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Impact Analysis of Proposed Changes in Good Time Policies

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Executive Director

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Note From The Director

The Texas Department of Criminal Justice (TDCJ) requested that the Criminal Justice Policy Council (CJPC) analyze the impact of proposed changes in good time policies on the prison population. Presently, inmates in the Institutional Division (ID) of TDCJ can be charged with disciplinary violations for committing offenses within three categories ranked by severity. The most severe violations are Level 1 offenses that include escape and assaulting an officer. Level 2 offenses include the trafficking and possession of narcotics, sexual misconduct and refusing to work. Level 3 offenses, the least severe, include violations of safety regulations and creating unnecessary noise. Inmates can lose good time credits if they are found to have committed one of the offenses charged. All good time earned can be lost for committing a Level 1 offense, up to two years for committing a Level 2 offense and up to one year for committing a Level 3 offense. Present policy allows the regular restoration of good time within six months from the date of the inmate's most recent disciplinary infraction.

The five proposals under consideration by the TDCJ board will not allow the restoration of good time lost due to a disciplinary violation. The proposals differ only in the range of good time that can be lost for disciplinary violations. For example, Option 1 leaves the possibility of taking away all good time earned for committing a Level 1 offense but restricts time lost in levels two and three to no more than 30 days and 5 days respectively. Option 5, on the other hand, provides for penalties within the same broad range of the present policy while not allowing restoration of good time lost.

The Criminal Justice Policy Council analyzed the impact of these proposals after reviewing the disciplinary records of all inmates released from TDCJ-ID between January 1 and June 30, 1993 (approximately 10,000 inmates). TDCJ provided the CJPC with the complete disciplinary history of each inmate. The CJPC developed a simulation model which sorted each disciplinary violation by offense level, and calculated time lost for each violation. The impact of the proposed policies was simulated on the release population and a model was developed to translate the impact of the policies into its effect on the number of future releases from prison.

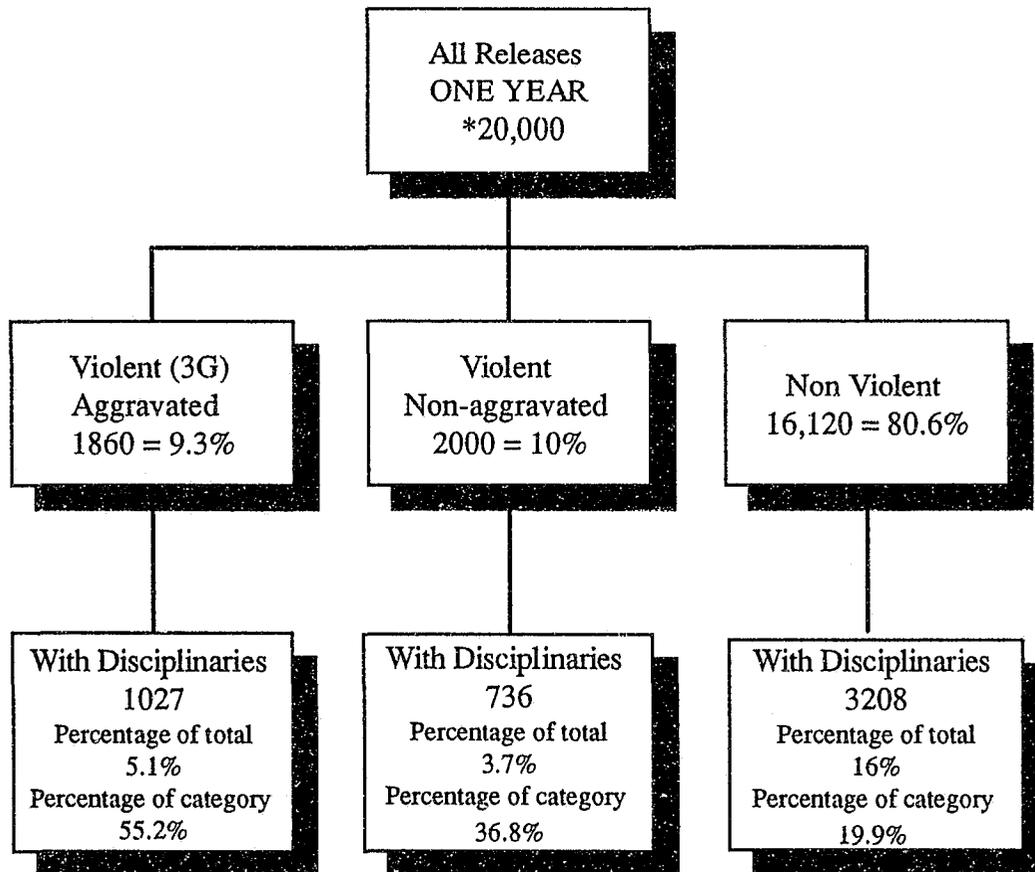
The proposed restrictions in good time policies will have no significant impact on the prison population. Due to legislative changes since 1987 and the toughening of parole policies since 1991, the release of violent offenders from prison has been severely restricted. Under present policies aggravated violent offenders do not get good time credited toward parole eligibility or mandatory release. Violent non-aggravated offenders do not get time credited for mandatory release. Restricting the restoration of good time for violent offenders that commit disciplinary violations in prison will not make this group serve significantly longer in prison than what they have to serve under the present release policies. Moreover, the impact of these proposals for inmates convicted of non-violent offenses will be minimal. Starting on September 1, 1994, most non-violent offenders will be sentenced to probation and to a system of state jails where they will not be eligible to receive good time credits towards completion of their sentence.

The results of the analysis show that all the options will cause an insignificant decline in the number of releases from prison. Option 2 and 5, the potentially more restrictive options, will cause a decrease in prison releases of a little over 100 inmates during a period of seven years.

Tony Fabelo, Ph.D.
Executive Director

PART I
Description of Population Impacted

Description of the Population Impacted

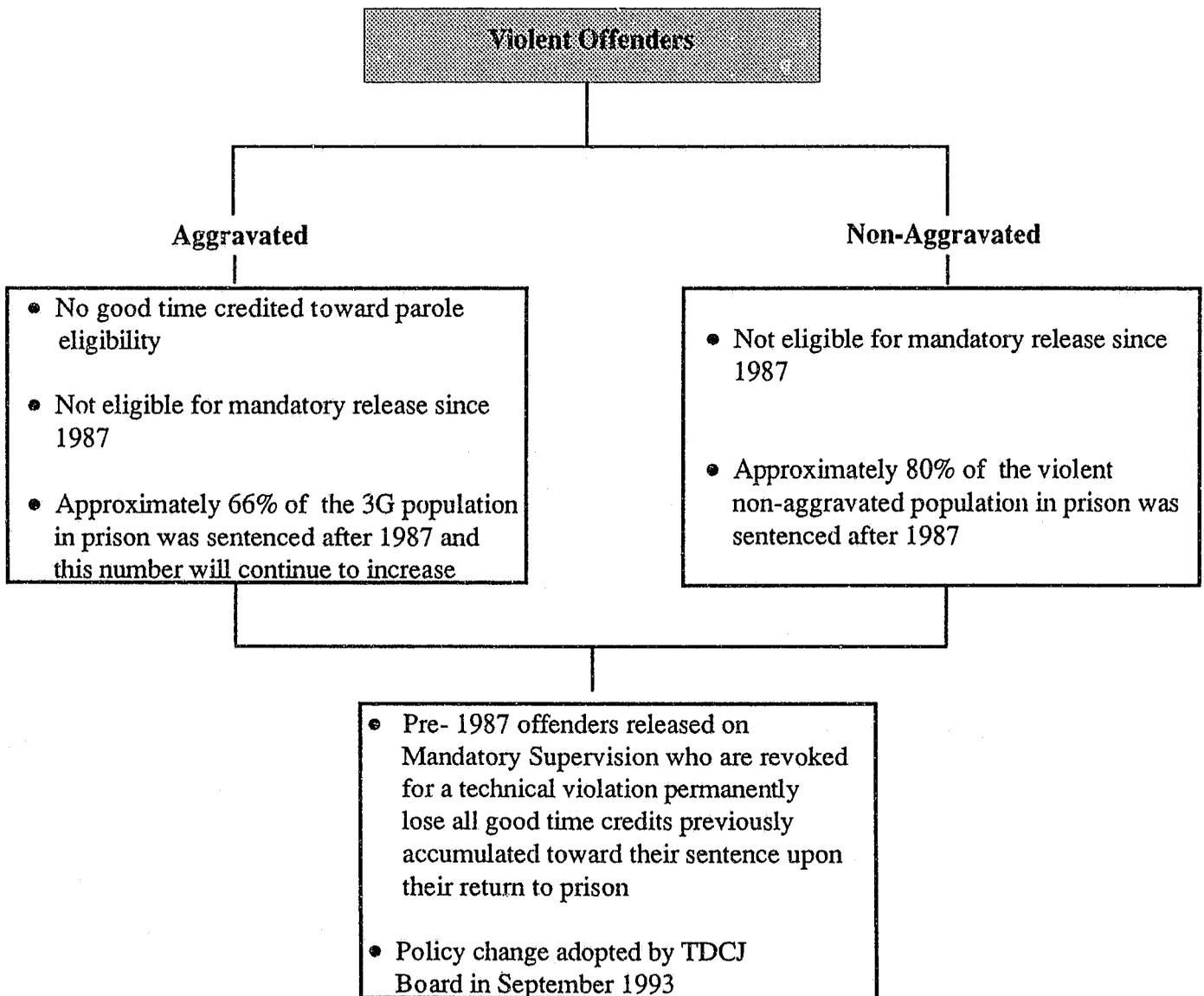


- Proportionately, violent offenders have the most disciplinary incidents but they will be the least impacted by changes in good time policies
 - Due to legislative changes since 1987, most violent offenders do not get good time credited toward parole eligibility if they are aggravated or toward mandatory release if they are aggravated or violent non-aggravated offenders
- The offense category of offenders sentenced to state prison is projected to change after the sentencing reform of 1993
 - Approximately 43% of the non-violent offenders presently sentenced to prison will be diverted to the state jail felony system after September 1, 1994
 - Offenders sentenced to state jails are not eligible to receive good time credits

* Assumes 75 daily release

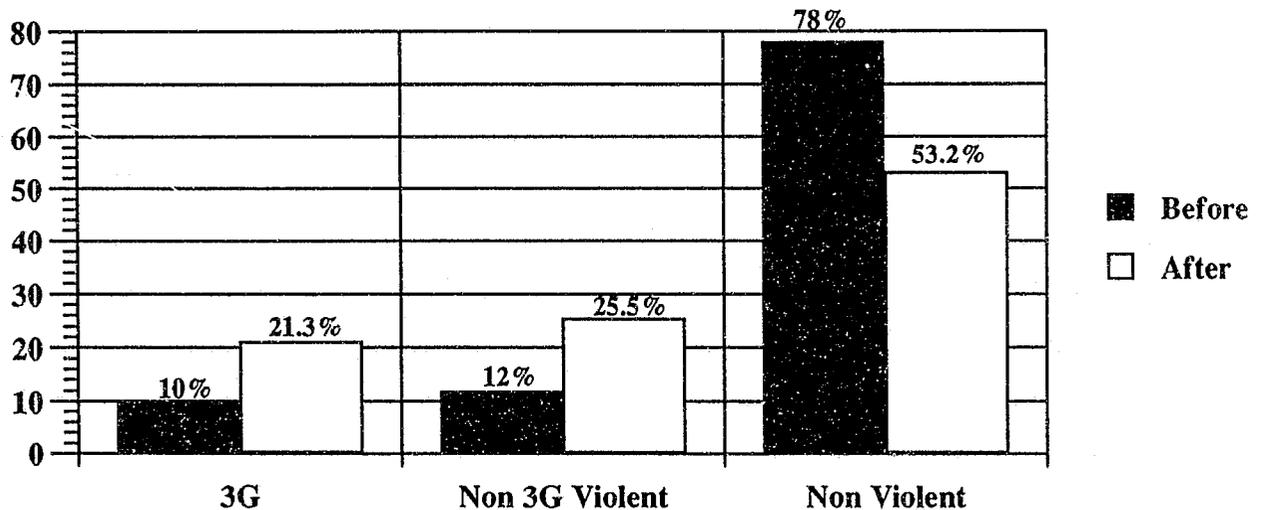
** Analysis based on a sample of 10,000 releases between January and June 1993.

Impact on Violent Offenders is Low Due to Legislative and Policy Changes



The Proportion of Offenders Sentenced to Prison for Violent Offenses is Projected to Increase After Sentencing Reform

Percentage Sentenced to Prison by Offense Type
Before and After

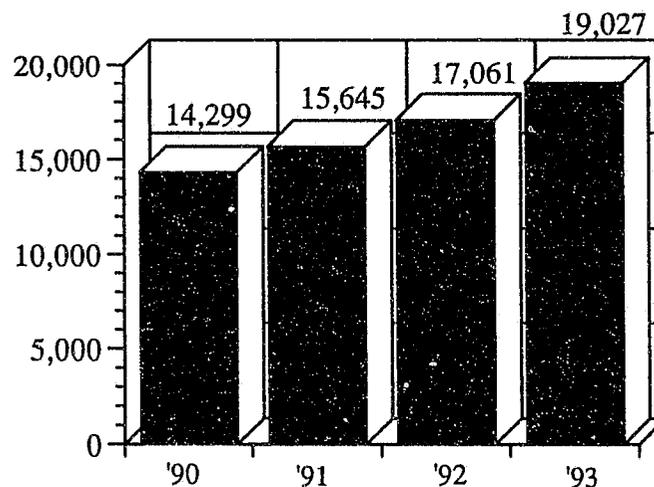


- Violent offenders are expected to represent a higher percentage of those sentenced to prison after September 1, 1994

The Number of Aggravated Offenders in the Prison Population is Projected to Increase

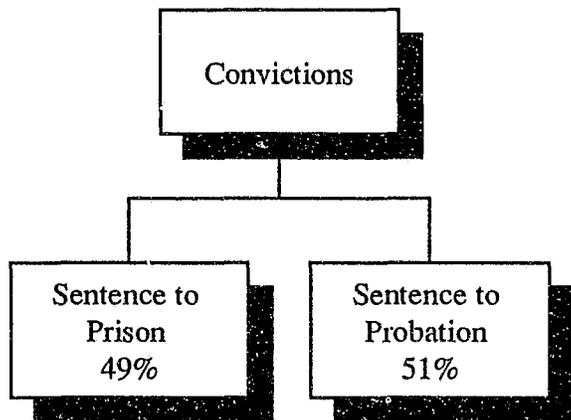
- The sentencing reform of 1993 requires aggravated offenders to serve 50% of their sentence in calendar time prior to parole eligibility
 - Additional offenses were also added to the aggravated offense category
 - Murder
 - Indecency with a Child by Contact
- Due to the legislative changes made in 1993, the number and percentage of aggravated offenders in prison is expected to increase significantly during the next 15 years
 - The number of aggravated offenders in prison increased from 14,299 in FY 1990 to 19,027 at the end of FY 1993

THE NUMBER OF
AGGRAVATED OFFENDERS IN THE
PRISON POPULATION



Sentencing Reform Provides for Non-Violent Offenders to Serve Calendar Time in State Jails

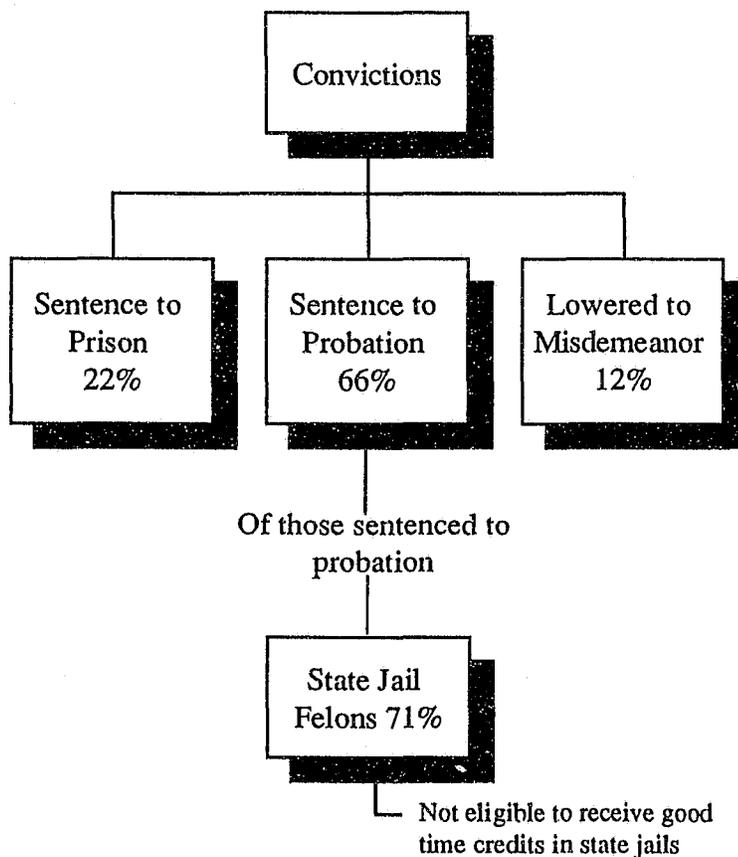
Present System



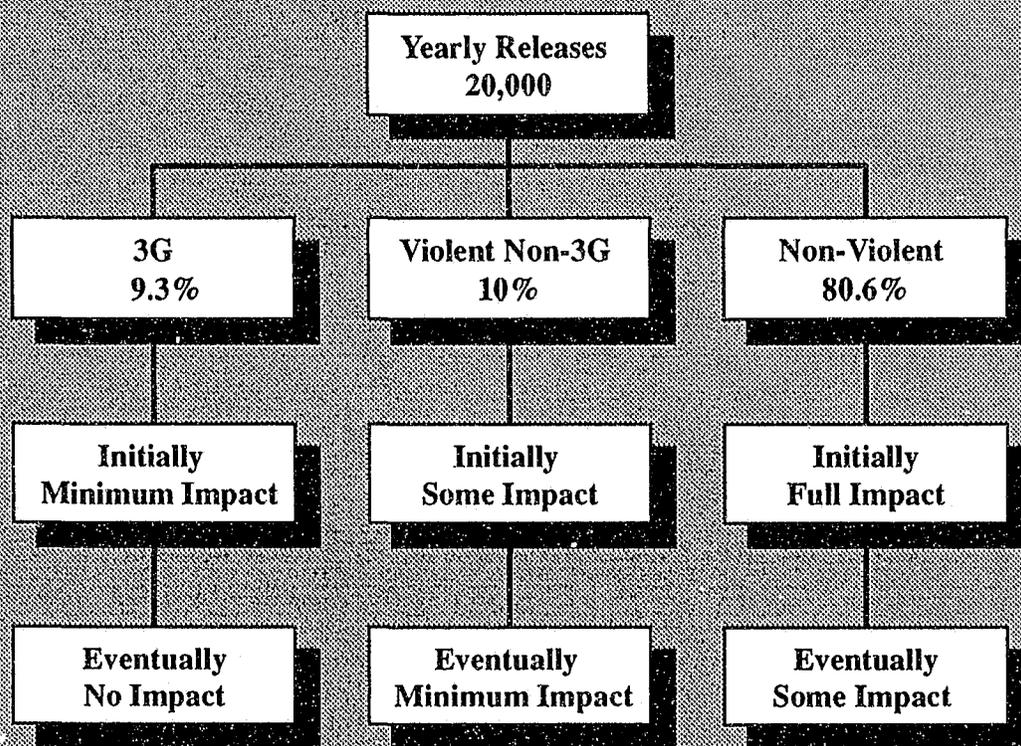
- Until the end of FY 1994, about 49% of offenders convicted in Texas are expected to receive prison sentences
- 51% are expected to receive probation including deferred adjudications

- The sentencing reform of 1993 is expected to change the flow of adult offenders through the system, with most offenders sentenced to probation and the system of state jails

New System



SUMMARY TABLE: Potential Impact of Changes in Good Time Policies



PART II
Proposed Changes in Good Time Policies
and Projected Impact

Assumptions for Determining the Impact of Good Time Policy Changes

- The basic data used to determine frequency and type of disciplinary infraction was provided by TDCJ-ID and included the disciplinary records of all inmates released from prison between January and June 1993

- Estimates of the number of offenders that will not be released as a result of the policy changes were calculated using the baseline number of 75 releases per day (current practice)

- Other assumptions employed in the development of the simulation:
 - The policy changes will not be retroactive
 - The rate of disciplinary violations for the prison population will remain the same after the policy change

- Some assumptions are specific to each option:
 - Options 1 to 4: Penalty for disciplinary violations will be the maximum amount of good time lost allowed in the offense level
 - Options 3 and 4: *Enhancement for prior disciplinary violations will be used for offenses that occurred within the same offense level
 - * Enhancement: penalty is based on the highest offense level within the disciplinary incident
 - Option 5: Frequency and amount of good time lost will be the same in the future as in the release population examined for the analysis

Summary of Proposed Changes in Good Time Policies and Projected Impact

Amount of Time Lost

| Offense Level | Status Quo | Option 1 | Option 2 | Option 3 | Option 4 | Option 5 |
|--------------------------------------|--------------------------------------|--|---|--|--|------------------------------|
| Level 1 | Up to all credited good time | Up to all credited good time | Up to all credited good time | Up to all credited good time | Up to all credited good time | Up to all credited good time |
| Level 2 | Up to 2 yrs. | Up to 30 days | Up to 90 days | Up to 60 days | Up to 60 days | Up to 2 yrs. |
| Level 3 | Up to 1 yr. | Up to 5 days | Up to 15 days | Up to 30 days | Up to 15 days | Up to 1 yr. |
| Level 4 | NA | NA | NA | Up to 10 days | Up to 5 days | NA |
| Note | Good time lost is regularly restored | Original proposal made to TDCJ Board/ not restored | Original proposal with time tripled/ not restored | Enhances penalty for subsequent offenses/ not restored | Enhances only level 1 and 2 offenses/ not restored | Status Quo/ not restored |
| Time for initial impact | | 6 months | 6 months | 6 months | 6 months | 6 months |
| Time for Maximum impact | | 7 years | 7 years | 7 years | 7 years | 7 years |
| Expected decrease in yearly releases | | 8 offenders | 16 offenders | 9 offenders | 8 offenders | 15 offenders |
| Maximum impact on releases | | 56 offenders | 112 offenders | 63 offenders | 56 offenders | 105 offenders |

See Appendix for list of offenses by level

Appendix i
Disciplinary Offenses by Level

LIST OF DISCIPLINARY OFFENSES BY LEVEL

LEVEL 1

01. ESCAPE
 - a. attempt to escape
 - b. late return from furlough
 - c. unauthorized departure from custody
02. FIGHTING WITH WEAPON
03. ASSAULTING AN OFFICER
 - a. without injury
 - b. with injury
 - c. death
04. THREATENING AN OFFICER
05. ASSAULTING INMATE WITH WEAPON
 - a. without injury
 - b. with injury
 - c. death
06. POSSESSION OF WEAPON
07. SEXUAL ABUSE
08. RIOT
09. INCITING TO RIOT
10. FELONY

LEVEL 2

11. MISDEMEANOR (CITE STATUTE)
12. USE OR POSS OF NARCOTICS, MARIJUANA AND/OR UNAUTH DRUGS
13. USE OR POSS OF DISTILLING OF ALCOHOL
14. USE OR POSS OF INTOXICATING INHALANTS
15. TRAFFICKING AND TRADING
- 15.1 ESTAB. OR OPERATE AN UNAUTH. BUSINESS ENTERPRISE W/IN DEPT
16. POSSESSION OF CONTRABAND
17. STEALING
18. DAMAGING OR DESTROYING PROPERTY
- 18.1 UNAUTHORIZED USE OF STATE PROPERTY
19. GAMBLING
20. SEXUAL MISCONDUCT
21. FIGHTING WITHOUT WEAPON OR ASSAULTING INMATE WITHOUT WEAPON
22. THREATENING TO HARM AN INMATE
23. CREATING A DISTURBANCE
24. REFUSING OR FAILING TO OBEY ORDERS
- 24.1 REFUSING TO GROOM (SHAVE OR GET A HAIRCUT)
- 24.2 REFUSING TO ACCEPT A HOUSING ASSIGNMENT
25. REFUSING TO WORK
- 25.1 REFUSING TO ATTEND AN ACADEMIC OR VOCATIONAL PROGRAM
26. MALINGERING
27. OUT OF PLACE
28. FAILURE TO WORK
29. MAKING FALSE STATEMENTS
30. SOLICITING ASSISTANCE FROM OFFICER OR INMATE TO VIOLATE RULES

LEVEL 3

31. MUTILATION
32. FAILING OR REFUSING TO RESPOND TO OFFICERS QUESTIONS
33. LYING TO AN OFFICER
34. USE OR POSSESSION OF TATTOO PARAPHERNALIA
35. UNAUTHORIZED STORAGE OF PROPERTY
36. IN LIVING QUARTERS WITHOUT PERMISSION
37. SOLICITING MONEY OR GIFTS FROM INMATE BENEFIT
38. (DELETED)
39. UNAUTHORIZED PIDDLING
40. ABUSIVE TREATMENT OF ANIMAL
41. CREATING UNNECESSARY NOISE
42. USE OF INDECENT OR VULGAR LANGUAGE OR GESTURES
43. EXERTING AUTHORIZATION OVER INMATE
44. VIOLATION OF SAFETY REGULATIONS
45. VIOLATION WRITTEN OR POSTED RULE

THIS LIST IS FOR USE WITH OPTIONS 3 OR 4
DISCIPLINARY OFFENSES

LEVEL 1

| | | |
|------|-------------------------------|-------------------------------------|
| 01.1 | ESCAPE | unauthorized departure from custody |
| 03.1 | ASSAULTING AN OFFICER | death |
| 05.1 | ASSAULTING AN INMATE W/WEAPON | death |
| 03.2 | ASSAULTING AN OFFICER | with injury |
| 05.2 | ASSAULTING AN INMATE W/WEAPON | with injury |
| 10 | FELONY (CITE STATUTE) | |
| 07 | SEXUAL ABUSE | |
| 08 | RIOT | |
| 09 | INCITING TO RIOT | |
| 01.2 | ESCAPE | late return from furlough |
| 03.3 | ASSAULTING AN OFFICER | without injury |
| 05.3 | ASSAULTING AN INMATE W/WEAPON | without injury |
| 06 | POSSESSION OF WEAPON | |

LEVEL 2

| | | |
|------|---|-------------------|
| 01.3 | ESCAPE | attempt to escape |
| 02 | FIGHTING WITH WEAPON | |
| 04 | THREATENING AN OFFICER | |
| 12 | USE OR POSS. OF NARCOTICS, MARIJUANA AND/OR UNAUTH DRUGS | |
| 13 | USE OR POSS OF DISTILLING OF ALCOHOL | |
| 14 | USE OR POSS OF INTOXICATING INHALANTS | |
| 20 | SEXUAL MISCONDUCT | |
| 21 | FIGHTING WITHOUT WEAPON OR ASSAULTING INMATE WITHOUT WEAPON | |

LEVEL 3

| | | |
|------|---|--|
| 11 | MISDEMEANOR (CITE STATUTE) | |
| 15 | TRAFFICKING AND TRADING | |
| 15.1 | ESTAB. OR OPERATE AN UNAUTH BUSINESS ENTERPRISE W/IN DEPT. | |
| 16 | POSSESSION OF CONTRABAND | |
| 17 | STEALING | |
| 18 | DAMAGING OR DESTROYING PROPERTY | |
| 19 | GAMBLING | |
| 22 | THREATENING TO HARM AN INMATE | |
| 23 | CREATING A DISTURBANCE | |
| 24 | REFUSING OR FAILING TO OBEY ORDERS | |
| 24.1 | REFUSING TO GROOM (SHAVE OR GET A HAIRCUT) | |
| 24.2 | REFUSING TO ACCEPT A HOUSING ASSIGNMENT | |
| 25 | REFUSING TO WORK | |
| 26 | MALINGERING | |
| 27 | OUT OF PLACE | |
| 28 | FAILURE TO WORK | |
| 29 | MAKING FALSE STATEMENTS | |
| 30 | SOLICITING ASSISTANCE FROM OFFICER OR INMATE TO VIOLATE RULES | |

LEVEL 4

| | | |
|----|--|--|
| 31 | MUTILATION | |
| 32 | FAILING OR REFUSING TO RESPOND TO OFFICERS QUESTIONS | |
| 33 | LYING TO AN OFFICER | |
| 34 | USE OR POSSESSION OF TATTOO PARAPHERNALIA | |
| 35 | UNAUTHORIZED STORAGE OF PROPERTY | |
| 36 | IN LIVING QUARTERS WITHOUT PERMISSION | |
| 37 | SOLICITING MONEY OR GIFTS FOR INMATE BENEFIT | |
| 38 | (DELETED) | |
| 39 | UNAUTHORIZED PIDDLING | |
| 40 | ABUSIVE TREATMENT OF ANIMAL | |
| 41 | CREATING UNNECESSARY NOISE | |
| 42 | USE OF INDECENT OR VULGAR LANGUAGE OR GESTURES | |
| 43 | EXERTING AUTHORIZATION OVER INMATE | |
| 44 | VIOLATION OF SAFETY REGULATIONS | |
| 45 | VIOLATION OF WRITTEN OR POSTED RULE | |

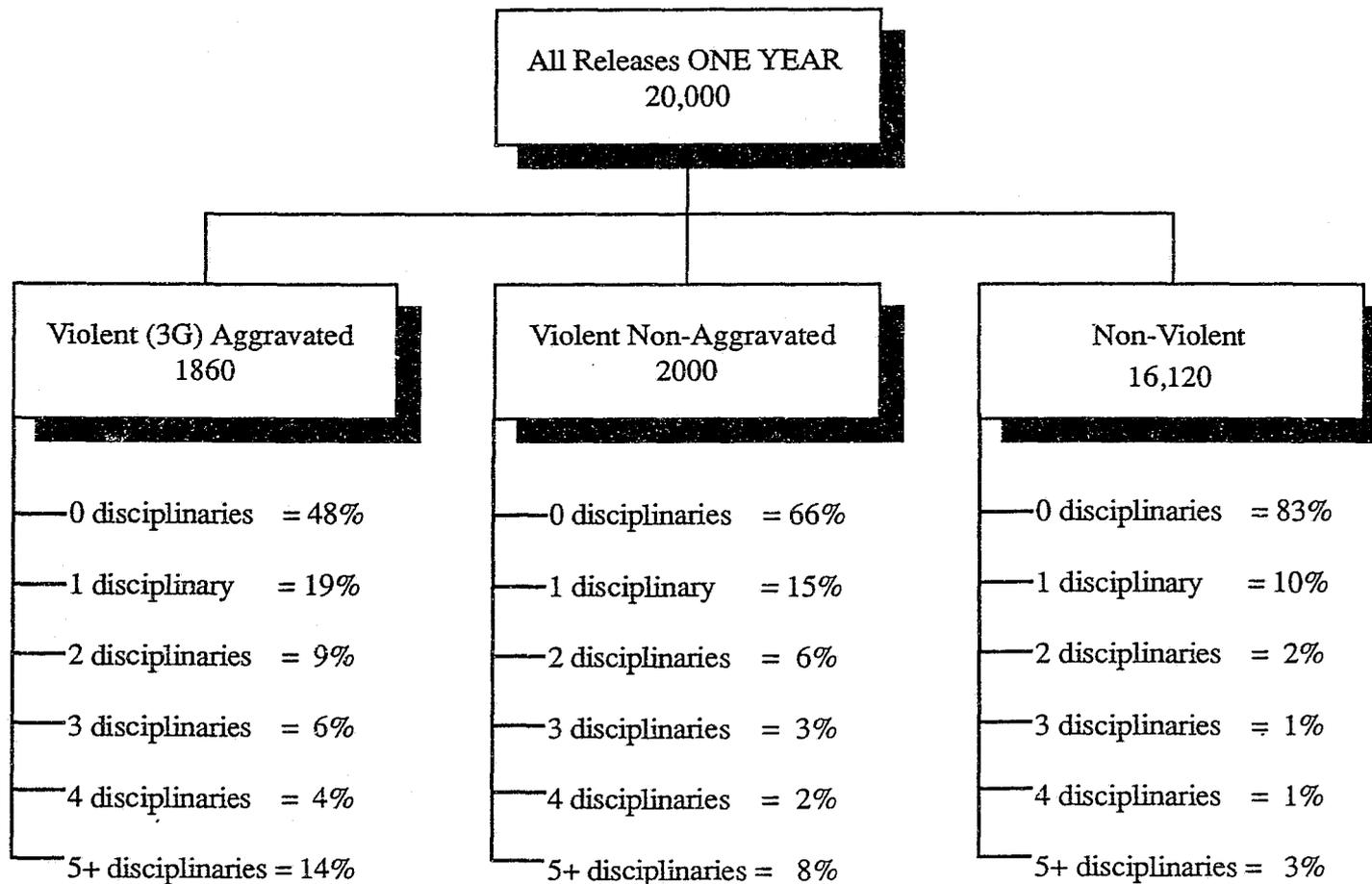
Appendix ii
Miscellaneous and Analytical Data

Percentage of Inmates Within Each Offense Group By Actual Time Served With at Least One Disciplinary Violation

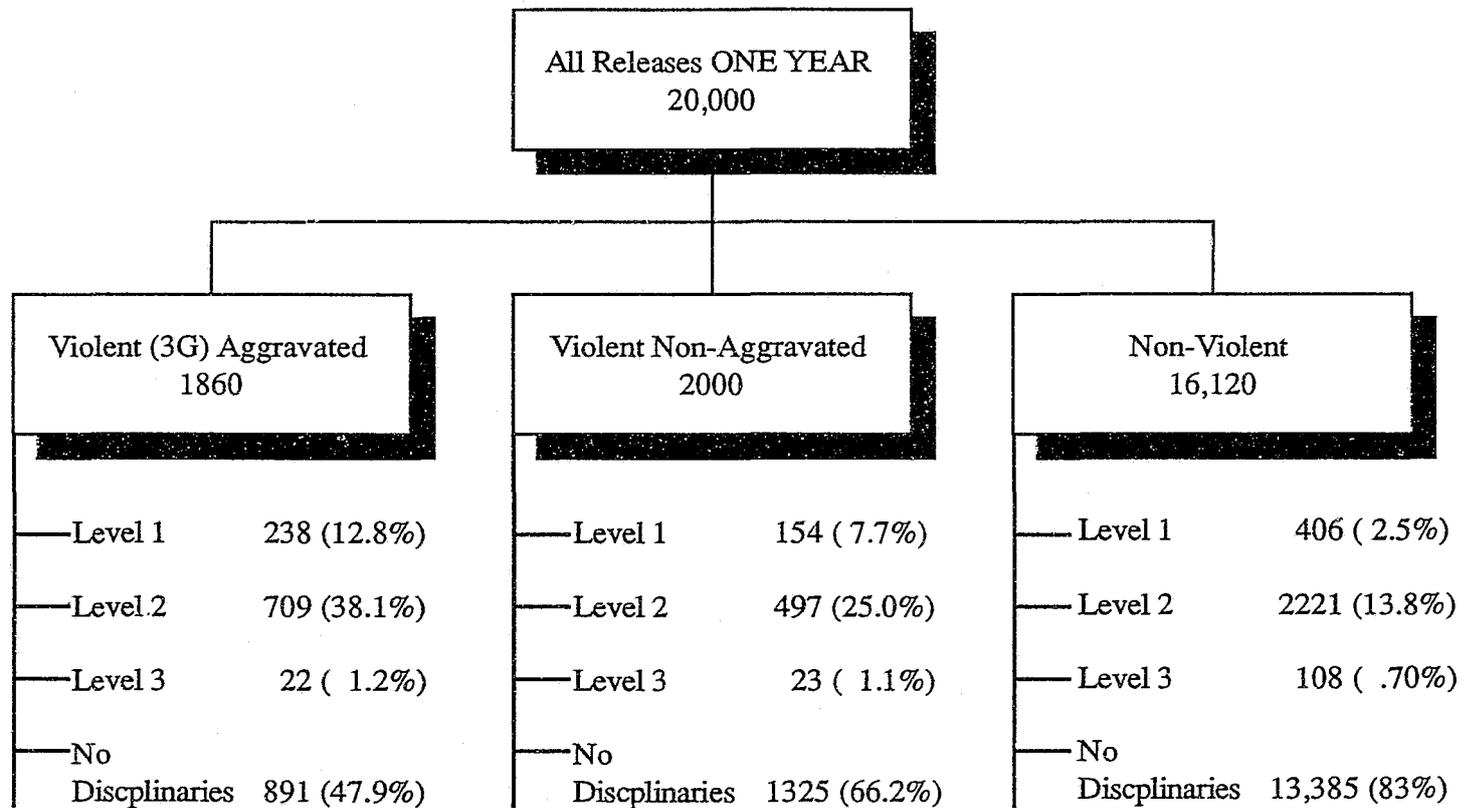
| Actual Time Served in Prison | Violent (3g) Aggravated | Violent Non-Aggravated | Non-Violent |
|---------------------------------|----------------------------|---------------------------|-------------|
| Less than 24 months | | 15% | 9% |
| 24 to 35 months | 31% | 36% | 26% |
| 36 to 47 months | 48% | 45% | 37% |
| 48 to 59 months | 47% | 60% | 49% |
| 60 + months | 61% | 66% | 59% |
| Average time served (months) | 67.5 | 35.3 | 22.9 |

- Note: 31% of violent (3G) aggravated inmates that served between 24 to 35 months in prison have at least one disciplinary

Percentage of Inmates by Number of Disciplinary Violations within Each Offense Group



Highest Disciplinary Level by Offense Groups



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