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The Management of the TDC Population
Past, Present and Future

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June 11, 1987

NCJRS

OCT 1 1987

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The Management of the TDC Population Past, Present, and Future

The Texas Department of Corrections inmate population has been stabilized in the last four years through the use of parole release. While the population of the Texas prison system grew from 24,092 in 1979 to 36,142 at the end of fiscal year 1983 (or a 50.0 percent increase) from 1979 to the end of May 1987 the increase had been halted to a mere 5.25 percent. The slowdown in the increase of the prison population was not the result of decrease in prison admissions. From 1979 to 1983 the prison admissions went up from 13,125 to 22,870 or 74.2 percent increase. From 1983 to the end of Fiscal Year 1987 the admissions increased from 22,870 to about 36,000 or 57.41 percent increase. Figure 1 presents in summary form the population and prison admissions 1979-1986. To maintain the prison population constant the state has been forced to release more offenders on parole and consequently to reduce the amount of time served on a particular sentence. The best manner to analyze the increase in releases is by analyzing the number of releases on parole. From 1979 to 1983 parole releases for the year increased from 7,741 to 8,682 or 12.15 percent. From 1983 to the end of 1986 it increased from 8,682 to 14,428 or 66.18 percent. The prison capacity is expected to remain generally constant for at least one year, possibly two. A major question now arises as to how long the population can be kept constant, and if so, how could it be accomplished?

In order to answer this question it is important to analyze the admissions and release dynamics, historically take into account recent legislative changes and take a look into the future. It is the intent of this paper to analyze the past, present, and future of Texas Prison population, within the dynamics of prison population management.

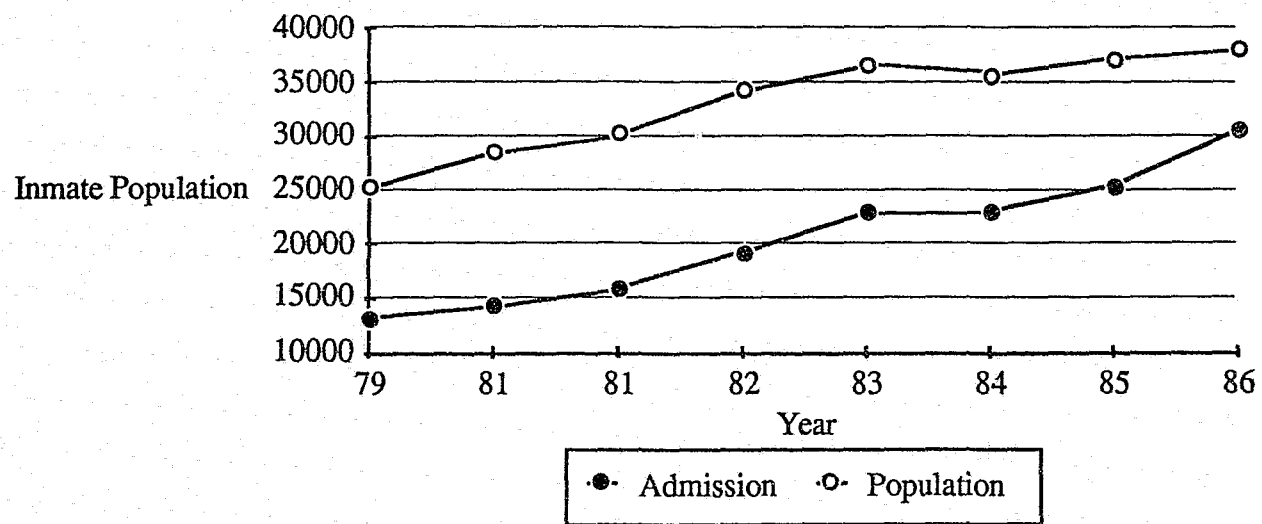
The Past

As a result of the Ruiz v. Estelle litigation in April 1981, the state had to find alternative housing for 4,000 offenders who were in TDC. Two avenues were used: (1) Governor William Clements ordered national guard tents to be placed in the TDC units to house approximately 2,500 offenders; (2) the Governor recommended to the Parole Board that approximately 1,500 offenders to be placed in halfway houses on conditional parole (American Statesman, May 8, 1981). During the months of May, June, and July 1981, therefore, 1,500 offenders were placed in halfway houses on conditional parole. The initiation of the conditional parole program marked the beginning of the involvement of the Texas Parole Board in prison population management.

The 67th Texas Legislature, Regular Session, appropriated funds to continue a conditional parole program for 1982-83 biennium. The intent of the legislators was quite clear as written in House Bill 656:

Figure 1

Population and Total Admission to TDC
FY 1979 - 1986



"Those receiving parole under this contingency appropriations should come from a class of parole eligible who would not have been paroled without the availability of more intensive supervision."

The legislators also amended Article 6166 x Section 33 - quartering of prisoners - of the Texas Civil Statutes and created the Conditional Work Furlough Parole (CWFP) Program. The intent was to increase the use of community corrections, but unfortunately the criteria established by the bill writers made it unworkable (Martinez, 1982). Section b (1) and b (5) state the criteria for this program:

(b) (1) The director of the department of corrections may recommend any prisoner who is statutorily eligible for parole, provided that the prisoner is either incarcerated for a non-violent crime or at least 40 years old and incarcerated for an offense other than use of a deadly weapon or sex offense, to the Board of Pardons and Paroles for release on Conditional Work Furlough Parole to a halfway house under contract with the Board of Pardons and Paroles for conditional work furlough parolees when in the director's determination the prison has a high probability of successful completion of release to Conditional Work Furlough Parole.

(5) The Board of Pardons and Paroles shall promulgate the necessary rules including a Conditional Work Furlough Parole contract which shall include an agreement by the prison to pay for the cost of supervision, costs of being quartered in the halfway house, restitution to the victim or victims, and support of the prisoner's dependents, if any, to implement the provisions of this subsection. (Emphasis added)

This criteria basically identified the offenders most likely to be released on regular parole anyway, and additionally required the conditional work furlough parolee to pay for supervision and other expenses. These provisions did not significantly increase the parole pool of eligible prisoners from that of regular parolees making the program unattractive to the offender. The end result was that after two years only 13 offenders were placed in the CWFP program (Board of Pardons and Paroles Records, 1983).

The 68th Legislative Session

The 68th Legislative Session is likely to be remembered in Texas Corrections history as the "Community Corrections Session". In the words of Gib Lewis, Speaker of the House:

"Today (marks) the beginning of the greatest criminal justice reform program in Texas history. It is the day when Texas comes out of the era of bricks and mortar" (Speaker of the House, Press Release, April 7, 1983).

Due to the increase in the TDC population and the cost of meeting Ruiz et al vs. Estelle decision requirements, the TDC proposed budget for fiscal years 1984-85 was a staggering \$1.5 billion (Dallas Morning News, Feb. 1983). Legislators trimmed the TDC budget to \$619 million and appropriated funds to probation and parole to expend community corrections. Among the new programs created were Restitution Centers (HB 658); Work Release Program (HB 779); and

Pre-Parole Transfers (HB 622). Additionally, SJR 13 proposed a constitutional amendment (approved by the voters on November 8, 1983) removing the Governor from the parole process, and making the Parole Board's decision final. Furthermore, in view of the existing prison population crisis two bills were passed which had an immediate impact on the TDC population. House Bill 640 increased the good time earned by prisoners while in custody (effective immediately and retroactively); and SB 727 - The Prison Management Act - implicitly mandated the Texas Board of Pardons and Paroles to be the prison population manager by establishing a procedure to reduce prison population during periods of emergency crowding.

The new approach to corrections in Texas, involved most criminal justice agencies, however, it was the Parole Board that took major responsibility for controlling the prison population.

The Parole Response

There are different measures to assess the effectiveness of the Parole Board in accomplishing their new mandate. Perhaps the simplest is by examining the 95.0 percent of capacity. The Board was able to keep the prison from exceeding the 95.0 percent population cap and from using the Prison Management Act until February 1987. This outcome was the result of continuous monitoring of prison capacity, prison admissions, and prison releases. The Board staff would predict when the 95.0 percent would be exceeded if release practices did not change. This affected changes in releasing practices thus avoiding the clash with the 95.0 percent cap.

A different measure is the parole recommendation rate (FI rate). From 1980 through 1985 the total FI rate was about 42.0 percent (see Figure 2). For Fiscal Year 1986 it was over 53.0 percent and this measure, on the surface does not show any major change except for 1986. However, this number does not reflect the thousands of special review cases that the Board considered in order to obtain the necessary releases to keep the population below 95.0 percent of capacity. Table 1 presents the number of cases considered annually for parole since 1979. The data indicates that between 1980 and 1986 the number of cases increased by 52.58 percent. Admissions during the same period of time increased from 14,313 to 30,471 (35,139 projected for FY 87), for an increase of over 112.8 percent. It could be assumed that 112 percent increase in admissions would result in 145 percent increase in case considerations. However, this did not happen. One major reason can be given for this; the increase in good time awarded to prisoners in 1983 (SB 640) resulted in an increased number of short sentence offenders released to mandatory supervision.

Figure 2

TOTAL FI RATE
FY 1980-1987

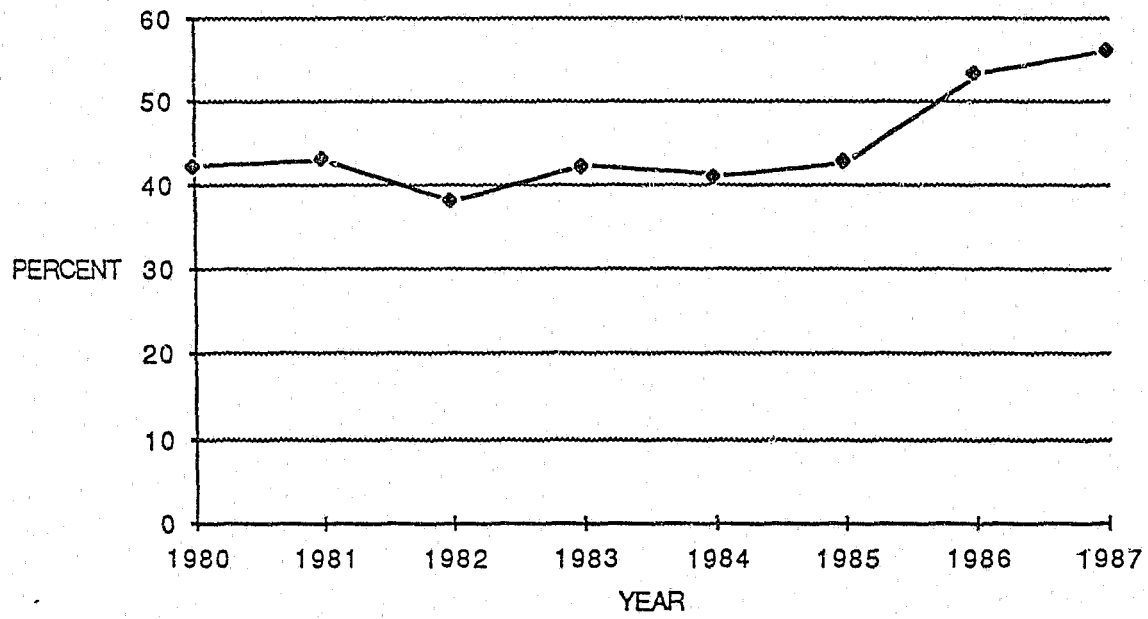


Table 1
Number of Cases Considered for Parole
FY 1980 - 1986

<u>Year</u>	<u>Number of Cases</u>
1980	19432
1981	22797
1982	27272
1983	28789
1984	28159
1985	26305
1986	29650

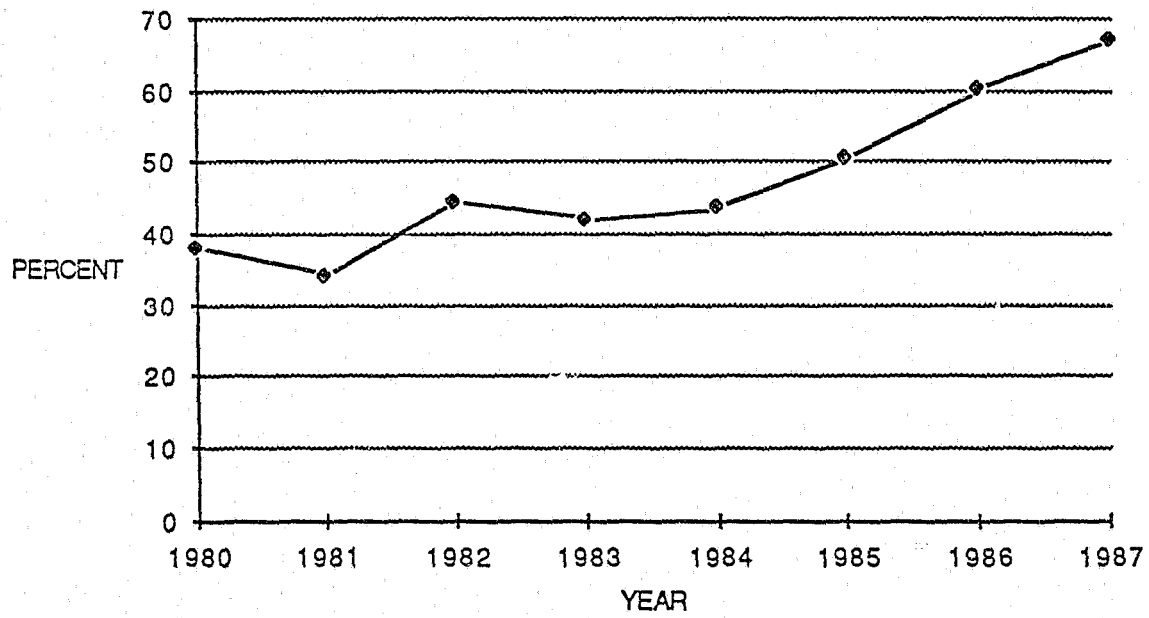
A better way to analyze the increase in parole recommendation rate is by examining the result of reviewing cases the first time they come up for review (initial). Figure 3 presents the FI rate for initial review cases. Initial review includes offenders who have completed their minimum statutory time for parole eligibility (when their calendar time plus good time equals one third of sentence for non-aggravated cases, with a minimum of one third calendar for aggravated cases). Also included as initial reviews are parole and mandatory release violators who are being considered for parole for the first time since their return to prison. Figure 3 shows that the parole recommendation for initial reviews has increased from a low of 34.0 percent in FY 1981 to the highest ever for Fiscal Year 1986 of over 60.0 percent. Furthermore, the increase in the FI rate for initial reviews has been steady since 1983, the year the Prison Management Act was passed and in Fiscal Year 1987 is approaching 70%.

Releases From Prison

Paralleling the TDC admissions, TDC releases have increased significantly. Table 2 presents the releases by type since Fiscal Year 1980. Basically, admissions have had to be matched by releases to maintain the population at mandated levels. The increase in the percentage of paroles of total releases for FY 86 indicates that there was a greater reliance on parole release to control the TDC population. This reliance on parole must continue in the future to control the prison population. In FY 1981 paroles constituted 63.6 percent of all TDC releases. For the next four years (1982 through 1985) the percentage of parolees to total releases annually decreased. However by 1986 it started to climb back up again. It could be said that between 1982 and 1985 the prison population was controlled through increased use of mandatory supervision. Mandatory

Figure 3

INITIAL REVIEW FI RATE
FY 1980-1987



supervision was increased as a result of two factors: (1) starting in Fiscal Year 1982 the Board started to use the Early Mandatory Release program and (2) the change in good time laws. The Early Release program consisted of releasing offenders up to 180 days prior to their mandatory release date. Senate Bill 640 which was passed in 1983 increased the amount of good time earned by prisoners made many offenders, especially those with four year sentences and less, eligible for Early Mandatory release soon after their prison admission.

Table 2
TDC Releases by Type
FY 1980 - 1986

<u>Year</u>	<u>Parole</u>	<u>MS</u>	<u>TDC Discharge</u>	<u>Shock Probation</u>	<u>Total</u>
1980	5072 (52.7)	2108 (21.9)	2430		9610
1981	7465 (63.7)	2331 (19.9)	1928		11724
1982	7453 (52.8)	4538 (32.1)	1473	652	14116
1983	8588 (42.6)	7715 (38.3)	1997	1846	20146
1984	9989 (42.5)	10055 (42.8)	1719	1723	23486
1985	8475 (39.1)	11092 (51.1)	401	1725	21693
1986	14470 (49.2)	12742 (43.3)	308	1852	29372

Table 3 presents the Early, Regular and Total Mandatory Supervision releases since 1980. The data indicate the first peak of early mandatory in 1983. This was prior to the enactment of SB 640. When SB 640's large number of offenders were released from prison placing the occupancy rate of TDC below 90.0 percent.

Table 3
Mandatory Releases Since 1980

<u>Year</u>	<u>Early Mandatory</u>		<u>Regular Mandatory</u>		<u>Total</u>
1980	0		2108		2108
1981	0		2331		2331
1982	1514	(33.0)	3024	(67.0)	4538
1983	4690	(61.0)	3025	(39.0)	7715
1984	5778	(57.4)	4277	(42.6)	10055
1985	4330	(36.4)	7565	(63.6)	11895
1986	8991	(71.0)	3669	(29.0)	12660

With the population below the capacity cap, the emphasis on Early Mandatory dissipated thus the percentage of mandatories being released early went down for FY's 1984 and 1985. By the beginning of FY 1986 the percent of capacity had climbed up to 92.9 percent, and identification of "pools" of offenders for release was again a major issue. The use of Early Mandatory was

increased. For Fiscal Year 1986 71.0 percent of mandatory cases were released early.

The PPT Program

The pre-parole program has been, so far, an unsuccessful approach to deal with prison overcrowding. Since the program was initiated in FY 1984 it has not been able to produce the expected numbers. Table 4 presents the pre-parole placements since FY 1984. It seems that the PPT program is one more "pool" yet available to control the prison population that up to the end of Fiscal Year 1986 had not been used.

Table 4
FY 1984 - 1986

<u>Year</u>	<u>No. of PPT's</u>
1984	156
1985	146
1986	196

Time Served in Prison

The increased release activity as well as the passage of SB 640 (the good time bill) in 1983 has resulted in a decrease of time served in prison. Table 5 presents a comparison of time served for offenders released from TDC in 1981 and 1986.

Table 5
Comparison of Time Served for Offenders Released From TDC
FY 1981 - 1986
(Parole and Mandatory Release)

<u>Sentence</u>	<u>Mandatory Release</u> <u>(Time Served in Months)</u>		<u>Parole</u> <u>(Time Served in Months)</u>	
	<u>1981</u>	<u>1986</u>	<u>1981</u>	<u>1986</u>
1	7.25	4.3	6.0	6.3
2	13.50	8.3	9.25	5.8
3	20.0	14.3	12.0	7.5
4	25.8	19.5	15.9	9.8
5	31.8	25.3	19.6	12.0
6	37.3	31.0	24.0	15.0
7	43.5	36.0	26.3	18.6
8	50.8	40.0	32.1	22.3
9	--	44.9	36.3	26.3

The data indicate a decrease of about 20.0 percent in the time served of mandatory releases and about 30.0 percent decrease of parolees from 1981 to 1986. The time served comparisons presented in this table is perhaps the best approach to determine the time served dynamics since it keeps sentence length constant. The same information of Table 5 can be presented as percentage of sentence served as depicted in Table 6. While in 1981 mandatory releases served about 51.0 percent of their sentence by 1986 they were serving about 41.0 percent. Parolees, on the other hand served roughly 33.3 percent of their sentence and by 1986 they were serving about 22.0 percent.

Table 6
Percentage of Time Served for Offenders Released From TDC
FY 1981 - 1986
(Parole and Mandatory Release)

<u>Sentence</u>	Mandatory Release (Percentage of Time Served)		Parole (Percentage of Time Served)	
	<u>1981</u>	<u>1986</u>	<u>1981</u>	<u>1986</u>
1	60.0	35.8	50.0	50.0
2	56.25	34.58	38.5	24.1
3	55.5	39.7	33.3	20.8
4	53.7	40.6	33.1	20.4
5	53.0	42.2	32.6	20.0
6	51.8	43.0	33.3	20.8
7	51.8	42.8	31.3	22.1
8	52.9	41.6	33.4	23.2
9	--	41.5	33.6	24.3

The Present

Fiscal Year 1987 has been the most difficult for prison population control since the Board became involved in 1981. For the first time the revised Prison Population Management Act (SB 215) was used in Texas. Furthermore, from the week of February 2 until the middle of April of this year, prison administrators were forced to close the prison every week, opening only two days per week to bring the population below 95.0 percent of capacity. It can be said that the population has exceeded capacity due to: a) increase in admissions. Admissions from 1986 to 1987 are expected to increase by 20.0 percent; and b) the releases had not been able to keep up the pace of the admissions despite the fact that the parole recommendation rate has increased as shown in Table 7 as well as the percentage of mandatories going early.

Table 7
Parole Review Actions
FY 1987

Month/Yr.	No. of Cases	No. FI	FI Rate	Initial Review	Initial FI	Initial FI Rate
Sept. 86	4226	2820	66.73	1694	1160	68.48
Oct. 86	3784	2385	63.03	1802	1255	69.64
Nov. 86	2209	1271	57.54	1531	1076	70.28
Dec. 86	2714	1450	53.43	1832	1210	66.05
Jan. 87	3231	1368	42.34	1714	1012	59.04
Feb. 87	2837	1353	46.07	1782	1174	65.88
Mar. 87	3818	1936	50.71	1884	1288	68.37
Apr. 87	3571	2330	65.23	1791	1261	70.41
FY 87 Subtotal	26491	14913	56.3	14030	9436	67.25

The case considerations have averaged about 3,300 per month. However, this is the result of including special reviews (remain set cases) in the count of total considerations. In the past only the FI special reviews were included. The FI rate has fluctuated between 42 and 65 percent for an average in FY 87 of 56.3 percent. This average is already higher than the 1986 average despite the fact that this year the remain set cases are included in the total considerations which lowers the FI rate compared to the previous year.

Perhaps what is most interesting in Table 7 is the initial review FI rate. For the year so far it has fluctuated between 56.0 and 70.0 percent. The average of 67.25 is higher than the previous year's average of 60.0 percent. If the mandatory and parole violators are taken out of all initial reviews—a cleaner picture of those regular initial reviews can be obtained. We do not have information for all case considerations of FY 1987, but only for April 1987. It is likely that April is a typical month. Table 8 presents the parole review actions for April 1987 by review type. The finding is very striking. The regular initial review FI rate was 76.3 percent. In other words the probability that someone sent to prison for any sentence and any offense being paroled the first time he comes up for parole review is about 76.0 percent if he was not a parole or MS violator. It must be emphasized that this probability is regardless of type of offense.

Table 8
Parole Review Actions by Review Type
April 1987

<u>Review Type</u>	<u>No. of Cases</u>	<u>FI (FI Rate)</u>	<u>Set Off</u>	<u>Serve All</u>
Regular Initial	1495	1141 (76.3)	279 (18.7)	75 (5.0)
Initial PV Violators	180	72 (40.0)	86 (47.7)	2 (1.1)
Initial MS Violators	108	30 (27.8)	1 (.4)	77 (71.3)
Total Initial	1783	1243 (69.7)	366 (20.5)	154 (8.6)
Regular Subsequent	696	355 (51.0)	270 (38.8)	71 (10.2)
Subsequent PV Violators	648	444 (68.5)	142 (21.9)	62 (9.6)
Subsequent MS Violators	442	279 (63.1)	110 (24.9)	53 (12.0)
Total Subsequent	1786	1078 (60.3)	522 (29.2)	186 (10.4)
Grand Total	3569	2321 (65.03)	888 (24.88)	340 (9.5)

If the 76.0 percent of all regular initial reviews are being paroled the first time, what we need to know is who is not getting paroled? Let's first analyze all the cases and then we can examine in more detail the initial reviews. If we divide all cases considered by offense type, violent vs. non-violent we find that violent¹ non-3g offenders have 14.0 percent FI rate, 3g² a 32.0 percent, and non-violent³ a 61.0 percent FI rate, if we do the same thing for initial review offenders we find

¹Violent includes: Homicide, Kidnapping, Rape, Arson, Burglary Habitation, Sell or Possession, or Manufacture Heroin or Cocaine, Sex Offenses, Incest with Adult, Neglect Family, Cruelty toward child or wife, Escape, Aiding Escape, Attempted Escape.

²3g offenses included all offenders sentenced under the aggravated offense statute.

³ Non-violent includes: Burglary of Motor Vehicle, Larceny, Theft, Vehicle Theft, Forgery, Fraud, Embezzle, Damage Property, Traffic Offense, DWI, Perjury, Involuntary Manslaughter, Robbery, Assault, Burglary, Burglary Building, Dangerous Drugs, Distribution or Possession Controlled Substance, Prostitution, Obstructing Police, Bail, Bribery, and Carrying Prohibited Weapon.

that non-violent offenders now have an FI rate of 78.0 percent; on the other hand the FI rate for violent non-3g is 13.9 and for the 3g offenders is 31.0 percent. The present practice for parole decision basically dichotomizes the population, violent and non-violent. If violent their parole probability is very low; if non-violent, their parole probability is very high. If the FI rate for non-violent offenders were to increase to 100.0 percent (regardless of risk) for initial reviews, the end result would be an additional 250 to 300 FI's per month. While this policy option is available to increase parole it must be pointed out that, non-violent offenders are generally grouped in the medium to high risk types. In other words, they return to prison at a greater rate than violent offenders.

Releases

During the first nine months of Fiscal Year 1987 some shifts have occurred in the releasing patterns. This is presented in Table 9. This table shows that in only nine months of FY 87 more offenders have been released on parole than in all of Fiscal Year 1986. Perhaps the most striking finding is that while in 1986, 44.9 percent of all releases were mandatory releases, for the nine months of 1987 they only constitute 34.86 percent. On the other hand the percentage of parolees have increased from 51.0 to 60.74 percent during the two year period.

The decrease in mandatory releases is the direct result of higher number of offenders released on parole and it is expected that this percentage will decrease even further leaving parole as the primary method of prison release.

Table 9
Fiscal Year 1987

<u>Month</u>	<u>Parole</u>	<u>Release Actions</u>			<u>Total* Releases</u>
		<u>PPT</u>	<u>EMS</u>	<u>MS Regular</u>	
Sept. 86	1438	88	949	276	2838
Oct.	1899	251	954	113	3330
Nov.	1372	74	533	107	2141
Dec.	1492	109	774	137	2602
Jan. 87	1508	70	934	154	2722
Feb.	1453	216	715	74	2515
Mar.	1728	81	1082	98	3081
Apr.	2278	132	946	131	3561
May	1948	68	566	129	2774
Total	15116	1089	7453	1219	24877

*Total releases do not add up since the table does not have shock probation and TDC discharge.

Percent Parole to Total releases: 60.76

Percent Total Mandatory going early: 85.94

Percent Mandatories out of total releases: 34.85

Also during Fiscal Year 1986 a greater use of early mandatory has been noticed. While in 1986 71.0 percent of all mandatories were released early so far for Fiscal Year 1987 they represent over 85.94 percent. This indicates that even if all mandatories were to be released early, the impact on the TDC population would be very small; and would only control the population for, perhaps one week.

The PPT Program

As mentioned earlier the PPT program was used very little from 1984 through 1986. During the first nine months of Fiscal Year 1987 this program has increased significantly. So far this year 1,089 offenders have been placed on PPT as compared to only 196 for all of Fiscal Year 1986.

Time Served in Prison

The comparison of FY 1986 versus March and April releases 1987 can give an idea if time served has decreased or remained constant. Table 10 presents the comparison. Mandatory releases show a decrease for only the one, two and three year sentences. All other mandatory releases show an increase.

Table 10

**Comparison of Time Served for Offenders Released From TDC
1986 - March/April 1987
(Parole and Mandatory Release)**

<u>Sentence</u>	Mandatory Release (Time Served in Months)		Parole (Time Served in Months)		
	<u>1986</u>	<u>1987</u> ¹	<u>1986</u>	<u>1987</u>	<u>PPT</u> ²
1	4.3	3.3	6.3		
2	8.3	5.6	5.8	4.3	
3	14.3	13.8	7.5	6.5	5.9
4	19.5	22.9	9.8	8.8	6.7
5	25.3	32.3	12.0	12.1	7.4
6	31.0	35.9	15.0	15.7	8.0
7	36.0	38.7	18.6	18.5	9.3
8	40.0	47.5	22.3	22.1	10.9
9	44.9	65.0 ²	26.3	18.6	14.0

¹March and April, 1987

²March and April, 1987

For parolees, on the other hand, we notice a decrease in time served for the two, three, and

four year sentences and no major change for the other sentence lengths.

If the state were to look at how to increase releases, it seems that an increase in PPT would provide some additional releases. However, to make an impact, monitoring of time served is essential.

Table 11 presents the comparison of percentage of sentence length served. It can be concluded that presently mandatory releases serve 41.0 percent of their sentence; parolees 22.0 percent; and PPT's 12.0 percent.

Table 11
Percentage of Sentence Served for Offenders Released From TDC
1986 and March - April 1987
(Parole and Mandatory Release)

<u>Sentence</u>	<u>Mandatory Release</u> (Percentage of Sentence Served)		<u>Parole</u> (Percentage of Sentence Served)		
	<u>1986</u>	<u>1987</u>	<u>1986</u>	<u>1987</u>	<u>PPT</u>
1	35.8	27.5	50.0		
2	34.58	23.3	24.1	17.9	
3	39.7	38.3	20.8	18.0	16.3
4	40.6	47.7	20.4	18.3	13.9
5	42.2	53.8	20.0	20.0	12.3
6	43.0	49.8	20.8	21.8	11.1
7	42.8	46.0	22.1	22.0	11.1
8	41.6	49.5	23.2	23.0	11.4
9	41.5	60.0	24.3	17.2	13.0

The Future

In the previous two parts we have found that the Board has been involved in prison population management and has used several programs to increase releases and offset any possible increases resulting from prison admissions. In the process, time served in prison has been reduced and efforts to avoid exceeding 95.0 percent of capacity have been short lived. The question that is now raised is can the population of the prison be controlled using parole.

To answer this question several elements must be taken into account: (a) the capacity of TDC; (b) changes in law; (c) projected prison admissions; (d) necessary releases.

Projected Capacity

September 1, 1987 will mark the deadline for the first prison depopulation mandated by the Ruiz settlement. Though the state will complete about 4,235 new construction beds, the capacity of the system will not be expanded (see Actual and Projected TDC Capacity and Population, Fiscal

Year 1987, Texas Board of Pardons and Paroles, May 1987).

Beyond such construction nothing is funded for new prison construction. Thus, it appears that there will be no increase in prison capacity for the next 12 - 18 months.

Admissions

During the remainder of FY 1987, TDC is expected to admit, on the average, 3,000 offenders per month. For Fiscal Year 1988 a total of 38,496 are expected to be admitted if present sentence patterns continue. Since the capacity of TDC is unlikely to increase for at least one year; the releases must match admissions to keep the population constant. Table 12 taken from the "Actual and Projected Prison Population Dynamics, Fiscal Year 1987" presents the release dynamics through the end of fiscal year 1987. The table shows that the case considerations will be about 3,300 per month. These case considerations are inflated since they include special review cases. A better estimate of case considerations without special reviews is about 2,700. Thus if the Board conducts review for an additional 600 cases (special review) per month, the 3,300 cases may be an adequate number. To arrive at the required number of releases an average 75.0 percent FI rate will be needed for the remainder of this fiscal year.

Table 12

Actual and Projected Parole Board Actions Fiscal Year 1987

<u>Month</u>	<u>Cases Cons.</u> ¹	<u>FI</u>	<u>FI Rate</u>	<u>MS</u>	<u>Parole</u> ²	<u>Other Rel.</u>	<u>Total Rel.</u>
Sept. (86)	4,226	2,820	66.7	1,225	1,526	147	2,898
Oct.	3,784	2,385	63.0	1,067	2,150	113	3,330
Nov.	2,209	1,271	57.5	640	1,446	155	2,241
Dec.	2,714	1,450	53.4	911	1,601	152	2,664
Jan. (87)	3,231	1,368	42.3	1,088	1,578	156	2,822
Feb.	2,937	1,353	46.1	789	1,669	157	2,615
Mar.	3,818	1,936	50.7	1,180	1,809	152	3,141
Apr.	3,439	2,320	67.5	1,079	2,244	152	3,475
³ May	*3,300	2,190	66.4	650	2,081	150	2,881
³ June	*3,300	2,440	73.9	640	2,196	150	2,986
³ July	*3,300	2,710	82.1	630	2,575	150	3,355
³ Aug.	*3,300	2,453	74.4	620	2,331	150	3,101
³ Sept.	*3,300	2,574	78.0	600	2,445	150	3,195

¹Includes special reviews

²Includes PPT transfers

³Projected

Legislative Changes

There are two major legislative changes that can possibly increase the TDC population starting September 1, 1987. These two are: (1) Early Mandatory release will no longer be permitted. This law applies to offenders being released as of September 1, 1987; (2) Violent offenders admitted to TDC whose offense occurred on or after September 1, 1987 will not be released on Mandatory Supervision.

If no contingency program is in place or no other actions have been taken to offset this change in Early Mandatory Supervision, the population could increase by about 500 offenders per month for about 6 months.

The impact of no Mandatory for violent offenders will be very small for the first year. It is expected that about 150 offenders will not be released as a result of this law during FY 1988.

Policy Options

It is very unlikely that present parole review procedures can produce the necessary releases. The CLASM simulation to control the TDC population for Fiscal Year 1988 shows that the state would need a 100.0 percent FI rate to maintain the population below the 95.0 percent cap.

The state however, can drastically change the parole process. Some of tools available are:

- (1) The tentative parole month
- (2) PPT transfer
- (3) Admission quotas
- (4) Diversion from TDC through Probation
- (5) The use of local community corrections center
- (6) Re-evaluation of subsequent review cases

Let's examine them briefly.

(1) The tentative parole month. This option can work both ways. It can increase the population if not developed adequately. However, if the parole date is developed with present population in mind, it is possible to do it. For parole, for instance the minimum percentage of time served is 12.0 percent. If all parolees are leaving at an average of 22.0 percent of sentence; the tentative parole month would require to release people between the 12.0 and 22.0 percent of time served. Mandatory releases are leaving at an average of 43.0 percent of sentence. The tentative parole month could set dates between 22.0 percent and 43.0 percent for offenders now being released under mandatory supervision.

The placing of a tentative parole month approach to deal with prison population is the most rational approach but it requires very comprehensive planning for implementation and subsequent close monitoring. For this option to work, it will have to include a very strict parole guideline system.

(2) The PPT program. It was mentioned earlier that during Fiscal Year 1987 this program

has already increased. An increase in this release mode would require a greater availability of halfway house beds. It must be pointed out that PPT for subsequent review can only help to control the prison population if the offenders targetted for PPT transfer would not have been paroled without the availability of the program. The PPT program should be part of the tentative parole program.

(3) Diversion from TDC through probation. About 500 offenders are admitted to TDC every month who are sent for violating the conditions of their probation. These people could be diverted to an intensive probation program without increased risk to the public. The major problem of this option, it requires cooperation of sentencing judges.

(4) Admission quotas. This is the surest way to avoid exceeding 95.0 percent of capacity. The major problem is opposition by local counties.

(5) The use of local community corrections centers. This is a long range option which is unlikely to help in FY 1988. This option can be used together with admission quotas thus making TDC the place where the most serious offenders are sent.

(6) Re-evaluation of subsequent review cases. This is a special review program as the Board has conducted since 1981. However, it is suggested that this be done on a weekly basis with a fixed number and expected FI rate.

Summary of options that have been used or are being used is presented in Table 13. The most used programs have been the halfway house programs. This program is fully used. Thus further relief depends on availability of additional facilities; the increase of good time for prisoners (SB 640), which has been maximized and by September 1, 1987 will change as a result of Sunset Legislation; the Early Mandatory program which is being used 100.0 percent and by September 1, 1987 will be abolished as a result of SB 215. The future, therefore has very hard decisions to make. If prison population management is still a goal of the Board, a system must be implemented that arrives at the required number of releases without remaining in a continuous state of crisis. The data that we have presented indicates that parole release is the only tool the Board now has to maintain the population below 95.0 percent. Any option to control the population, therefore, must start with an analysis of the case considerations. Let's analyze two options.

Option I

To determine what this option would be the case considerations must be analyzed. It was mentioned earlier that so far this year, the case considerations have averaged 3,300 per month. This number, however, can not be used for predictive purposes for two reasons: (1) New accounting systems for special review cases have inflated the monthly considerations; (2) the Prison Management Act was implemented in February, March and April 1987 and this made many offenders parole eligible.

Table 13
SPECIAL PROGRAMS TO RELIEVE OVERCROWDING SINCE 1981

PROGRAM	DATE	OUTCOME	SUCCESS	FUTURE GAIN
Conditional Parole	5-81	1,500 offenders were released	Successful	None
Community Programs Halfway House (HB 656)	82 to current	1,000 - on-going	Successful	Depending on availability of additions Halfway House space and appropriations
Conditional Work Furlough Parole (amend to Art. 6166x Section 33)	82 - 83	About 13 offenders placed in two years.	Not Successful	None. The wording of the bill that created this law made it unworkable.
Increased Good Time (SB 640)	83	Decreased the TDC population below 90.0 percent	Successful	None. Offenders in TDC are gaining maximum Good Time. This law was modified by Sunset Legislation 1987.
Early Mandatory	82 - Present	Has been used continuously in a crisis situation to avoid exceeding 95.0 percent	Successful	None. All mandatorics are now being early. However, starting September 1, 1987 this program is being abolished as a result of changes in law (SB 215).
Identification of Illegal aliens in TDC, for INS deportation	Since 1981 Sporadically through present	No major gains		No major gains
Elderly Offender Program				
Out of state detainees	Since 1981	No major gains		No major gains
No revocation of Parole Technical Violators	1985	Some offenders had not been sent to TDC	Successful	No additional gains. The program is running at its maximum.
Pre-parole (HB 622)	1984-87	Variable	Variable	During the first two years the program did not accomplish much. This year (FY 87) the program has already increased significantly and could further increase.
Identification of short sentence offenders at DU 2	85 - Present	Time served in prison for short sentences has decreased	Successful	Perhaps something could be gained after studying if all eligible inmates are identified and processed.
Special Reviews	Since 1981 on-going	Has been the major means to obtain enough releases during crisis periods	Successful	It can be used more systematically for the next six months but after such time all options may have been used.
Prison Quotas	Discussed since 1981	During crisis periods	N/A	Very promising when parole runs out of alternatives.
Closing Prison gates	1987	It has brought TDC population under 95.0 percent whenever it has been exceeded.	Successful	The Board of Corrections will continue to close prison gates whenever the population exceeds 95.0 percent of capacity.

Furthermore, records from the file section of the agency indicate the following number of special reviews were conducted since September 1986 (see Table 14).

Table 14

Special Review Cases Since September 1980

<u>Month</u>	<u>No. Cases</u>	<u>FI</u>	<u>FI Rate</u>
September	6,799	1,217	17.9
October	0	--	
November	0	--	
December	1,159	no info	
January	2,188	no info	
February	0	--	
March	405	138	34.0
April	no info	2,184	

These special reviews result in (a) intensive work for some sections of the agency who have to reshuffle the same files every two months, update release plans, etc., and (b) decrease the number of case considerations for the future. Cases that were supposed to be voted in eight months from review are voted earlier and by the time the normal consideration month comes the cases will not be there. The most important part of (b) above is that, normal parole action statistics become tainted and do not provide the basis for understanding what the current situation is or what the future will look like. The confusion in regard to the feasibility of future prison population management is due to the unsystematic manner in which business has been conducted, especially in the last twelve months. It is very difficult today to determine what is a "regular monthly case considerations size". The estimates go from 2,100 to 2,700 per month. If the most optimistic point (2,700/month) is taken it can be determined what can be done. Based on historical statistics of case considerations the 2,700 cases can be subdivided as presented in Table 15. The information from Table 15 is based on April 1987 actions. It presents a relatively high FI rate for the agency. If such high FI rate were maintained the regular case considerations would result in about 1,788 cases recommended for parole. Now the question that must be answered is: How many parolees are needed each month.

Table 15
Monthly Case Considerations by Review Type and FI Rate

<u>Review Type</u>	<u>No. of Cases</u>	<u>FI</u>
Regular Initial	1,501	1,145 (76.3)
Initial PV Violators	190	76 (40.0)
Initial MS Violators	118	31 (27.8)
Total Initial	1,809	1,252 (69.2)
Regular Subsequent	348	177 (51.0)
Subsequent PV Violators	323	221 (68.5)
Subsequent MS Violators	220	138 (63.1)
Total Subsequent	891	536 (60.1)
Grand Total	2,700	1,788 (66.2)

Past release actions are misleading in regard to future actions. This is one of the cases in which the past is not the best predictor of the future. This results from the two contradictory, factors: (1) the maximum use of early mandatory; which reached its peak on the weekend of May 7, 1987; (2) the abolition of early mandatory on September 1, 1987. Between now and September 1, 1987 a monthly average of 550 offenders will be released on early mandatory. Starting September 1st there will be no mandatories for a number of months and then, the number released will be very small. Through the end of Fiscal Year 1987 the releases will look as in Table 16.

Table 16
Necessary Releases by Type

Total Necessary Releases	3,000
Shock Probation	100
TDC Discharge	35
Early Mandatory	<u>550</u>
Subtotal	685
Necessary Releases	3,000
Parole (Necessary Release minus Subtotal)	2,315

It was mentioned earlier (Table 15) that based on April's high FI, projected for regular case considerations, the end result would be a 66.0 percent FI rate. However, Table 16 shows that about 2,300 offenders will have to be released on parole. Assuming all FI's go on parole (some are not because of withdrawals) and assuming that 2,700 cases are reviewed monthly. The FI rate needed to obtain 2,300 FI's monthly is 85.7 percent.

NOTE: Using these same data it can be seen that over 2,800 parolees need to be released monthly after September 1, when Early Mandatory Release is no longer available.

A different manner to see the case considerations is by violent and non-violent offenders. Using prior case considerations statistics it can be determined that 75.0 percent of the cases considered are property offenders and 25.0 are violent. The 2,700 regular monthly projected case considerations will look as in Table 17.

Table 17
Offense Type of Monthly Considerations & FI's Suggested

<u>Offense Type</u>	<u>Number</u>	<u>Percent</u>	<u>FI Projected</u>	<u>Cases FI</u>
Non-violent	2,025	75.0	95.0	1,971
Violent	675	25.0	25.0	168
Total	2,700	100.0	79.2	2,139

Table 17 shows that even if 95.0 percent of non-violent offenders are FI, and the violent offenders

FI rate remains at 25.0 percent the resulting FI rate will be only 79.2 percent or 6.0 percentage points less than needed. This indicates that perhaps an orderly approach using regular monthly case considerations may not be a feasible route to follow, unless the FI rate of violent offenders is increased to 50.0 percent, in which case FI's for violent will increase by 138 more and resulting in an FI rate of 85.5 percent.

This option may not be considered feasible especially for the increase in FI rate of violent offenders. Option II is a slight variation.

Option II

In Table 15 it was presented that about 1,800 monthly cases are initial review and that they have a 69.2 percent FI rate. If it is assumed that this FI rate can be maintained and that the case considerations will remain 2,700/month then we have 1,250 FI's. Since an additional 1,050 are needed, and it is unlikely that they all will come from the subsequent review of the regular monthly case considerations, the Board can conduct special reviews of 300 cases every week and a 50.0 percent FI rate expected from such review. Then we would have the results as presented in Table 18.

Table 18

Option II Case Considerations

	<u>Number</u>	<u>FI Rate</u>	<u>FI's</u>
Total Initial	1,800	69.0	1,242
Total Subsequent	900	60.0	540
Special Review	1,200	50.0	<u>600</u>
Total	3,900	61.0	2,382

The key element of the success of this option is continuity in the process. The major difficulty this agency is facing in controlling the prison population today is the high FI rate one month and low the other. If we were to look at a weekly basis the result is probably a continuous zig-zag. It is important under this scenario, that in addition to regular reviews, 300 special reviews be given to decision makers every week. Furthermore, of those 300, the result of the review would have to be 150.

This approach will work for a while; after six to twelve months most parole reviews will consist of initial review cases only.

Conclusion

The state of Texas has controlled the growth of the prison during the last four years through the use of Parole or Early Mandatory release. It can be said that up to January 1987 the state accomplished such objective and the population of the prison did not exceed the 95.0 percent cap in February. The population exceeded the 95.0 percent and it did so on a weekly basis through the middle of April. New efforts were made to avoid having to close the prison gates but such efforts are not proven successful. The only way the population can be controlled now is through parole, and to parole someone he needs to be recommended. The present parole review procedures are unlikely to result with the numbers required. If the Board does not make drastic changes in the parole process the prison will be closing on a weekly basis. The CLASM simulation of the TDC population for Fiscal Year 1987 indicates that the Parole Board alone can not control the TDC population during Fiscal Year 1988 even if all offenders considered for parole are recommended. If all cases are recommended for parole, then parole selection would become unnecessary.

The options presented do not mean that one of them must be used. The solution to prison overcrowding and court compliance, is orderly management of the criminal justice system in the state on an overall basis.