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Oklahoma City, Oklahoma

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STATE OF OKLAHOMA
PARDON AND PAROLE BOARD
ANNUAL REPORT
1986

NCJRS

FEB 4 1988

ACQUISITIONS

Issued April 24, 1987

Oklahoma City, Oklahoma

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HENRY BELLMON
GOVERNOR



STATE OF OKLAHOMA

Pardon and Parole Board

4040 N. Lincoln, Suite 219
Oklahoma City, Oklahoma 73105
405-427-8601

PARDON AND PAROLE BOARD

FARRELL HATCH
DURANT
CARL B. HAMM
PERRY
AUGUSTA MANN
TULSA
MARZEE DOUGLASS
ARDMORE
CLARENCE HARKINS, JR.
EDMOND

ADMINISTRATIVE STAFF

EXECUTIVE DIRECTOR
BETSY PAIN
DEPUTY DIRECTOR
J. D. DANIELS

The Honorable Henry Bellmon
Governor, State of Oklahoma
State Capitol
Oklahoma City, Oklahoma

Dear Governor Bellmon,

On behalf of the members of the Pardon and Parole Board, I am pleased to present our Annual Report for 1986. In spite of budgetary difficulties and the relentless growth in the prison population, the Pardon and Parole Board and staff have continued to strive for excellence in the performance of our Constitutional and statutory duties. We can, therefore, reflect back to our accomplishments in 1986 with great pride and look forward to continuing our efforts in 1987.

Please be assured of the commitment of this agency to provide the best service possible to the citizens of Oklahoma.

Sincerely,

Betsy Pain
Executive Director

BP/jc

cc: Honorable Jim Barker, Speaker of the House
Honorable Roger Randle, President Pro Tempore of the Senate

I. Organization of the Pardon and Parole Board

The Pardon and Parole Board was created by a constitutional amendment adopted by the voters in 1944. The Board consists of five members who are private citizens appointed to serve for four years coterminous with the Governor. Three members are appointed by the Governor, one by the Chief Justice of the Supreme Court and one by the Presiding Judge of the Court of Criminal Appeals.

Article VI, Section 10, of the Oklahoma Constitution establishes the Board's authority to recommend to the Governor paroles, commutations, pardons and leaves of absence exceeding 60 days. The Governor cannot grant clemency, except for reprieves and leaves of absence not exceeding 60 days, unless the Board has recommended such action. The Constitution also places restrictions on the Board's clemency power by authorizing the Legislature to limit the parole eligibility of certain offenders. Statutes governing the Board and agency are located in Title 57, Section 332 et. seq. In addition to the Constitutional and statutory provisions, the Board has also adopted policies and procedures to implement the law and provide guidelines for clemency consideration.

The Board elects a Chairman and a Vice-Chairman to preside at meetings and administer oaths. The Chairman also represents the Board at public functions and speaks on behalf of the Board on issues affecting the agency. The Chairman of the Board in 1986 was Robert H. Mitchell, an attorney from Oklahoma City. Mitchell was originally appointed by Governor Nigh in 1979 and served as Vice-Chairman during his first term. Following his reappointment in 1983, Mitchell was elected Chairman for his second term on the Board.

Augusta E. Mann, homemaker and realtor from Tulsa, served as Vice-Chairman during her second term. She was originally appointed in 1979 and reappointed in 1983 by Governor Nigh.

The third Governor's appointee, Betty Kinnett, was named to the Board in January, 1986, to fill the unexpired term of her late husband, J.W. Kinnett. Mrs. Kinnett is a real estate appraiser in Shawnee.

Also from Shawnee, Jim Haney, a chemical dependency counselor, was appointed by the Court of Criminal Appeals in 1985. He had previously served on the Board as a Governor's appointee from 1981 to 1983.

Farrell M. Hatch, an attorney from Durant, was appointed to the Board in 1983 by the Supreme Court. Hatch will continue to serve on the Board for his second term beginning in 1987.

The Board is supported by a staff of twenty-two employees, including the Executive Director who is responsible for supervision of the staff, budgetary management and all phases of the agency's operation. The staff also includes a Deputy Director, General Counsel, Administrative Officer, nine Investigators, two Investigator Supervisors, a Business Manager, an Executive Secretary, a Word Processor Operator and four Typist/Clerks. The major functions of the staff are to assign parole docket dates to all inmates incarcerated in Oklahoma penal institutions and to provide written reports on clemency candidates considered at the monthly Board meetings.

The Board establishes the dates for the monthly meetings in accordance with the Open Meeting Act, and members of the public, youth groups and civic organizations are encouraged to attend. Meetings in 1986 alternated between the Oklahoma State Penitentiary in McAlester and the Lexington Correctional Center in Lexington.

Implementation of the Executive Branch Reform Act of 1986 placed the Pardon and Parole Board in the Department of Law Enforcement, headed by Interim Cabinet Secretary Tom L.V. Heggy. While continuing as Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, Mr. Heggy also assumed the responsibility of advising the Governor on clemency matters during the remainder of his term.

ADMINISTRATIVE OFFICE

4040 North Lincoln, Suite 219
Oklahoma City, Oklahoma 73105
(405) 427-8601

Betsy Pain, Executive Director
J. D. Daniels, Deputy Director

1986 BOARD MEMBERS

Robert H. Mitchell, Chairman, Oklahoma City
Appointed by Governor George Nigh

Augusta E. Mann, Vice-Chairman, Tulsa
Appointed by Governor George Nigh

Jim Haney, Member, Shawnee
Appointed by Presiding Judge Ed Parks, Court of Criminal Appeals

Farrell M. Hatch, Member, Durant
Appointed by Chief Justice Don Barnes, Supreme Court

Betty Kinnett, Member, Shawnee
Appointed by Governor George Nigh

1987 BOARD MEMBERS

Farrell M. Hatch, Chairman, Durant
Appointed by Chief Justice Robert Simms, Supreme Court

Carl B. Hamm, Vice-Chairman, Perry
Appointed by Governor Henry Bellmon

Clarence Harkins, Jr., Member, Edmond
Appointed by Presiding Judge Tom Brett, Court of Criminal Appeals

Augusta E. Mann, Member, Tulsa
Appointed by Governor Henry Bellmon

Marzee Douglass, Member, Ardmore
Appointed by Governor Henry Bellmon

II. 1986 Budget and Personnel

APPROPRIATIONS

| | <u>FY-86</u> | <u>FY-87</u> |
|--------------------------|--------------|--------------|
| Personal Services | \$643,723 | \$647,500 |
| Equipment | 2,300 | 2,800 |
| Other Operating Expenses | 103,168 | 77,200 |
| Total Appropriation | 749,191 | 727,500 |
| Authorized FTE | 22 | 22 |

Personnel changes and reductions in funding resulted in a staff shortage early in FY-87. When an Investigator Supervisor accepted federal employment and an Investigator II transferred to the Department of Corrections, both positions remained vacant for approximately three months to aid the agency in dealing with a 3% reduction in funding. The personnel shortage necessitated the accumulation of overtime for several investigators who assisted in assuming the caseloads of the vacant positions. All investigators' caseloads were re-examined, and the position at James Crabtree Correctional Center was transferred to the administrative office in an effort to cope with the budgetary problems. The investigator assigned to docketing and the administrative officer also assumed caseloads during the staff shortage.

The agency reduced operating expenses through the cancellation of training, limitations on travel and staff meetings, and deferment of purchases. Stability of investigative caseloads and personnel during the latter half of FY-86, along with conservative fiscal policies, allowed the agency to accumulate approximately \$30,000 to carry over into FY-87. Increases in parole waivers also assisted the Board in netting some savings due to the reduction in two meetings from two days to one. However, in many cases the parole waivers resulted in the confinement of inmates for a longer period of time at a substantial cost to the state.

Due to the lack of funding for pay raises, training, or other programs, the agency could offer few incentives to maintain employee morale and retain long-term employees. As the fiscal crisis has continued, the agency has been unable to retain as many experienced employees who, in addition to being better qualified, aid the agency by completing more work in shorter periods of time. However, in 1986 the Pardon and Parole Board was fortunately able to recognize one of its employees, Bill D. Williams of McAlester, for twenty years of service to the State of Oklahoma and the corrections field.

Another positive aspect in the area of personnel in 1986 was the agency's ability to meet affirmative action goals in recruiting protected groups for vacant positions. The Pardon and Parole Board continued to project a favorable image to members of these groups resulting in a diverse selection of qualified applicants.

III. 1986 Accomplishments

The Pardon and Parole Board faced its most difficult year in 1986 due to budgetary reductions and the corresponding problems caused by the staff shortage. Investigators and support personnel were required to assume additional work with no increase in compensation. In addition, the agency's primary goal for 1986 of revising the parole guideline matrix remained unfinished at the end of the year due to lack of federal assistance. The agency was advised in January, 1986, that the National Institute of Corrections (NIC) had awarded a grant to the Cosmos Corporation to provide technical assistance to paroling authorities, and the Oklahoma Board immediately applied for such assistance to complete the revision project. After considerable delays, the Board was advised in August that the Cosmos Corporation would not be providing assistance and that a new request should be directed to NIC. Upon receipt of the request, NIC gave tentative approval for sponsoring a private consultant to assist the Board in 1987.

All other goals and objectives established for 1986 were met and implemented. Policy 007 governing the criteria for jacket review or personal appearance before the Board was modified to allow the jacket review of habitual offenders who were not recommended for release by the investigator and institutional case manager. The Board also instituted a policy change which established a Redocketing Review Committee, composed of the Director, Deputy Director and General Counsel, to review the cases of certain inmates denied parole by the Board. Inmates incarcerated for the first or second time serving a non-violent offense are eligible to be reconsidered for parole prior to their annual review if authorized by majority vote of the Redocketing Review Committee. Reasons for the docketing action are documented in the inmate's parole file for the Board's future reference.

The General Counsel continued efforts to expand the victim assistance program through the development and distribution of Victim Impact Statements. The questionnaire was designed to allow victims or their representatives to file information concerning the crime and its impact, financial loss and restitution, objections to parole and requests for notification of parole hearings. The General Counsel also provided training to Victim-Witness Coordinators and to District Attorneys concerning the parole process, and assumed greater responsibility in the scheduling and oversight of parole revocation hearings.

The Deputy Director, Administrative Officer and one investigator attended two training sessions at the National Academy of Corrections in Boulder, Colorado, on "In-Out Decision-Making". Funded by the federal government, the training assisted the agency in framing the parole guideline revision project and provided interaction with other parole agencies. Also in the area of training, the agency utilized the expertise of its own personnel to provide training to support staff on the criminal justice system and to design an in-house training program for new Board members to be appointed in 1987. A "Handbook For New Parole Board Members" was also developed with the assistance of material provided by the Training Center of the National Council on Crime and Delinquency.

As the prison population continued to increase in number, the Chairman and the Executive Director were asked to serve as members of an advisory committee to the Joint Committee on Fiscal Operations of the Oklahoma Legislature. The advisory committee was established to assist in the implementation of a Correctional Population Simulation Project in cooperation with the National Council on Crime and Delinquency. The purpose of the project is to analyze the prison population and explore alternative correctional policies. The Pardon and Parole Board will continue to play an active role in 1987 in the compilation of parole statistics for the projection model and participation in the advisory committee.

Two major legal issues faced the agency in 1986. The Legislature adopted and submitted to a vote of the people State Question 593 which amends Article VI, Section 10 of the Oklahoma Constitution to allow a sentence of "life without parole" for offenses designated by the legislature. The question passed on November 4 by a vote of 619,251 to 213,865. Action will be required by the Legislature before the provision will be implemented.

Another issue affecting the Board in 1986 was the constitutionality of the house arrest program operated pursuant to state statute by the Department of Corrections. Board members had criticized the release of over 1300 offenders on house arrest due to the lack of restrictions on the program and circumvention of the parole process. In October, the Board voted to submit to the Attorney General the question of whether the house arrest law conflicts with Article VI, Section 10, of the Oklahoma Constitution defining the parole power.

IV. 1986 Statistics

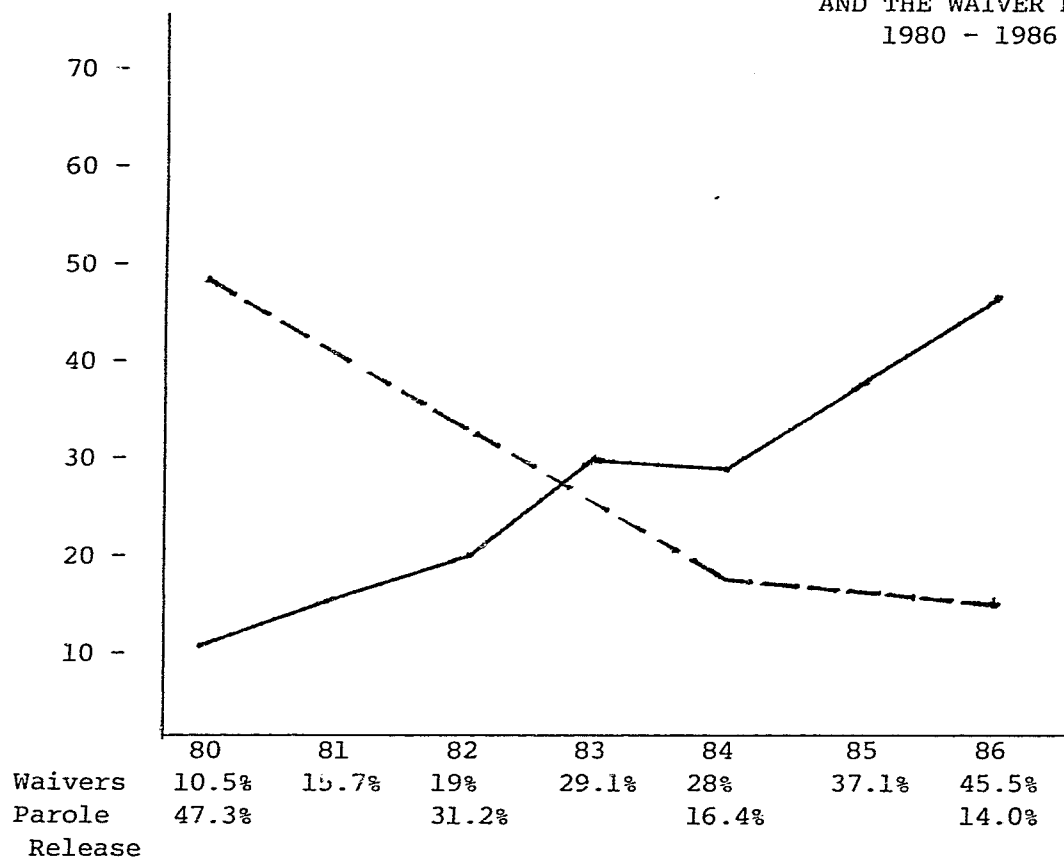
A. During 1986 the number of inmates who declined parole consideration continued to escalate. In October the percentage of eligible inmates who waived parole reached a record high at 52%.

PAROLE WAIVERS - 1986

| | | |
|-----------|-----|---------|
| January | 216 | (44.8%) |
| February | 209 | (51.7%) |
| March | 177 | (38.1%) |
| April | 203 | (39.8%) |
| May | 225 | (46.4%) |
| June | 191 | (41.2%) |
| July | 222 | (43.5%) |
| August | 208 | (41.9%) |
| September | 279 | (50.9%) |
| October | 249 | (52.4%) |
| November | 241 | (43.7%) |
| December | 290 | (50.9%) |

The yearly average of 45.5% of the eligible inmates waiving parole exceeded the average for 1985 of 37.1% and continued a trend, illustrated on the following graph, for 1980-1986.

PERCENTAGE OF INMATES RELEASED ON PAROLE
AND THE WAIVER RATE
1980 - 1986



Waivers ——— Pardon and Parole Board Annual Statistics
 Parole Release - - - - Issues Facing Corrections in Oklahoma - DOC Figure 27
 for Calendar Years 1980, 1982, 1984 and 1986

B. In contrast, the percentage of inmates approved by Governor George Nigh significantly increased from 59% in 1985 to 70.3% in 1986.

GOVERNOR'S ACTION: 1980-1986

| | <u>1980</u> | <u>1981</u> | <u>1982</u> | <u>1983</u> | <u>1984</u> | <u>1985</u> | <u>1986</u> |
|--------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Paroles Approved | 1253 | 1240 | 907 | 894 | 738 | 598 | 731 |
| Paroles Denied | 180 | 163 | 446 | 301 | 241 | 406 | 308 |
| Total Considered | 1433 | 1403 | 1353 | 1195 | 973 | 1004 | 1039 |
| Percentage Paroled | 87.4% | 88.3% | 67% | 74.8% | 75.8% | 59.6% | 70.3% |

Although the percentage of inmates approved for parole increased in 1986, in November the Governor denied the largest percentage of inmates recommended for commutation to time served on the Christmas Commutation Docket. Governor Nigh approved 119 of 254 inmates recommended by the Board, or 45%, compared with 88% in 1985 and 82% in 1984.

GOVERNOR'S ACTION - 1986

| | | | |
|---------------------------------|-------------------|---------------|---------------|
| Parole to Street | 533 (51.2%) | | |
| Parole to CS Case | 167 (16%) | | |
| Parole to Detainer | 31 (3%) | | |
| Parole Denied | 270 (26%) | | |
| Parole Denied Due To Misconduct | 38 (3.6%) | | |
| Medical Leave Granted | 2 (.2%) | | |
| Commutations Signed | 2 (66.7%) | | |
| Commutations Denied | 1 (33.3%) | | |
| Pardons Signed | 47 (83.9%) | | |
| Pardons Denied | 9 (16.1%) | | |
| Revocations | 146 | | |
| New Conviction | 69 (47.3%) | | |
| Technical | 34 (23.3%) | | |
| New Conviction & Technical | 43 (29.4%) | | |
| | <u>Considered</u> | <u>Signed</u> | <u>Denied</u> |
| Spring Commutations | 219 | 201 (91.8%) | 18 (8.2%) |
| Christmas Commutations | 254 | 119 (46.9%) | 135 (53.1%) |
| Total | 473 | 320 (67.7%) | 153 (32.3%) |

C. A study comparing the types of offenders considered on previous parole dockets with the offenders listed on the 1986 dockets indicated that as the waiver rate increased, the proportion of parole candidates serving time for violent offenses also increased. Therefore, the cases actually considered by the Board included a higher percentage of violent offenders than in previous years.

COMPOSITION OF 1986 PAROLE DOCKETS:
VIOLENT AND NON-VIOLENT OFFENDERS

| MONTH | TOTAL | VIOLENT | | NON-VIOLENT | |
|-----------|-------|---------|---------|-------------|---------|
| | | Number | Percent | Number | Percent |
| January | 266 | 137 | 51.50 | 129 | 48.50 |
| February | 195 | 83 | 42.56 | 112 | 57.44 |
| March | 286 | 156 | 54.55 | 130 | 45.45 |
| April | 309 | 146 | 47.25 | 163 | 52.75 |
| May | 259 | 125 | 48.26 | 134 | 51.74 |
| June | 274 | 113 | 41.24 | 161 | 58.76 |
| July | 293 | 129 | 44.03 | 164 | 55.97 |
| August | 288 | 125 | 43.40 | 163 | 56.60 |
| September | 269 | 148 | 55.02 | 121 | 44.98 |
| October | 224 | 103 | 45.98 | 121 | 54.02 |
| November | 312 | 140 | 44.87 | 172 | 55.13 |
| December | 281 | 135 | 48.04 | 146 | 51.96 |
| TOTAL | 3,256 | 1,540 | 47.30 | 1,716 | 52.70 |

COMPOSITION OF PAROLE DOCKETS:

VIOLENT AND NON-VIOLENT OFFENDERS

1980 - 1986

| YEAR | TOTAL | VIOLENT | | NON-VIOLENT | |
|------|-------|---------|---------|-------------|---------|
| | | Number | Percent | Number | Percent |
| 1980 | 3,399 | 1,337 | 39.3 | 2,062 | 60.7 |
| 1981 | 3,156 | 1,150 | 36.4 | 2,006 | 63.6 |
| 1982 | 3,344 | 1,166 | 34.9 | 2,178 | 65.1 |
| 1983 | 3,590 | 1,251 | 34.8 | 2,339 | 65.2 |
| 1984 | 3,702 | 1,371 | 37.0 | 2,331 | 63.0 |
| 1985 | 3,473 | 1,503 | 43.3 | 1,970 | 56.7 |
| 1986 | 3,256 | 1,540 | 47.3 | 1,716 | 52.7 |

The increase in violent offenders was attributable to the high waiver rate for non-violent offenders placed on house arrest and to the number of young offenders sentenced under the Non-Violent Intermediate Offender Act. However, this Act was declared unconstitutional by the Court of Criminal Appeals which ruled that the early release of offenders under the Act violated the Board and Governor's constitutional authority to release offenders on parole. As these inmates were resentenced to determinate terms, with credit for time previously served, most of them opted to waive parole due to the short time remaining to serve.

After the issuance of the Court's Opinion, the Pardon and Parole Board voted to request an Opinion from the Attorney General concerning the constitutionality of the house arrest program operated by the Department of Corrections pursuant to state statute. The Board argued that based on the Court's reasoning on the Non-Violent Intermediate Offender Act and previous state law which was held unconstitutional, the authority to release offenders on supervision is vested solely in the Governor after favorable recommendation by the Board. The Attorney General did not issue an Opinion prior to the expiration of his term in 1986.

D. In addition to the 3,247 inmates considered for release on parole, 736 considered for commutation of sentence, and 99 pardon cases reviewed, the agency was responsible for the assignment of parole docket dates to 5,260 inmates who were received into the custody of the Department of Corrections at the Lexington Assessment and Reception Center. These statistics do not include the modification of docket dates due to changes in sentence length, jail time credit, escape, the presumptive parole date or rebill to a consecutive case.

1986 DOCKETING STATISTICS

| | |
|-----------|-------|
| January | 367 |
| February | 380 |
| March | 443 |
| April | 501 |
| May | 428 |
| June | 391 |
| July | 522 |
| August | 352 |
| September | 343 |
| October | 555 |
| November | 466 |
| December | 512 |
| TOTAL | 5,260 |

PARDON AND PAROLE BOARD
ANNUAL - 1986
SUMMARY OF CLEMENCY ACTION

| PAROLES: | <u>CONSIDERED</u> | <u>RECOMMENDED</u> | <u>DENIED</u> |
|----------------------|-------------------|--------------------|---------------|
| PERSONAL APPEARANCES | 1,475 (45.4%) | 629 (42.6%) | 846 (57.4%) |
| JACKET REVIEWS | 1,772 (54.5%) | 741 (41.8%) | 1,031 (58.2%) |
| TOTAL | 3,247 | 1,370 (42.2%) | 1,877 (57.8%) |

RECOMMENDATIONS BY CATEGORIES:

- (1) To the Street 1,058 (77.2%)
- (2) To the CS Case 253 (18.5%)
- (3) To Detainer 55 (4%)
- (4) Commuted 4 (.3%)

| WAIVERS: | <u>CONSIDERED</u> | <u>RECOMMENDED</u> | <u>DENIED</u> |
|-------------------------|-------------------|--------------------|---------------|
| | 2,710 (45.5%) | | |
| SPRING COMMUTATIONS: | 331 | 229 (69.2%) | 102 (30.8%) |
| CHRISTMAS COMMUTATIONS: | 405 | 297 (73.3%) | 108 (26.7%) |
| TOTALS | 736 | 526 (71.5%) | 210 (28.5%) |

REASON FOR PAROLE CONSIDERATION

| 1/3 MINIMUM | 1/3 MANDATORY | PPD | ANNUAL | GOVERNOR DENIAL | BOARD | MEMBER | RRC |
|----------------|------------------|-------------|------------|--------------------|-----------|-----------|----------|
| 865 (26.6%) | 589 (18.1%) | 399 (12.3%) | 1103 (34%) | 156 (4.8%) | 60 (1.8%) | 58 (1.8%) | 17 (.5%) |

| | <u>CONSIDERED</u> | <u>AFFIRMED</u> | <u>AMENDED</u> | <u>WITHDRAWN</u> |
|----------------|-------------------|-----------------|----------------|------------------|
| SPECIAL REVIEW | 32 | 19 (59.4%) | 1 (3.1%) | 12 (37.5%) |

| | <u>CONSIDERED</u> | <u>RECOMMENDED</u> | <u>DENIED</u> |
|---------|-------------------|--------------------|---------------|
| PARDONS | 99 | 73 (73.7%) | 26 (26.3%) |

V. 1987 Objectives

All employees of the Board were asked to respond to a questionnaire concerning agency objectives for 1987. Objectives were selected based on employee support, projected budgetary limitations and priorities for total agency operations.

Selected objectives for 1987 are:

1. Completion of the parole guidelines revision project.

With federal technical assistance, revision will be completed by the fall of 1987.

2. Reorganization and consolidation of the investigative report format.

Reports will be reorganized to eliminate repetitive information which is now releasable under the Open Records Act, and all categories of information will be examined for consolidation in appropriate cases.

3. Reorganization of investigative caseload assignments.

A staff task force will be created to examine caseload assignments for efficiency and cost-effectiveness and recommend changes.

4. Development of a public relations program.

A program will be organized to increase agency visibility and accessibility to the public within the current budget structure, including the drafting of a pamphlet on parole for citizens and attorneys.

5. Development of a long-range plan for computerization.

Staff members will establish a system to computerize records and will select programs most beneficial to the agency. Implementation will be contingent upon receiving a terminal to access the Department of Corrections IBM system.