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Time Served To Year's End (Update),
Under Custody Populations From 1975 to September 1986

This report examines the time served experience of the Department's under custody population over a 12-year period. In this analysis, time served refers to the period of time between the inmate's latest reception date and December 31 of the particular calendar year.

This report updates an earlier research report on the same topic. The previous report (1985) covered a ten year period ending on December 31, 1984.

A brief summary precedes the report.

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SUMMARY

1. In various amendments to the penal law over the last fifteen years, the legislature has provided for more severe penalties for violent felony offenders and for second felony offenders.
2. This report examines the time served experience of the Department's under custody population over a 12-year period (1975 - 1986). In this analysis, time served refers to the period of time between the inmate's latest reception date and December 31 of the particular calendar year. This report updates an earlier research report on the same topic. The previous report (1985) covered a ten year period ending on December 31, 1984.
3. The average minimum term among inmates held under custody has steadily increased between 1975 and 1986. The average minimum term was 46.8 months among persons held under custody on December 31, 1975, but the average was 72.3 months among persons under custody on September 1, 1986. Similarly, inmates with a minimum term of 48 months or longer made up 21 percent under custody inmates on December 31, 1975, but they make up 48 percent of under custody inmates on September 1, 1986.
4. The average length of time served by the inmate population between latest reception date and December 31 of the particular calendar has steadily increased over the years 1975 through 1985. The average length of confinement among persons held under custody as of December 31, 1975 was 18.8 months; the average length of confinement among persons held under custody on December 31, 1985 was 26.6 months (a 41 percent increase). Inmates who had served 30 months or longer make up 14.1 percent of the under custody population on December 31, 1975, but they make up 29.1 percent of inmates held under custody on December 31, 1985.
5. Figures on average time served as of September 1, 1986 (average = 26.5 months) are about the same as that for inmates held under custody on December 31, 1985 (26.6 months). This leveling in figures on average time served (between 1985 and 1986) is due more to an increase in the number of new court commitments received in 1986 (as compared to 1985) than to any change in the proportion of persons committed to state prison with relatively long minimum terms.
6. Not only has there been an increase in the number of persons held under custody between 1975 and 1986, but the period of time persons have been in Department custody has, on average, increased as well.

Time Served To Year's End (Update),
Under Custody Populations From 1975 to 1986

In an earlier report^{A/}, we looked at several changes in the New York State Penal Law that have served to increase the sentence length of persons committed to the Department of Correctional Services. Briefly, the Penal Law was amended in 1973 to require that persons convicted of a second felony offense must be committed to state prison (New York State Penal Law 70.06). This legislation also increased the length of the minimum period of imprisonment for most second felony offenders committed to state prison. In 1978, the legislature placed new restrictions on plea negotiation for persons arrested and/or indicted for violent felony offenses, and it increased the lowest legally permissible minimum period of imprisonment for Class B and Class C "violent" felony offenses (New York State Penal Law 70.02). The 1978 legislation also increased the length of the minimum period of imprisonment for persons who commit a second violent felony offense (i.e. both the instant and the prior offense are violent felonies). Third, the Penal Law was amended in 1978 to require that for persons committed to state prison with consecutive prison sentences, the minimum terms of consecutive sentences shall be aggregated (or added together) to form the minimum period of imprisonment that must be served prior to parole release consideration (New York State Penal Law 70.30). Prior to this change, the minimum period of imprisonment for a defendant receiving consecutive sentences would be satisfied by serving the longest minimum period of imprisonment of the consecutive sentences. In summary, these changes in the Penal Law have, consistent with legislative intent, increased the minimum period of imprisonment for many defendants committed to state prison who are either repeat or violent felony offenders.

This report is designed to update the earlier report by presenting information on minimum sentence length and time served for persons held under custody on December 31, 1985 and for persons held under custody on September 1, 1986.

^{A/} See "Time Served to Year's End, Under Custody Populations From 1975 to 1984" and "Characteristics of Inmates Held Under Custody, A Ten Year Trend Study," Division of Program Planning, Research and Evaluation, New York State Department of Correctional Services, Albany, New York 12226, June 1985.

CONSIDERATIONS IN EXAMINING DATA ON MINIMUM SENTENCE LENGTH

Data on minimum sentence length is presented in Table 1. The minimum sentence (or minimum period of imprisonment) distribution for persons held under custody on December 31 of each year is presented. The data for 1986 is based on the population of persons held under custody on September 1, 1986. Each yearly population is, of course, not unique. Many of those persons under custody on December 31, 1985, for instance, were also held under custody on December 31, 1984 and in earlier years. Examining the minimum sentence distribution of the under custody population across several years allows us some opportunity to detect changes that may be occurring in the length of minimum sentence among persons who are committed to state prisons.

There are two factors that should be considered when examining the data in Table 1. First, for the under custody populations from 1975 to 1980, a substantial number of cases had been committed to state prison with an unspecified minimum term. That is, the minimum period of imprisonment was not set by the judge but rather by the Board of Parole. The Board set minimum period of imprisonment was not recorded on the data files for these years. We have estimated the minimum period of imprisonment for these cases based on a data file of 10,510 MPI (minimum period of imprisonment) decisions made by the Board of Parole between 1979 and 1980. A formula was developed to predict minimum period of imprisonment from information on maximum sentence length, felony class of conviction crime, and second felony offender status. In using this estimation procedure, we have assumed that the minimum period of imprisonment set by the Board of Parole during the 1980 through 1983 is similar to the minimum period of imprisonment set by the Board from 1975 (and earlier) to 1979 for inmates with a comparable maximum sentence and prior record (see "Time Served to Year's End, 1975 to 1984"). Despite these limitations, we believe that the data on minimum sentence length in Table 1 are valid and useful. Changes in minimum sentence length are relevant because they are an important determinant of time served. For example, among 1983 first releases to parole supervision, there is a strong correlation between minimum sentence length and time served in state prison (Pearson's coefficient $r = .80$).

Second, the information on minimum sentence length for 1985 and 1986 reflects the aggregate minimum term. The data presented for the years 1975 to 1984 reflect only the longest minimum sentence of multiple sentences for which a defendant may be committed to state prison. The data for the years 1980 to

TABLE 1: MINIMUM SENTENCE LENGTH BY YEAR,
 (With Unspecified Minimum Term Estimated)
 INMATES UNDER CUSTODY ON DECEMBER 31, 1975 - 1986

MINIMUM SENTENCE (IN MONTHS)	YEAR											
	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	Sept. 1 1986
12 - 17 Months	615 3.8	816 4.6	744 3.8	654 3.2	745 3.6	1,001 4.6	2,425 9.5	2,920 10.4	2,788 9.1	2,560 7.8	2,556 7.4	2,767 7.6
18 - 23 Months	4,562 28.3	4,372 24.6	4,609 23.8	4,640 23.0	4,598 22.1	4,440 20.5	4,364 17.0	3,995 14.2	3,968 13.0	3,793 11.6	3,711 10.7	4,075 11.1
24 - 35 Months	5,186 32.2	5,323 30.0	5,570 26.7	5,589 27.7	5,330 25.6	5,150 23.8	5,975 23.3	6,533 23.2	6,951 22.8	7,097 21.7	7,249 21.0	7,452 20.4
36 - 47 Months	2,412 15.0	2,820 15.9	2,976 15.3	3,006 14.9	3,074 14.7	3,182 14.7	3,552 13.9	3,967 14.1	4,281 14.0	4,401 13.4	4,648 13.4	4,811 13.1
48 - 71 Months	1,378 8.6	1,815 10.2	2,252 11.6	2,480 12.3	2,670 12.8	2,892 13.4	3,394 13.2	3,914 13.9	4,624 15.1	5,298 16.2	5,713 16.3	6,055 16.5
72 - 119 Months	771 4.8	1,178 6.6	1,585 8.2	1,916 9.5	2,250 10.8	2,444 11.3	2,929 11.4	3,314 11.8	3,832 12.5	4,581 14.0	5,051 14.6	5,409 14.8
120 - 179 Months	191 1.2	255 1.4	341 1.8	417 2.1	512 2.5	575 2.7	745 2.9	909 3.2	1,093 3.6	1,359 4.2	1,553 4.5	1,693 4.6
180 - 239 Months	395 2.5	508 2.9	602 3.1	669 3.3	758 3.6	867 4.0	982 3.8	1,120 4.0	1,244 4.1	1,501 4.6	1,674 4.8	1,751 4.8
240 Plus	591 3.7	662 3.7	726 3.7	811 4.0	914 4.4	1,081 5.0	1,276 5.0	1,531 5.4	1,762 5.8	2,139 6.5	2,408 7.0	2,603 7.1
TOTAL	16,101 100.0	17,749 100.0	19,405 100.0	20,182 100.0	20,851 100.0	21,632 100.0	25,642 100.0	28,203 100.0	30,543 100.0	32,729 100.0	34,563 100.0	36,616 100.0
MEDIAN (IN MONTHS)	29.4	31.4	32.3	32.8	34.9	36.0	36.0	36.0	36.0	36.4	42.0	42.0
AVERAGE (IN MONTHS)	46.8	49.2	51.3	53.7	56.2	58.6	57.7	59.8	62.1	68.6	71.4	72.3

1984 do not fully reflect the impact of consecutive sentences. That is, prior to 1978, the Penal Law provided that where a defendant received consecutive sentences, the minimum sentences (or minimum periods of imprisonment) would merge and be satisfied by service of the period which had the longest unexpired time to run. So, for the years 1975 to approximately 1979, the single longest minimum period of imprisonment is an accurate reflection of the minimum period of imprisonment despite consecutive sentences for some of those held under custody. In a 1978 amendment to the Penal Law (New York State Penal Law Section 70.30), the legislature required that the minimum terms of consecutive sentences be aggregated (or added together) to form the minimum period of imprisonment that must be served prior to parole release consideration. The minimum sentence distribution for the years 1980 to 1984 does not reflect the increase in minimum sentence length that results from the change in how consecutive sentences are to be treated. Partly due to changes in the data management system introduced during 1984, the computer files for 1985 and 1986 contain information on the aggregate minimum term. Data on the minimum sentence distribution for 1985 and 1986 reflect the aggregate minimum term. In summary, the minimum sentence distribution for the years 1980 to 1984 as reported in Table 1 somewhat underrepresents the true minimum sentence distribution for those years because the impact of consecutive sentences is not reflected. Despite this limitation, we believe that the data presented in Table 1 provide useful information on changes in minimum sentence length.

It can be seen in Table 1 that the median minimum sentence takes a sharp jump in 1985 (42.0 months) when compared with 1984 (36.4 months); the average minimum sentence also increases from 68.6 months in 1984 to 71.4 months in 1985). These increases are largely due to use of the aggregate minimum sentence as opposed to the single longest minimum sentence. The value of the median for the single longest minimum term for 1985 is 36.0 months (not shown in table); this compares with the median value of 42.0 months as reported in Table 1. The value of the average for the single longest minimum sentence for 1985 is 66.1 (not shown in table); this compares with the average value of 71.4 months reported in Table 1. Most of the increase in minimum sentence length between 1984 and 1985 (using either the median or the average as a measure) is accounted for by the difference between the aggregate minimum sentence (which reflects the adding together of sentences for those who received consecutive sentences) and the single longest minimum sentence. The data on aggregate minimum terms are presented for 1985 and 1986 because they are a more accurate statement of the minimum period of imprisonment persons must serve before parole release consideration. We can note that the average minimum term increases from 71.4 months among inmates held in December of 1985 to 72.3 months among inmates held on September 1, 1986, and that for both of

these groups the aggregate minimum term is employed, so it would appear that the overall trend to longer minimum sentences (on average) continues despite use of a corrected measure of minimum sentence length.

TRENDS IN MINIMUM SENTENCE LENGTH

As noted earlier, information on minimum sentence length is important because minimum sentence length is a strong correlate (or predictor) of the length of time served in prison. Bearing in mind the considerations regarding the minimum sentence length variable discussed in the previous section, the data in Table 1 show that there is a trend toward increasingly longer minimum sentences among persons held under custody over the years 1975 to 1986. The proportion of under custody inmates with a minimum period of imprisonment of 48 months or longer changes from 20.8 percent in 1975 to 36.4 percent in 1980 and to 47.8 percent in September of 1986.

These increases also appear when measures of central tendency are examined. The median^{A/} minimum sentence changes from 29.4 months among inmates held under custody on December 31, 1975, to 36.0 months in 1980 and to 42.0 months in September of 1986. The average minimum sentence increases from 46.8 months in 1975 to 58.6 months in 1980 to 72.3 months in September of 1986. That the median minimum sentence shows a pattern of increase indicates that it is not just a group of inmates with extremely long minimum sentences that is pushing the sentence distribution further out. It would appear that there is a general shift to more lengthy sentences which is consistent with the more stringent sentencing requirements for repeat felony offenders and violent felony offenders.

TRENDS IN TIME SERVED

Table 2 presents data on time served for each of the under custody populations at the end of the year for the period 1975 to 1985. For these under custody populations, time served refers to the period of time between an inmate's latest reception date and December 31 of the particular calendar year. For the year 1986, time served reflects the period of time under custody between latest reception date and September 1, 1986.

^{A/} The median is a measure of central tendency which represents the value of the middle case in a distribution of cases (i.e. it is the value of the case or cases at the 50th percentile). The median is less sensitive to extreme values (in this instance, cases with extremely long minimum sentences) than is the arithmetic average.

The figures on time served that are reflected in Table 2 of this report increase slightly from the time served data in our earlier report (see "Time Served to Year End," June 1985). A revised and more accurate calculating formula for time served was applied to the under custody data for each year. The previous calculation formula utilized year and month; the current procedure utilizes year, month, and day.

We observed in the earlier report that time served as of December 31 had increased substantially over the years 1975 to 1984. The data in Table 2 show that the length of time served in state prison continues to increase between end of year 1984 (median 16.5 months) and end of year 1985 (median 17.3 months). The preliminary data for 1986 indicate that the length of time served in state prison will be about the same as that observed in 1985. The Department has experienced an increase in the number of new court commitments received during April through August 1986 when compared with new commitments received between April and August of 1985. We see in Table 2 that there is a sharp increase in the number of inmates who have served 0 - 5 months as of September 1, 1986 (N = 8,212) when compared with December 31, 1985 figures (N = 6,560). This influx of new court commitments (who have served a relatively small period of time) accounts for the leveling (or failure to increase) in average time served between 1986 and 1985. Without this influx of new commitments in recent months, figures on average time served would continue to escalate.

The change in average time served between 1975 and 1986 is substantial. Inmates who had served 30 months or longer make up 14.1 percent of the under custody population on December 31, 1975, but they make up 25.9 percent of inmates held under custody on December 31 of 1980 and 29.3 percent of inmates held under custody on September 1, 1986.

Measures of central tendency also reflect increases in time served. Among inmates held under custody on December 31, 1975, the median time served was 11.5 months (average = 18.8 months). In contrast, the median time served among inmates held under custody on December 31, 1985 is 17.3 months (average = 26.6 months).

These changes in time served are consistent with the increases in minimum sentence length observed in Table 1 and with the emphasis on more severe penalties for certain types of offenders. Changes in the Penal Law pertaining to sentences for violent felony offenders, and particularly second felony offenders who commit a violent felony offense, have a more pronounced affect on time served statistics for the under custody population (because of the greater concentration of these offenders in the under custody proportion) than would be true of a cohort of annual releases (that is, a cohort of annual releases contains a higher proportion of property and drug offenders who

TABLE 2: TIME SERVED IN STATE PRISON AS OF DECEMBER 31;
INMATES HELD UNDER CUSTODY ON DECEMBER 31, 1975 - 1986
(NUMBER AND PERCENT)

TIME SERVED TO DEC. 31 (IN MONTHS)	YEAR											Sept. 1 1986
	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	
0 - 5 Months	4,061 25.2	4,449 25.0	4,500 23.2	4,003 19.8	4,399 21.1	5,076 23.5	6,264 24.4	5,582 19.8	6,185 20.3	6,293 18.9	6,560 18.9	8,212 22.3
6 - 11 Months	4,194 26.0	4,512 25.4	4,872 25.1	4,036 20.0	4,019 19.3	3,857 17.8	5,092 19.9	5,621 19.9	6,583 21.6	6,372 19.2	6,421 18.5	6,140 16.6
12 - 17 Months	2,600 16.1	2,675 15.1	3,163 16.3	3,383 16.8	2,986 14.3	3,182 14.7	3,809 14.9	4,757 16.9	4,120 13.5	5,003 15.0	4,886 14.1	5,077 13.8
18 - 23 Months	1,981 12.3	2,179 12.3	2,412 12.4	3,000 14.9	2,396 11.5	2,428 11.2	2,499 9.7	3,327 11.8	3,449 11.3	4,289 12.9	4,004 11.5	3,869 10.5
24 - 29 Months	1,006 6.2	1,236 7.0	1,173 6.0	1,708 8.5	1,722 8.3	1,449 6.7	1,792 7.0	2,096 7.4	2,521 8.3	2,298 6.9	2,777 8.0	2,793 7.6
30 - 35 Months	730 4.5	932 5.3	1,045 5.4	1,203 6.0	1,567 7.5	1,193 5.5	1,284 5.0	1,339 4.7	1,683 5.5	1,930 5.8	2,303 6.6	2,162 5.9
36 - 47 Months	535 3.3	760 4.3	1,095 5.6	1,296 6.4	1,748 8.4	1,847 8.5	1,604 6.3	1,793 6.4	1,959 6.4	2,561 7.7	2,588 7.4	3,004 8.1
48 - 71 Months	427 2.7	493 2.8	618 3.2	979 4.9	1,330 6.4	1,691 7.8	2,081 8.1	2,031 7.2	1,969 6.4	2,200 6.6	2,695 7.8	2,909 7.9
72 - 119 Months	319 2.0	295 1.7	321 1.7	365 1.8	470 2.3	674 3.1	929 3.6	1,305 4.6	1,651 5.4	1,736 5.2	1,817 5.2	1,874 5.1
120 - 179 Months	157 1.0	151 0.9	142 0.7	139 0.7	139 0.7	161 0.7	201 0.8	256 0.9	318 1.0	456 1.4	587 1.7	701 1.9
180 Plus	91 0.6	73 0.4	64 0.3	70 0.3	75 0.4	74 0.3	87 0.3	96 0.3	105 0.3	105 0.3	123 0.4	142 0.4
TOTAL	16,101 100.0	17,749 100.0	19,405 100.0	20,192 100.0	20,851 100.0	21,632 100.0	25,642 100.0	28,203 100.0	30,543 100.0	33,243 100.0	34,761 100.0	36,883 100.0
MEDIAN (IN MONTHS)	11.5	11.8	12.7	15.3	15.8	15.4	14.3	15.4	15.3	16.5	17.3	16.9
AVERAGE (IN MONTHS)	18.8	18.6	18.8	21.0	22.5	23.1	22.6	23.9	24.4	25.4	26.6	26.5

serve comparatively less time in prison than do violent felony offenders). Nonetheless, the increases in time served seen in Table 2 are not due simply to a small group of serious offenders who receive extraordinarily long sentences, rather they indicate a fairly broad escalation of sentence length for certain types of offenders, particularly those who are repeat felony offenders convicted of violent felony crimes.

We are in the process of looking at trends in time served over recent years within subgroups of the under custody population that differ according to felony class category and first or second felony offender status. This will help to more clearly link changes in time served to changes in the Penal Law. Data on time served among annual release cohorts is also being examined for the same purpose.

In addition to changes in the Penal Law affecting sentence length, efforts to reduce the period of time between sentencing date (in the county court) and transfer to state custody (for those defendants who receive a state prison term) have probably contributed to lengthening of the average period of time in state custody. We are in the process of looking at the relation between changes in jail time and changes in state time served.

CONCLUSION

The figures on total number of inmates held under custody as reflected in Table 1 show that the Department continues to experience growth in the number of persons held under custody in both 1985 and 1986. In addition, the figures in Table 2 show that the average period of time served under Department custody as of the end of the year has again increased between 1984 and 1985. So, not only is there a larger number of persons held under custody from year to year, the period of time persons have been in Department custody has, on average, increased as well. Preliminary data suggest that the average period of time served under custody for inmates held under custody in 1986 will be similar to that observed for persons held under custody in 1985. The leveling in figures on average time served is due more to an increase in the number of new court commitments received in 1986 (as compared to 1985) than to any change in the proportion of persons committed to state prison with relatively long minimum terms.