine what the reincarceration rate of the 1982 cohort would have been if it had had the same structures for age at release and offence as the 1973 group :

comparative rate 1982 = 35.7 %
 observed rate 1973 = 39.0 %
 difference = - 3.3 points.

For a same age and offence structure, a difference of 3.3 points (instead of the actual 4.7 points) is found. In other words, while the drop in the reincarceration rate between 1973 and 1982 definitely is affected by non-negligible

References

Tournier, P. (1983) *Le retour en prison, Déviance et Société*, VII, 3, 237-248.

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structural effects, the latter do not entirely account for the observed downward trend. Furthermore, these two cohorts experienced great differences in modes of sentence-serving.

Comparison of modes of sentence-serving

In the 1973 cohort, 2/3 of prison-leavers had been granted parole; we have seen above that this fraction was only 1/3 in 1982. However, this trend was accompanied by a drop in the proportion of the sentence actually served in detention (Po), the mean value of which dropped from 78% to 68%. The dispersion around the mean also decreased significantly.

This situation is linked with modifications in the legal framework. The 1982 cohort derived full benefit from the December 29, 1972 law on reductions of sentences. It also benefitted from the July 11, 1975 law, which offered the possibility of exceptional reductions in sentences to prisoners having successfully passed an academic examination and reductions to prisoners showing exceptional promise of social rehabilitation. Added to this, we find the effect of the 1981 acts of collective pardon and amnesty.

For a series of technical reasons that will not be discussed here, the estimation of correlations between modifications in sentence-serving and changes in the reincarceration rate is made extremely difficult by the number of factors to be considered :

- ▶ modifications in the structure of cohorts dependent on individual features ;
- ▶ inversed proportions of releases and term ends;
- ▶ drop in the fraction of the sentence served in prison;
- ▶ decreased scattering of distributions related to this fraction.

It would be rash, then, to assert the existence of a causal relationship between these changes in sentence-serving and the drop in the reincarceration rate. It is most important to make it clear, however, that these changes were not accompanied by a rise in the frequency of reincarceration of persons sentenced to 3 years or more in prison.

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