

# Prison crowding, recidivism, and early release in early Rhode Island



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## Abstract

Prison crowding is a pervasive modern problem with deep historical roots. The long-term solution to crowding has been more prisons; the short-term solution is early release. Early release programs can be effective when they balance the savings of reduced prison costs against the costs of recidivism by released convicts. This paper uses historical data to investigate how prison officials altered their early release policies in the face of prison crowding and rising real detention costs. The empirical evidence is consistent with the hypothesis that prison officials make use of information about the risks of recidivism revealed at trial and during incarceration to make informed decisions about whom to release and when.

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## 1. Introduction

For most of the twentieth century the United States incarceration rate remained relatively constant at about 100 per 100,000 people. The proportion began rising in the mid-1970s and currently stands at more than 700 per 100,000, and the growth in incarceration shows only limited signs of slowing down. Between 1995 and 2005 the state and federal prison populations grew at a 3.0% annual average rate and the number of local jail inmates increased at an annual average rate of 3.9% (U.S. Department of Justice Office of Justice Programs, 2006). One consequence of America's mass incarceration movement is prison crowding, especially at state prisons. Crowding is so pronounced, in fact, that a majority of

states are now or have been under court orders to alleviate it (American Legislative Exchange Council, 2014).

The long-term solution to prison crowding has been more prisons. The short-term solution is early release. In 1981, for example, Georgia freed up prison space when the parole board, under order from the governor to make space, released 901 non-violent offenders with the earliest prospective release dates (Kuziemko, 2013). Georgia's solution resolved the immediate problem of over-capacity, but it mitigated the incapacitation effect and may have increased the net social cost of crime if by releasing potential recidivists at an earlier than optimal date the recidivism costs exceeded the legitimate labor market contributions of the released prisoners. The net social costs of early release can be reduced through selective or so-called "good-time" release under which prisoners who behave and participate in rehabilitative, vocational or academic programs earn points toward early

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release. Modern early-release systems are predicated on the presumption that prison officials might have access to information concerning a prisoner's recidivism risk that is revealed only after sentencing (Abadinsky, 2003). If, by the officials' determination, a prisoner presents a lower recidivism risk than that implied by the original sentence, officials can reduce the effective sentence and free up prison capacity at a relatively low cost.

Miceli (1994), Garoupa (1996), Kuziemko (2013) Scoones (2008) and Bernhardt et al. (2010) develop models of early release of increasing complexity, but a basic result emerges from each: early release increases social welfare when, at the margin, a good-time policy equates the reduced costs of maintaining prison order against the implicit increase in the cost of recidivism-based crime. Using the Georgia quasi-experimental release and a later policy change that eliminated parole for inmates convicted of certain crimes, Kuziemko (2013) finds that parole boards employ early release as if they gather and act on information useful in predicting post-release recidivism. Moreover, Kuziemko (2013) finds value in the early-release programs themselves. Georgia's elimination of parole for select crimes led to more disciplinary infractions, lower completion rates in GED courses, and a higher recidivism rate. Yet even an effective parole system can operate sub-optimally if crowding pressures prison officials into releasing prisoners earlier than is optimal given their recidivism risk.

This paper uses historical data from the Rhode Island state prison between 1849 and 1911 to investigate how prison officials altered their good-time policies in response to overcrowding and the increasing cost of housing prisoners. Although it is a small state with a correspondingly small prison population, Rhode Island's nineteenth-century experience provides a valuable point of reference because, as is discussed in greater detail below, it is representative of the issues facing state prisons throughout the period: its prison became overcrowded soon after it opened; crowding exacerbated its disciplinary problems; the cost of housing prisoners increased dramatically; the state's recidivism rate was similar to that experienced elsewhere at the time; and Rhode Island followed several other states in its adoption of a formal early-release program. Moreover, the annual reports of the prison authorities provided sufficiently detailed individual-level information about the prisoners, their crimes, their sentences and the cost of imprisoning them to control for several factors likely to influence a prisoner's selection into the early-release program.

Despite expanding its prison capacity twice in the second half of the nineteenth century, Rhode Island's prison was seriously overcrowded by the 1890s and the

real cost of housing prisoners doubled between 1850 and 1910. Authorities came under increasing pressure to alleviate crowding and the burden on the state's taxpayers, so it is not surprising that the use of good-time early release programs emerged and expanded. The issue is whether prison authorities responded in a manner consistent with economic models of early release; that is, whether authorities balanced the cost of an additional day of incarceration with the incremental increase in crime due to expected recidivism. Using information on post-release recidivism, the data provide insights into whether good-time deductions were consistent with the likelihood of recidivism based on actual post-release recidivism or with observable characteristics of the criminal and his crime associated with future recidivism.

Using a Heckman (1979) selection approach, the early release decision is modeled as a joint process in which some prisoners select into early release and, if so selected, receive a given number of days of good-time release based on characteristics that predict recidivism risk. The empirical results are consistent with the hypothesis that Rhode Island's prison officials responded in a systematic fashion to changing conditions and prisoner characteristics. Prison crowding and higher incarceration costs are associated with greater probabilities of prisoners being selected into the early release program. This holds for violent and nonviolent criminals, though the effect is stronger for those convicted of property crimes. One feature of the data is that the historian/econometrician observes one measure of post-release recidivism in retrospect that prison officials did not observe in prospect, namely, whether the ex-convict returned for a second term at the state prison. These future recidivists did not differentially select into early release, but they received significantly fewer days off conditional on selecting in. When we put ourselves in the position of contemporary prison officials and include those characteristics of the criminal that predict future recidivism – prisoner's age, length of original sentence and nativity – into the outcome equation of the Heckman estimations, the results are consistent with the conclusion that prison officials exercised their early-release prerogative in a fashion consistent with concerns for minimizing the social costs of incarceration, including recidivism risk.

## 2. Nineteenth-century penology

When Rhode Island opened its prison in 1838, it could choose between two contemporary approaches to penology: New York's Auburn (congregate) or Pennsylvania's Eastern State (solitary) model. New York's congregate

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