

ST. LOUIS LAW REVIEW

Vol. XI Published Quarterly During the University Year by the Undergraduates of Washington University School of Law. No. 3

PHASES OF THE MISSOURI CRIME SURVEY

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The administration of criminal justice in Missouri involves many departments and officials of State and local governments. Taking them in their order, the following are noted:

1. Executive.
2. Legislative.
3. Peace Officers. { Police,
 { Sheriffs,
 { Constables.
4. Prosecution { Prosecuting Attorney,
 { Circuit Attorney (in St. Louis).
5. Judicial { Examining Magistrates { Justices of the Peace,
 { Court of Criminal Cor-
 { Courts { Trial { rection (in St. Louis).
 { Appellate
6. Punishment—Penal Institutions { State Penitentiary,
 { Reformatories,
 { Jails and Workhouses,
 { Houses of Detention,
 { Juvenile Institutions.

The part which the Governor of the State plays in the administration of the criminal laws is negligible. Although he is charged by provision of the Constitution to "take care that the laws are distributed and faithfully executed," and "shall be a conservator of the peace throughout the State"¹, his power is limited for all practical purposes to calling out the militia "to execute the laws, suppress insurrection and repel invasion"², and to directing the Attorney General to take part in

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1. Constitution, Art. V, Sec. 6.
2. Constitution, Art. V, Sec. 7.

prosecutions to assist the Prosecuting Attorney of any county when he feels that such action is necessary.³

The Governor has no power to remove, even for cause upon charges, any official elected by the people. Indirectly he exercises an influence upon the administration of the criminal laws in the Cities of St. Louis, Kansas City and St. Joseph by reason of the fact that he has authority to appoint and remove members of the Board of Police Commissioners of those cities. Somewhat more directly does he take a hand in the administration of the criminal laws in the matter of punishment and treatment of persons who are convicted of crime and sentenced to penal institutions, for there he appoints the members of the Boards which have the management of such institutions and is given the "power to grant reprieves, commutations and pardons after conviction for all offenses except treason and cases of impeachment, upon such condition and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relating to the manner of applying for pardons."⁴

The legislative function is, of course, to enact the substantive and criminal procedural laws—the former defining crimes and the latter providing the machinery for apprehending and prosecuting such persons. The main responsibility, however, for protecting the lives and property of the citizens from the enemies of society and seeing that the criminal laws are enforced, rests upon the peace officers, the prosecuting officials and the judges of the courts.

The growth and prevalence of crime in this State, which of recent years has become a matter of common interest, is, of course, due to any number of immediate and remote causes. Opinions of causes and remedies vary almost as widely as the number of opinions expressed. While not discounting the importance of the basic and underlying causes of crime, it seems well established in the minds of those who have given thought to the subject, that defects in the criminal laws, especially those of procedure, and in their administration, account for "the terrible failures of justice"⁵, which are occurring in all parts of the country, and a consequent increase in crimes, especially of major character and of violence. To Chief Justice William H. Taft is ascribed the statement:

"The administration of criminal law in the United States
is a disgrace to civilization. * * * The trial of a criminal

3. R. S. Mo., 1919, Sec. 693.

4. Constitution, Art. V, Section 8.

5. Report of Special Committee on Law Enforcement, American Bar Association, August, 1923, p. 2.

seems like a game of chance, with all the chances in favor of the criminal, and if he escapes he seems to have the sympathy of a sporting public.”

Lawyers, especially, are wont to look upon the lack of enforcement of our criminal laws as one of the main causes for the rapid increase in such crimes; and the average citizen is likely to lay at the door of the legal profession the blame for failures of law enforcement, and to look to the members of the profession for relief, because the lawyers make the laws⁶, the lawyers enforce the laws, and the lawyers administer the laws, for prosecuting attorneys and judges of the courts are all lawyers.

Accepting this responsibility, the Missouri Bar Association under the leadership of Mr. Guy A. Thompson, its then President, with the approval of the Executive Committee, in March, 1924, appointed a special committee to investigate and consider the growth and condition of crime and the criminal law and procedure in Missouri, and to recommend (a) “whether it be advisable that an organized movement be undertaken for the purpose of correcting any deficiencies that may exist in our criminal laws and in their administration”; and (b) “if such movement be advisable, what part, if any, the Missouri Bar Association should take therein.” Local Bar Associations of St. Louis, Kansas City, St. Joseph and Springfield, joined in the movement and were represented on the committee. In June, 1924, that committee reported recommending a meeting of representatives of the various civic and commercial organizations and public-spirited citizens to form an organization to conduct a statewide survey for the purpose of determining the facts with respect to alleged deficiencies in the criminal laws and in their administration. The movement thus launched gained instant approval and resulted in a rapid crystallization of a widespread individual opinion into a well-defined public opinion that action by the citizens was necessary and should at once be taken.

Pursuant to the recommendations of the committee of the Bar Association, a meeting was called in Jefferson City on October 15, 1924, at which time The Missouri Association for Criminal Justice was organized. That meeting was attended by more than one hundred representative citizens from every part of the State, representing some eighty-five civic, religious, fraternal, business and commercial organizations of the State having memberships running into the hundreds of thousands of citizens. General approval has given impetus to the

6. The members of every General Assembly consist of a majority of lawyers.

activities of the Association, and there is no doubt that it will continue a living, virile force in this State until such time as crime is under control.

The very fact that such an organization can exist at all is in itself significant. If the legal agencies established by the State government were functioning so as to measurably protect life and property, the people would be content and there would be no reason for protest. But there is universal protest against the present intolerable conditions, and the Association represents the people in action for the purpose of finding and applying necessary remedies.

Obviously it was necessary first to get the facts. This could not be done without a very careful and painstaking investigation. Business men in St. Louis, Kansas City, St. Joseph and various other communities of the State, have contributed a fund of nearly \$50,000 to make a survey of the administration of criminal justice in the State. Brief reference to the methods employed in that undertaking would seem necessary to an adequate understanding of the plan, scope and magnitude of the work.

Some definite limitations upon the scope of the survey had to be determined in advance. In fixing these limitations we eliminated every subject except the processes authorized by law for the apprehension, prosecution and punishment of persons accused and convicted of crime—in other words, the legal machinery set up by the State for the protection of the lives and property of the citizens, and the methods of operation. We further eliminated any consideration of minor offenses such as State misdemeanors and violations of city ordinances, confining ourselves to the major crimes of felony class. Some few exceptions to these limitations were found necessary, especially with respect to the investigation in the field of medical relations. Such consideration as was given penal institutions was limited to those aspects which concern releases such as pardons, paroles and commutations. The criminal procedural laws were made the subject of a very definite study and consideration, but the laws defining crimes and their punishment were only incidentally considered. Crimes of violence were made the subject of a special study because of the unusual prevalence and growth of such crimes, and for the further reason that these seemed to be the specialty of the so-called "professional criminal." The laws of this State make felonies of a certain class of State liquor law violations, which were treated separately.

It was obviously impossible within the time and with the means at the command of the Association, to take the record of all felony prose-

cutions in every county in the State, but in order to get a comprehensive picture of the results being obtained in the whole State we decided to examine the records with respect to felony cases in a typical number of counties well enough distributed to be truly representative of conditions in the whole State.

Other surveys of a similar character have been made in certain of the larger cities of the United States, such as Cleveland, Baltimore and Los Angeles, but the problem of crime being a State problem, the laws covering it essentially State laws, and the remedies statewide, we decided that the investigation should be on a statewide basis. Thus was launched the first survey of its kind ever made in the United States, and in a great many respects we had to "blaze the trail." The research work done during the survey will be of peculiar value, therefore, in that it has produced results in the shape of facts and figures never before brought together and related to each other in any other treatment of the subject.

Missouri is divided into thirty-eight Judicial Circuits. The City of St. Louis being a county as well as a city, is one Judicial Circuit. Jackson County, including Kansas City, Buchanan County, including St. Joseph, Greene County, including Springfield, Jasper County, including Joplin and Carthage, and St. Louis County, each constitute a Judicial Circuit. Many of the Circuits contain a number of counties and there are few which have less than two counties. An examination of the records in one county in each Judicial Circuit and in the counties named containing the larger cities of the State, was decided upon as sufficiently typical, both as to number and distribution, to be truly representative of the whole State. Jackson County, Buchanan County and the City of St. Louis were surveyed as separate communities. A considerable factor in determining upon that plan was that Kansas City, St. Joseph and St. Louis are under State controlled Police Departments.

We employed a force which averaged during the period of the survey twenty-five men, drawn largely from practicing lawyers and upper classmen in the three leading law schools of the State, who were trained at the headquarters of the Association in the City of St. Louis in the use of the schedules and forms for collecting the information. As Managing Director of the Association and in charge of the direction of the survey, I had prepared schedules and forms for collecting the information, which were carefully worked out by actual comparison with the records in various parts of the State. Beginning June 1st, these men were sent into the various counties selected for the survey,

and were assisted in most of the Circuits by a local lawyer suggested by the Judge of the Circuit. In most instances I accompanied these men to each county and started them to work.

The records of the Circuit Clerk, Coroner, Sheriff, Justices of the Peace, Prosecuting Attorney and other officers having some part in the administration of the criminal laws, were examined in each of those counties and cities. From these records complete data on felony cases were collected covering a two-year period, viz: October 1, 1922, to October 1, 1924, in all of the counties except Jackson, Buchanan and St. Louis City. In these cities the period covered was one year, from October 1, 1923, to October 1, 1924. The record of each case in the Circuits outside of the three large cities was taken, beginning with the issuance of the warrant and including each step in each case to final disposition. Where changes of venue were taken the case was followed to the county where it was tried.

Of the three cities mentioned, the City of St. Louis was the only place in the State where a complete record could be had of criminal complaints and warrants refused. It was possible to get this record in St. Louis because practically every case in that city began with the arrest by the Police Department, which kept a record, enabling the investigators to begin with the record of arrest instead of the issuance of the warrant. In Kansas City a partial record of this kind was obtained from the Police Department, but it consisted of only about 40 per cent of all the cases in Jackson County. The other cases in that county originated in the office of the Prosecuting Attorney, Justices of the Peace, or Grand Jury. In such cases the police had no record of the arrest, the same having been made by the Sheriff after warrant issued.

We examined approximately ten thousand cases throughout the State, and a card containing every bit of information about each case from the time of its inception until it was finally disposed of, was filled out by the investigators. In addition to the data mentioned, facts pertaining to the administration of the offices of Clerk, Sheriff, Prosecuting Attorney, Coroner and Justices of the Peace, were collected by the men as they went along. Comprehensive questionnaires of a most searching kind were prepared and sent to all of the Prosecuting Attorneys of the State, the former Prosecuting Attorneys who immediately preceded the incumbent, and to all Sheriffs, Coroners and Circuit Clerks. A similar questionnaire pertaining to judicial administration and eliciting their opinions of necessary changes in the criminal laws, were sent to the Circuit Judges.

The investigation was divided into ten divisions, each to be represented by final report. These divisions are:

Police administration in St. Louis, Kansas City and St. Joseph;

The legal basis and the methods of administration of the offices of the Sheriff and of the Coroner;

The preparation and the presentation of the State's case, including the whole prosecuting function, its legal basis and limitations, its personnel and its administrative methods;

Judicial administration, including organization of court system, the bail bond system, judicial paroles and commutations, delays and assigned counsel;

Because of the fact that all felonies in which convictions are had in Missouri are appealable to the Supreme Court⁷, a study of the decisions of the Supreme Court for a ten-year period, from January 1, 1915, to December 31, 1924, inclusive was made with a view to determining the extent to which cases had been reversed or reversed and remanded, and the reasons therefor;

Pardons, paroles and commutations in the Penitentiary, and in the Boonville Reformatory through a detailed study of the records of those institutions and of the subsequent careers of certain persons released from these institutions;

The record system of all officials concerned with the administration of the criminal laws were studied with a view to suggesting more uniformity in the method of keeping such records and making reports;

The relations of the medical profession to the administration of criminal justice. This was undertaken by a Committee of the Missouri State Medical Association;

Necessary changes in criminal procedural laws.

In addition to the reports on these divisions, there was prepared by expert statisticians at the conclusion of the survey, an exhaustive analysis of the statistical conclusions in the study of cases.

These reports have been written by men who are qualified by reason of learning and experience, to collect, analyze and report the facts. After the reports were completed they were submitted to Advisory Committees, the members of which were appointed from various points

7. The Courts of Appeal have jurisdiction only of appeals in misdemeanor cases and violations of city ordinances.

in the State, and with a view to their special fitness by reason of their experience in the various fields covered by the survey.

It was deemed important in any survey of the administration of criminal laws in the State, to determine what it costs the taxpayers to operate the machinery. It was not easy to get at the actual cost, but results were obtained from actual figures in approximately 80 per cent of the territory in the State, and from 90 to 95 per cent of the actual total cost. To the actual figures gathered were added conservative estimates of the costs in the unreported areas, based upon population and number of towns having local police organizations. The figures which follow are very close to absolute accuracy.

It was found that the total cost, exclusive of police, was \$2,388,916.88 in 1923, and \$2,414,477.13 in 1924. Added to this the total cost of police administration in all cities and towns was \$6,326,468.54 in 1923 and \$6,769,160.03 in 1924, making a total cost of \$8,715,385.42 in 1923 and \$9,183,637.16 in 1924.

Losses sustained as the result of the operations of criminals would seem to be necessary to give a complete picture of the economic losses as the result of crime. The figures of such losses must of necessity be approximates. The most reliable, as well as the most recent estimate thereof, was published in 1924 by the Bureau of Public Affairs of the American Institute of Accounts, in which it was estimated that such losses aggregate three billion dollars a year from financial crimes alone, the figures having been obtained from estimates furnished by fidelity and surety company officials.

In one of our reports, that on Police Administration, it is shown that the insurance rates on losses usually ascribed to the operations of professional criminals are nearly twice as high in the large cities of Missouri as practically any other cities of similar size in the United States. Therefore in fixing the fair proportion of this total loss which could be ascribed to Missouri, the same has been conservatively estimated at eighty-five million dollars. This fixes the actual cost of administering the criminal laws in excess of any other function of the State government except that of education.

The relation of some of the facts gathered in the survey to this cost would seem to be in order, as well as a comparison of some of the results being obtained in Missouri with the facts elicited in investigations in other parts of the country. No better illustration of the value of an investigation such as has been made in this survey, could be cited than is presented in the figures obtained in the City of St. Louis and in Jackson County, where we had an opportunity to get the record

from approximately the time of the commission of the offense until final disposition of the case.

In St. Louis, as has already been stated, the Police Department keeps a record of crimes reported to them by the victims or someone having knowledge of the fact, in a limited number of felony cases including murder and manslaughter, burglary, robbery, larceny, embezzlement and frauds, forgeries and automobile thefts. During the period from October 1, 1923, to October 1, 1924, the record in the Coroner's office in St. Louis indicates 149 cases of murder and manslaughter, which does not include nine cases reported by the Coroner as justifiable homicide. The police records did not contain all of the cases reported in the Coroner's office, but the figures from the latter source were deemed reliable because all cases go to that office first. We examined the records in the Police Department, Circuit Attorney's office, Court of Criminal Correction and Circuit Clerk for Criminal Causes, and during that period found that 53 applications had been made to the Circuit Attorney for warrants in murder and homicide cases, of which 4 were refused and 49 issued. Of the 49 issued, 24 cases were disposed of at various stages of the prosecution after the issuance of the warrant, which dispositions resulted in no punishment to the persons charged, leaving but 25 persons punished out of the total number of such crimes reported.

The records in the Police Department show that during the same period 2,701 burglaries were reported and but 266 warrants applied for, 49 of which were refused by the Circuit Attorney and 217 issued. Only 107 persons received any punishment, the others against whom warrants were issued having been released at some stage during the prosecution.

The record of crimes reported in the Police Department shows that during this period 2,075 robberies were committed, and 379 warrants applied for by the police, of which 132 were refused by the Circuit Attorney and 247 issued. Eighty-five persons received punishment out of the 247 charged, the others having been released before punishment.

The police record during that period shows 4,277 larcenies reported, 436 warrants applied for, 168 refused, 276 issued and 94 punished.

Three hundred and sixty-nine complaints for embezzlement and fraud were reported during that period, but only 17 persons were punished.

The records of the police indicate 758 forgeries were committed

during the same period, but only 30 persons were punished for that offense.

During the same period, 3,115 automobile thefts were reported, but only 16 persons were punished for stealing automobiles.

The grand total of major crimes reported to the police in the seven classes of felonies indicated, was 13,444, and during the same period only 374 persons were shown by the records to have been punished in these classes of cases.

In Kansas City the number of murders and manslaughters reported to the police during the period of the survey from October 1, 1923, to October 1, 1924, was 58. The record in the Coroner's office indicated 73 additional cases or a total of 131 for the year.

Sixty-four warrants were issued in murder and manslaughter cases during the same period in Jackson County. Of these 32, or exactly one-half, went into the Circuit Court after preliminary hearing and 17 were convicted. Of the number convicted 5 were sentenced but not punished because of pending appeals in their cases, leaving twelve for punishment.

During the same period 1,282 robberies were reported to the police in Kansas City, and for the same period 193 warrants were applied for by the police, 22 were refused and 171 issued. Of those against whom warrants were issued, but 46 were punished on prosecutions starting in the Police Department. An additional 130 warrants were issued on cases not going through the Police Department, of which 33 were punished.

In the same period 2,375 burglarlies were reported to the police, and during that year only 20 persons were punished on charges originating in the Police Department. Twenty-seven others were punished out of 72 warrants issued in cases not going through the Police Department.

An analysis of these figures shows that in St. Louis the chances for one committing the crime of murder or manslaughter are six to one against any punishment, and in Kansas City eleven to one. One contemplating robbery in St. Louis may know in advance that his chances for escaping any punishment, if he commits the crime, are twenty-four and one-half to one, and in Kansas City, on the basis of police figures alone, twenty-eight to one. If he contemplates burglary he may know in advance that his chances for escaping punishment are twenty-five to one in St. Louis and at least fifty to one in Kansas City, and upon the basis of the police figures alone, more than one hundred to one.

Comparing the records of crimes committed and successful prose-

cutions in other cities with the record just referred to in Missouri cities, we find that in Baltimore, Maryland, which fairly approximates St. Louis in size and plan of government, there were only 5,544 felonies of all classes reported in 1924, and in the same period 1,812 cases were cleared by arrest, 834 were found guilty, 202 trials were pending and 236 were paroled. In the same city in 1925, 5,430 felonies were reported, 2,223 were cleared by arrest, 1,111 were found guilty, 158 trials were pending and 35 were paroled. In Cleveland, Ohio, which has a slightly greater population than St. Louis, there were 7,231 felonies reported to the police in 1924, 2,417 were cleared by arrest, and 772 were punished. The paucity of criminal statistics in other places in the country, makes it impossible to make further comparisons.

These figures indicate that the margin of safety which the system in Missouri, and especially in the larger cities, offers the professional criminal is very large. The chances are mostly in favor of no punishment.

From time to time in the past industrious newspaper reporters have been able to get from the records certain information indicating failures in law enforcement in the larger cities, but no previous effort has ever been made to begin at the beginning of a criminal prosecution and follow it through each stage to final conclusion. As an illustration of the magnitude of the task, it was necessary for our investigators to examine nearly 150,000 records of arrests in the Police Department in St. Louis alone, from which were gleaned 2,500 cases where application for a warrant followed arrest in felony cases. The other arrest records examined were not within the period of our investigation, were for lesser offenses or arrests followed by release by the Police Department, which cases are characterized as arrests on suspicion. A record of arrests means nothing because one hundred or more persons may be arrested in a police round-up, suspected of having committed a particular crime, and all but one of them released by order of the Chief. The only arrests we were interested in were those in which the record indicated the police had got sufficient evidence to justify them in applying to the prosecuting officials for warrants. Comparing the number of such cases with the total number of crimes committed, disclosed for the first time the startling fact that out of over 13,000 felony crimes committed in St. Louis in one year, only 19.2 per cent of them ever reached the stage where the police had secured sufficient evidence to apply for warrants.

Carrying the investigation to the next step, it was disclosed that

out of the 2,500 cases where the police applied to the Prosecutor for warrants, approximately 1,000 of such applications were denied and the persons arrested released by the police because of refusal of the Prosecutor to prosecute. Out of the 1,500 remaining cases in which warrants were issued, the prosecution was stopped at some place in the proceedings short of punishment, until we have the record already referred to of but 374 persons who actually received any kind of punishment.

Another interesting fact which was disclosed by the investigation throughout the State, is that over 90 per cent of all punishments are meted out on pleas of guilty.

The reports which are being released by the Association for publication are copyrighted and the information contained in the unpublished reports may not be disclosed at this time, but it would not be amiss to discuss the high points in some of the reports which have already been released and published.

The first of these is the result of the investigation in the State Penitentiary and the Reformatory at Boonville. Our investigators went to Jefferson City and Boonville and examined the files in more than 1,000 cases of recent parolees, making a digest of each one. The report which was prepared as the result of this study by A. F. Kuhlman, Assistant Operating Director, discloses many interesting facts which have never heretofore been brought to light. Some of the findings may be briefly stated.

The average time in which more than 1,000 recently paroled offenders obtained their merit parole and were released, was 11.5 months, against the average length of sentence for which they were commuted of 50.6 months. Habitual criminals have frequently been released at the end of nine months on a five-year term. Special paroles were granted on recommendation of the Superintendent, with the approval of the Prison Board, which, in many instances, were given for unworthy and indefensible reasons, and as a result of all sorts of pressure from outside the institution upon the Superintendent and prison officials.

About one-half of 1,079 recent paroles were failures, 24.28 per cent having disappeared or failed to report, and 21.6 having either been recommitted to the Reformatory or to the Penitentiary for the commission of new crimes, or having been returned to the Reformatory for the infraction of parole regulations. Many of the remaining 51.9 per cent who were reported as making good at the time of the investigation in October, 1925, will become parole violators before their

paroles expire, because the average length of their unexpired parole period is twenty-eight months.

A conservative interpretation of the facts indicates that at least 50 per cent of parolees violate their paroles. This rate of failure is exceedingly high when compared with that of the reformatories of other States. Missouri heads the list with 46.81 per cent parole violations; Indiana second with 25.51 per cent; New York and Massachusetts with 19 per cent; Minnesota and Wisconsin with 16 per cent; Illinois 14.11 per cent; Ohio 13.6 per cent, and Pennsylvania 10.2 per cent.

The difficulties of the institution are greatly increased by the commitment of offenders between the ages of eighteen and thirty who, after being sentenced to the Missouri Penitentiary, receive a commutation of sentence to the Reformatory. Of the parolees from the Boonville Reformatory every sixth offender had received a commutation from a Penitentiary sentence to commitment at the Reformatory.

On the basis of the cases studied, the City of St. Louis contributed more commutations from the Penitentiary to the Reformatory than do all of the other thirty-seven Judicial Circuits combined, and it was found that 57.5 per cent of persons receiving such commutations had been convicted of robbery in the first degree. The average length of their sentences was five years, yet they served on the average but eleven months before being released.

Every fifth offender committed to the Reformatory was found to be a Federal prisoner, and 30 per cent of the Federal prisoners thus committed have been violators of the Federal Drug Act. Thus confirmed drug addicts up to the age of thirty years have been thrown in intimate contact and association with boys who are in the formative period of life.

Lack of space forbids a more extended discussion of this very interesting report, but readers of an inquiring mind who are interested in the general subject would do well to procure a copy of the report from the Association and read it at leisure.

The report on conditions found in the Missouri Penitentiary, where an intensive study covering a long period of administration of that institution was made, contains many interesting and enlightening things.

The exercise of the pardon power by the Governor since 1918, has practically ceased, the highest percentage of pardons in any biennial period since that time being less than two-tenths of 1 per cent of all releases. Many years ago the Legislature passed a law allowing one-

fourth off from all sentences for good behavior. Recently, under a practice of commutations, that has been increased to seven-twelfths time, and since 1922 release upon serving seven-twelfths of all sentences has supplanted practically all other forms of release.

Another form of commutation is the older and less automatic one of commutations by the Governor of long and severe sentences to lesser ones. In order to make a real test of how commutations affect severe and long sentences, the outcome of all severe sentences and of sentences of twenty-five years and more in length imposed upon criminals to the Missouri Penitentiary in the five-year period from 1905 to 1910, was studied and tabulated. It was found that in this period 138 sentences of this character were imposed; 68 prisoners received sentences ranging from twenty-five to sixty years in length; 29 received a ninety-nine year sentence; 28 a life sentence, and 13 were sentenced to be hung. Of the group of 68 whose original sentences ranged from twenty-five to sixty years in length, only two were found serving time; 54 received commutation of sentence. The average length of their original sentence was 32.5 years; the average time served by them was 8.75 years, indicating a cut by commutation to one-fourth of their original sentences. Of the remaining 12 of this group, three were transferred to an asylum for the insane, the sentences of two were reversed and remanded by the Supreme Court, one was released from the institution to be executed on another charge, five died at the institution and one escaped.

The sentences of 25 of the 29 prisoners who received ninety-nine year sentences each, were cut by means of commutation to an average of 11.19 years of service in the institution, or about one-ninth of the original sentences. The other four of this group died at the institution. None of the 29 prisoners receiving a ninety-nine year sentence during the period from 1905 to 1910, are in the institution now.

Of the 28 receiving life sentences, five died at the institution, four were transferred to state hospitals for the insane, three are still serving time, the records are incomplete as to the outcome of one, and the sentences of the 15 others were commuted from life to an average of 10.89 years.

Of the 13 sentenced to be executed, all were commuted to life imprisonment: one was transferred to a state hospital and four died, but the sentences of the other eight were further commuted to an average of 10.44 years of service in the institution. Of the 13 sentenced to hang, successive commutations had resulted in not one having to serve a life sentence, and not one of them is in the institution now.

Eighty per cent of the 138 criminals included in the tabulation under discussion, were convicted of murder. This study, of course, did not include other prisoners who may have been sentenced to the death penalty and executed in the counties in which they were convicted, they, of course, never having been received at the Penitentiary.

Because of the practice of commuting the sentences of prisoners at the Missouri State Penitentiary, parole has never played as important a part as in most other State Penitentiaries. In fact, in 1923 and 1924 parole releases constituted only 7.5 per cent of all releases from that institution. Notwithstanding the automatic release of prisoners committed to the Penitentiary after having served seven-twelfths of their time provided that they had behaved themselves, that institution has more inmates now than at any other time in its history, on account of the influx of new prisoners during the last two years.

The survey has demonstrated that crime has increased rather seriously among young men and juveniles. In 1914 42.61 per cent of prisoners in the Penitentiary and Boonville Reformatory were between the ages of seventeen and twenty-four inclusive; in 1924, 52.5 per cent of the total number of prisoners in those institutions were from seventeen to twenty-four years of age—an increase of nearly 10 per cent. It is significant that while this increase was going on among the older boys, there was even a more startling increase in crime among the delinquent juveniles. For example, in St. Louis highway robbery among juvenile delinquents increased over 500 per cent from 1920 to 1924, and during the same period there was a substantial increase in the number of juvenile delinquents charged with carrying concealed weapons.

The practical abandonment of the time-honored grand jury as the primary agency of prosecution, has been established. In 4,969 felony cases entering the Circuit Court in the period covered by the survey, 4,244 or 85.41 per cent were upon information by the Prosecuting Attorney, leaving but an insignificant number charged by indictment. This emphasizes the importance of the office of the Prosecuting Attorney. That official has in his keeping the greatest power and discretion with respect to preventing prosecutions, starting prosecutions and terminating prosecutions before punishment, of any other official in the whole scheme of the administration of justice. This power and discretion, although limited and checked in a number of other States, is practically unlimited in Missouri.

An amendment to the Constitution, adopted in November, 1900, authorizing prosecution in felony cases to be started by the Prosecuting

Attorney as well as by the grand jury, is responsible for this situation. In many States a person can be charged with a felony only upon the oaths of twelve grand jurors. Since the amendment that great power, together with the power to stop prosecutions even when begun by the grand jury, has been vested almost exclusively in the prosecuting officials.

The Legislature has from time to time sought to put a check upon this power of the Prosecutor by providing for an intervening agency in the shape of a preliminary hearing before Justices of the Peace, but the survey has demonstrated that this device has not accomplished its purpose because the Prosecutors exercise their power of continuing prosecutions even after discharge at the preliminary hearing, or refusing to go on with the prosecution after the defendant is bound over at the preliminary hearing. Furthermore, since the Prosecutor has charge of the grand jury and is its legal adviser and no indictment is good unless signed by the Prosecuting Attorney, it will be seen that the power of prosecution rests almost exclusively in the prosecuting officer. Some very interesting data concerning the use of this power in relation to the many failures of justice in criminal prosecutions, will be found in the report on Preparation and Presentation of the State's case which will soon be released for publication.

The part which the Trial Judges play in the administration of justice, while in the popular mind is great, the survey shows is, in fact, negligible. The Circuit Judge in the trial of a criminal case is so hedged about with statutory restrictions that he really plays a very unimportant role, being limited for all practical purposes to merely passing upon objections raised by counsel at the trial. He is charged by statute with giving instructions on all phases of a criminal case embraced in the charge or the evidence, whether the defendant requests such instructions or not, and if he fails in this duty the case will be reversed and remanded by the Supreme Court.

The influence of Supreme Court decisions upon the trial of criminal cases is, of course, of first importance because under the rule of *stare decisis* the Trial Court must observe the latest rulings of the Supreme Court in conducting the trial.

Much space has been given in the daily press for years to the so-called technical rulings of the Supreme Court in criminal cases, and especially with respect to the form of the charge. A study of ten years of Supreme Court decisions in Missouri has been undertaken in this survey by Judge J. Hugo Grimm, former Circuit Judge in the City of St. Louis, who has completed his report which will soon be

released for publication. Some very interesting material has been gathered in this study, and the findings, conclusions and recommendations of the author of the report will be found of great interest and value to all students of the subject.

Incidentally we may say at this time that an investigation apart from the study of the decisions of the courts, the purpose of which was to discover the time intervals of delay from the time of the commission of an offense until final disposition in the Supreme Court, was undertaken. This shows an average of three months and twenty-seven days from the commission of the crime to the date the charge was filed in the Circuit Court; five months and twenty-seven days from the filing of the charge to disposition in the Trial Court; seven months and nineteen days from disposition in the Circuit Court to perfecting the appeal in the Supreme Court; five months and sixteen days from the date the appeal was perfected to hearing in the Supreme Court; one month and twenty-seven days from the date of the hearing to final disposition in the Supreme Court; or a total average lapse of time from date of commission of offense to final action by the Supreme Court, in over one thousand cases, of twenty-four months and twenty-seven days. The statute provides that the defendant shall have twelve months from the date of his appeal to perfect the same in the Supreme Court, and a significant fact in the time interval study referred to, was that the longest single period of time lapse in the whole process is seven months and nineteen days taken by the defendant to perfect his appeal in the Supreme Court after appeal is allowed in the Circuit Court.

There are many who claim that there is no necessity for a change in our procedural laws—that the problem is presented in the manner in which such laws are enforced. This is but one of a number of striking illustrations of the necessity for changes in our procedural laws. This and many other provisions have been enacted by the Legislature at the instance of those who defend criminals.

It was found that the Sheriff, who is the principal conservator of the peace in all Missouri counties except the metropolitan centers, is not required to exercise initiative in solving crimes or in apprehending criminals for whom he has no warrant; that he is, under the law in Missouri, little more than a process server, and that if he is active in discovering the causes of crime he is not only not paid for it but he may thereby disqualify himself from serving in his usual capacity in a subsequent trial; that the Sheriffs of Missouri are for the most part farmers elected every four years to the office, without special

training or experience in police work; that they are paid through the fee system except in a few counties, which results, in some counties, in inadequate compensation, and in others, in a compensation clearly out of proportion to the salaries of other peace officers. No adequate system for reporting and recording of criminal complaints is maintained either by the Sheriffs of Missouri or by anyone else in the State, except in the City of St. Louis, where practically all reports of felonies committed in seven classes of felony only, are kept at police headquarters.

The need for a State police force has been conclusively demonstrated, especially in view of the near-completion of the hard road system, and it may be said to the credit of the Sheriffs of the State that they are, by an overwhelming majority, in favor of the establishment of a State constabulary.

It is the purpose of the Association when all of the facts have been obtained, analyzed and reported, to thoroughly disseminate the information obtained throughout the State to further crystallize public opinion in favor of the adoption of such reasonable and necessary recommendations for changes in the criminal procedural laws and in their administration, as may be made by the Association based upon the facts. The legislative program will doubtless be presented to the General Assembly which meets in January, 1927, for adoption, and in the meantime an intensive campaign will be made throughout the State to enlist support for the program.

The necessary changes in the procedural laws will be prepared under the direction of Chancellor Herbert S. Hadley, who by reason of his learning and experience is recognized as an authority on the subject, and the fact of his authorship of such recommendations is counted upon to have great weight on the side of favorable consideration.

It will be appreciated that the space reserved for this discussion is so limited that it will be impossible to review the findings of the survey at greater length. When the complete reports are published I think they will be found worth the time spent in reading and considering them, as the product of no inconsiderable amount of labor and original research.