

FURLOUGH PROGRAMS FOR INMATES
FINAL REPORT

A
PHASE I PRODUCT
NATIONAL EVALUATION PROGRAM

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ANNOTATION:

THE REPORT DESCRIBES THE PROCESSES, CONCLUSIONS, AND PRODUCTS OF THE NATIONAL EVALUATION PROGRAM PROJECT ANALYZING FURLOUGH PROGRAMS FOR INMATES. INTERVIEWS TO PROGRAMS IN TEN STATES.

ABSTRACT:

FOR THIS STUDY, A FURLOUGH IS DEFINED AS A TEMPORARY, UNSUPERVISED, NONREGULAR RELEASE FROM A CORRECTIONAL INSTITUTION. TEMPORARY RELEASE PROGRAMS UTILIZING REGULAR RELEASES AND RETURNS, SUCH AS STUDY RELEASE AND WORK RELEASE, ARE NOT CONSIDERED FURLOUNDS FOR THE PURPOSES OF THIS STUDY. A FURLOUGH PROGRAM IS DEFINED AS ANY SYSTEMIZED SET OF PROCEDURES FOR EVALUATING AND CONFERRING FURLOUNDS. THE NATIONAL EVALUATION PROGRAM IS PRIMARILY CONCERNED WITH THE DEVELOPMENT OF EFFECTIVE TECHNIQUES FOR THE EVALUATION OF CRIMINAL JUSTICE PROCESSES, IN THIS CASE FURLOUGH PROGRAMS. THE STUDY'S DATA GATHERING PROCESS CONSISTED OF IMPRESSIONISTIC OBSERVATION WITH PURPOSEIVE RATHER THAN RANDOM SAMPLING. RESEARCH SITES WERE CHOSEN SO THAT AS MANY DIFFERENT APPROACHES AS POSSIBLE COULD BE EXAMINED. AN EXTENSIVE LITERATURE SEARCH WAS FOLLOWED BY THE DEVELOPMENT OF AN INFORMATION BASE REGARDING EXISTING PROGRAMS. IN CONSIDERATION OF THE MATERIAL OBTAINED AND OF VARIOUS FACTORS SUCH AS SIZE OF FACILITY, DENSITY OF POPULATION SERVED, AND TYPE OF PROGRAM (INNOVATIVE, NEW TRADITIONAL, OR LONG-TERM WELL-ESTABLISHED PROGRAM), 10 PRIMARY AND 3 SECONDARY SITES WERE CHOSEN FOR STUDY. EACH IS BRIEFLY DESCRIBED ALONG WITH THE REASONS FOR ITS SELECTION. EACH SITE WAS VISITED BY A TEAM OF RESEARCHERS, WHO INTERVIEWED CORRECTIONAL PERSONNEL, PAROLE OFFICERS, AND FAMILIES OF FURLONGNEES. THE DATA GATHERED WAS THEN USED TO DEVELOP FLOW CHARTS, THEORETICAL MODELS, AND A SINGLE SITE EVALUATION DESIGN. THE REPORT DISCUSSES IN DETAIL THE COLLECTION PROCESS, THE INFORMATION NEEDS WHICH WERE IDENTIFIED, AND THE MODEL WHICH WAS DEVELOPED FOR GATHERING THIS TYPE OF INFORMATION. PREVIOUS EVALUATION EFFORTS ARE CRITICALLY EXAMINED, AND CONTEMPORARY PROCEDURAL, EVALUATION, AND LEGAL ISSUES ARE ANALYZED. THE FLOW CHARTS

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LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

STAFF

Debra Bowling
Joseph Cameron
Mike Hardin
Leslie Herl
Galen Hughes
Beatrice Kelley
Mary Rickles

Therese de Saint-Phalle
Robert T. Sigler, Ph.D.
James Swift
Harriet Sykes
Al Vreeland, J.D.
Patricia Walker

CONSULTANTS

John Bourlon, M.P.A.
Rusty Brooks, M.C.J.
Richard Crow, D.S.W.
Jeff Giordana, M.S.W.
Keith Leenhouts, J.D.
Charles Prigmore, Ph.D.
Raymond Sumrall, Ph.D.
Mary Avis Todd, M.A., M.S.W.
John C. Watkins, Jr., M.S.,
J.D., LL.M.
Vergil L. Williams, Ph.D.

PREFACE

This report describes the processes, conclusions and products of the National Evaluation Program project Furloughs for Inmates. The focus is on temporary short term unsupervised release from adult prisons and jails. This report is complete with the exception of the detailed information for implementing an evaluation of a single furlough program. This detailed information can be found in the "Single Site Evaluation Model" which is available on a loan basis from NCJRS.

Robert T. Sigler, Ph.D.
Project Director

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CHAPTER 1. INTRODUCTION

The use of furloughs with adult offenders has grown rapidly during the last ten years. In 1963 only two states released inmates on furlough. Today 47 states, the District of Columbia, and the Federal Bureau of Prisons have furlough provisions. Furloughs are one type of conditional release. In conditional release the incarcerated offender is released before the end of his sentence with certain restrictions placed on his release. These restrictions or conditions can include specified behaviors, participation in specific treatment programs, or an agreement to return to the institution.

For this study a furlough is a temporary, unsupervised, non-regular release from an institution. Temporary release programs utilizing regular releases and returns such as study release and work release are not furloughs for the purpose of our study. However, these releases are frequently referenced as furloughs, which leads to some confusion. Furloughs are granted for a wide variety of reasons. A furlough program for our purpose is any systemized set of procedures for evaluating and conferring furloughs. Program complexity ranges from the very simple request by a caseworker to the relatively complex process typical of furlough programs which are a part of a comprehensive approach to offender rehabilitation or institutional management.

Furloughs are granted by states, the federal prison system and The District of Columbia. At times, a state-wide policy applies to all institutions. At other times each

institution will establish its own policy. The term agency will be used to refer to any unit which implements a furlough program.

The President's Commission on Law Enforcement and the Administration of Justice in "The Challenge of Crime in a Free Society"¹ focused on the shortcomings of the criminal justice system and specified a set of remedies. Among these we find encouragement for the expanded use of furlough programs. More attention is directed to this issue for standards and goals in "Corrections" (National Advisory Commission on Criminal Justice Standards and Goals, 1973). The Commission urges that furloughs should serve to enhance the gradual reintroduction of the offender to normal community life. While furloughs have been used extensively with juveniles, only three states had temporary unsupervised release policies for adults before the sixties. While little attention has been paid to furloughs by the National Advisory Commission on Criminal Justice Standards and Goals,* rapid development in this area has been observed in almost all correctional communities.

As is the case with any program that takes risks with offenders in an attempt to divert them from a life of crime, furlough programs have failures. The focus is not upon escapes, but on potential harm to citizens created by the danger of having confirmed felons "roaming the streets". Instances of harm to the public, although rare, are given extensive

*Page 68 mentions furloughs in the discussion of Standard 2.17 access to the public and can be inferred from Standard 7.4 inmate involvement in community programs, p. 244.

coverage, usually accompanied by a negative example of the furloughed prisoner. At times such as these, few point out that we are dealing with people who will be rejoining society at some time in the future or that the vast majority of furloughed offenders return quietly to the institution without creating community problems. While programs vary from state to state, most programs have selection criteria which exclude sex offenders, violent offenders, "habitual offenders" or those potentially dangerous to society.

Almost every agency requires minimum custody status and a clear disciplinary record for a specified time. While those programs with the most relaxed standards are the ones most heavily attacked, the charges tend to be generalized to even the most restrictive of programs.

Although most furlough programs are relatively restricted, law enforcement agencies and prosecutors tend to view them negatively. The resentment which develops due to the difficulty in convicting and incarcerating offenders immediately focuses on programs which return the offender to the community for even short periods. This, coupled with bad press, provides legislators with ample information to support their opposition to furlough legislation. As a result, most prison administrators avoid any publicity of their programs, contributing to the one-sided picture presented to the public.

Several states have restricted their programs due to public pressure with the greatest reduction occurring in The District of Columbia program. The D.C. program was apparently the most liberal program in the United States. It came under

attack from judges, grand juries, and politicians. The apprehension of two prisoners who were violating the terms of their furlough led to administrative restriction by U.S. Attorney General William Saxbe with a subsequent reduction to 50 participants. Saxbe imposed the most popular restriction found in programs--ineligibility until the offender nears completion of his sentence or becomes eligible for parole. A pattern has seemed to emerge for the more progressive programs. The use of furloughs increases rapidly until an incident occurs creating poor publicity followed by a general decline in the number of prisoners released.

Furlough programs are both controversial and confusing. The field of corrections has paid little attention to the rationale and philosophy underlying furlough programs. This lack of attention to rationale has reduced most furlough programs to a technique or procedure status. We have observed that most correctional employees and inmates can tell us how to obtain a furlough but few can tell us why their particular systems make furloughs available.

Lack of rationale has also confused research and evaluation efforts. Few states do more than collect the most basic of statistics with the most advanced states restricting their efforts to simple descriptive relationships between escape and background variables. When there is no clear statement of goals and objectives, these goals and objectives can not be measured.

There is a need today for a clear, accurate statement about furlough programs, their rationale and their evaluation so that

correctional administrators can make effective decisions. A major purpose of this project is to develop a clear statement of what is known today. In the following pages we present our observations and conclusions.

Footnotes

¹President's Commission on Law Enforcement and Administration of Justice. "The Challenge of Crime in a Free Society," Government Printing Office, 1967.

²National Advisory Commission on Criminal Justice Standards and Goals. "Corrections," 1973, pp. 68, 244.

CHAPTER 2. PROJECT METHODOLOGY

The primary purpose of the National Evaluation Program is the development of effective techniques for the evaluation of Criminal Justice processes. Throughout the history of the Criminal Justice system, programs have been adopted or abandoned on the basis of their philosophical merit rather than on the degree to which they improved the enforcement of the law and the protection of society. Frequently, the goals have not been clearly understood and basic assumptions have not been clearly stated or recognized. By closely examining programs designed to solve crime and enhance Criminal Justice processes, an information base can be developed for use by Criminal Justice administrators. The more information which can be made available, the more accurate administrative decisions will become. The ultimate goal, then, is to increase the effectiveness of the Criminal Justice system.

Primary tasks involve the development of information based on what is known now and what can be discovered in a relatively brief examination of the operation of furlough programs in the United States today. The data gathering process was clearly impressionistic observation with purposive sampling, rather than random sampling. We were striving for scope and depth rather than nation-wide precision. While research sites were chosen so that as many different approaches as possible were examined, the absence of rigorous sampling procedures prevents generalization. However, given the virtually unlimited variation in settings and programs even the most precise sampling procedures would have been an exercise in futility as

generalization is not appropriate in observational studies. On the whole then, we feel that our impressionistic data reflects conditions as they actually exist. While we feel that our data is as accurate and valid as can be obtained in a short term non-quantative project, the reader is advised to consider the nature of the data.

A primary task in a Phase I study is a comprehensive review of present knowledge and a definition of a working universe. The main objective is the identification of all information and programs presently available relating to the development, implementation, and evaluation of furlough programs and the conversion of this information into a usable form. A review of all relevant library sources was conducted. In addition, an attempt was made to identify and obtain reports of all programs and projects or grant applications for funding using any of the basic approaches included in the topic area.

The University of Alabama maintains the Reader's Guide, Poole's Guide to Periodical Literature, Sociological Abstracts, Social Work Abstracts, Social Science Literature Reviews, Crime and Delinquency Abstracts, and other reference materials. An exhaustive search of all available literature reviews was made for the pull categories--prisons, corrections, furloughs, inmates, conditional release, and conjugal visits. Each research assistant was assigned to a particular reference set such as the government document index. He/she classified cites as either usable, undefined, or unusable. Usable and undefined cites were recorded. Undefined cites were located in our library. If they did not deal with furlough programs,

they were discarded. At this point we had a rough bibliography for furlough programs. Each of the cites was located, read and abstracted. Articles which were found to be only peripherally related to furlough programs were discarded. At this point we had a comprehensive annotated bibliography of books, journal articles, and government documents. We reviewed all articles regardless of age so that we could trace the development of furlough programs from the pre-furlough programs in Mississippi and Arkansas to the present. Viewing present programs in their historical perspectives can provide insights into program functions.

The second focal point in the development of an effective existing information base was information from existing programs. We contacted all correctional agencies and state planning agencies by phone and by mail. We attempted to obtain program descriptions for all existing U.S. furlough programs. All program descriptions were abstracted and rudimentary flow diagrams were constructed for each state's furlough application and leave processes. We organized the information we had received and discovered that the information available was inconsistent. In most cases information which we desired was not present in the materials we received. A list was made of missing information from each agency. The agencies were then contacted by phone in an attempt to gain the specific information desired. In many cases the information required was not readily available. When rough estimates were provided, they were included with our data.

We assessed the information generated to date and developed tentative models, selected visitation sites and developed a set of interview schedules. The tentative models were revised and used during our site visits.

After consideration of the materials received from various states, we selected a set of sites for visitation. Our sample was not a random sample of projects but a deliberate selection of sites designed to include sites representative of the variations available in furlough programs. We controlled for two main factors--size and intensity of security of system detention capability. We assumed that when we controlled for size of institutional capacity, we were also controlling for population density of the areas served by these institutions. Small institutions serving densely populated areas were assumed to be different in kind from small institutions serving sparsely populated areas. Size then has three dimensions: size of institution, size of correction system; and size (density) of population served. We also assumed that intensity of system detention capability would be closely related to size of population served and variety of institutions available in the system. Furlough programs were assessed in terms of the systems and the civilian populations they served as we suspected that these factors impose varying demand characteristics on any conditional release program. A peripheral factor which we assumed would overlay the other factors was the density of the prison population itself. Within this context we sought to identify both innovative programs, new traditional programs, and long term well established programs.

Within these parameters site selections were based on a number of related variables. Included were: program type (location of special elements such as county programs, female furloughs, range of options for release, formality of the furlough granting process, and number of inmates released on furlough), geographical representation, and the amount of additional information which could be gained in relation to the cost of collection.

During the initial selection we reviewed the information we had for each state, focusing on program types, population distribution and institutional matrix. This produced twelve possible sites. We noted that geographical representation criteria had not been met with the northeastern states in particular being over-represented and central states under-represented. By evaluating the information readily available and program overlap, we eliminated three northeastern states and added four central states with programs that had potential for yielding needed information. There was a tendency to eliminate states which had adequately documented and reviewed their programs. After meeting with L.E.A.A. staff, ten primary sites and three secondary sites were selected.

When possible, a site was defined as a total state. This permitted us to assess variations within each system as well as the variations between systems. When distances were great between institutions or the number of institutions was large, a sample of institutions was selected for team visitation. We planned four-day site visits with the fifth work day reserved to allow for unforeseen difficulties in collecting data.

The ten primary sites selected were Arizona, Colorado, The District of Columbia, Iowa, Maryland, Massachusetts, North Carolina, Oregon, Pennsylvania, and Rhode Island. The secondary sites were Florida, Illinois, and Louisiana. The decisions to identify Florida, Illinois, and Louisiana as secondary sites were based on cost and accessibility. While Florida, like California, has an extremely diversified correctional system, this diversification makes evaluation expensive. Florida was geographically close. However, California's program is well documented and provides ample information. Illinois is a midwestern state with a highly developed correctional system. It serves both major dense population areas and a rural population. Louisiana has a unique geographical location, population mix, and legal structure which could yield usable information. Their program is rudimentary and exists in a basic penitentiary system.

Maryland, which had been selected, could not be visited because the furlough program had been suspended for a month for reassessment and restructuring following several incidents that generated unfavorable publicity. Massachusetts Correctional Institution at Concord was not available for a visit because of recent riots resulting in several million dollars of damage to the facility. The exclusion of Maryland required the selection of an additional site. We added both Louisiana and Illinois to our sample of visits. In addition, a selected number of federal institutions was added as was one Georgia institution.

Georgia was selected for its new expanded furlough program at the Stone Mountain facility. Georgia has rapidly expanded correctional services in the past few years with Stone Mountain representing expansive program development.

Generally, all the principal prisons in each state were visited and in a few states community or prerelease centers were included. However, in Illinois and in the federal system only institutions representative of each security level were identified and visited because of the large number of institutions. In addition to these prison systems, the Montgomery County, Maryland, prerelease center was visited in order to include a local department of corrections.

Arizona is a southwestern state which features a rapidly growing sophisticated correctional program. Their furlough program is relatively new, providing the opportunity for observation of a developing program. The Arizona Department of Corrections arranged visits to all adult institutions and selected community centers which use furloughs.

Colorado is a midwestern state with four adult institutions serving a dense population center and a relatively dispersed low density statewide population. All of their institutions grant furloughs. We were able to visit all institutions and selected communities. Their furlough program is fairly complex with different standards for different types of furloughs.

The District of Columbia had the most liberal program in the United States. In the past few months this program has been reduced to the point that it is virtually non-existent. The controversy is still in progress as corrections officials

are seeking the means to restore their program. A visit at this point provided us with a view of a terminated program and the opportunity to observe the impact of a discontinued program on institutional life.

Iowa is a midwestern state with a relatively dispersed population. They have two moderate, one medium, and two small institutions with furloughs available in all institutions. Iowa apparently uses furloughs to implement and enhance other special programs such as work release. Iowa has both day furloughs and overnight furloughs.

Massachusetts has four medium sized institutions serving a northeastern state with a relatively dense population statewide. Massachusetts has a well developed approach to the use of furloughs and the most extensive set of program evaluations. Massachusetts has used university resources effectively to supplement their well developed research and planning unit. Massachusetts is presently being reviewed by the state legislature in terms of program restrictions. In spite of the sensitive climate, state officials agreed to allow us to visit their institutions.

North Carolina is a southeastern state with a widely dispersed low density population. Its eight institutions range from 100 to 1400 inmates, hold misdemeanants as well as felons, and use furloughs extensively. They are willing to consider close security inmates for emergency furloughs. Two trained consultants (one familiar with the present project; the other familiar with the state system) were available in North Carolina.

Oregon is a northwestern state with a relatively dispersed low density population. Their correctional system is centralized with three institutions serving adult offenders. All institutions use furloughs. Oregon's approach includes close field service links and an effective approach to public education. As a result, their use of furloughs appears to be accepted by local officials and citizens. Oregon agreed to permit us access to all institutions and field services.

Pennsylvania uses relatively large institutions to serve a population characterized by several large urban areas with dense populations and a large low density area. All institutions use furloughs. Pennsylvania's use of furloughs was strongly attacked, leading to a reduction in furlough use. Pennsylvania appears to have passed the crisis and has stabilized. Furlough programs vary greatly from institution to institution, with standards and procedures influenced by the overall approach to the treatment of offenders utilized by the institution. This state has a relatively large female inmate population.

Rhode Island is a small northeastern state with a statewide relatively dense population. They have a centralized correctional system with four closely linked facilities. Each institution uses furloughs with the same standards and procedures. Rhode Island appears to have the most administratively complex program for evaluating and granting furlough requests.

Alabama is a southern state which was selected primarily for its geographical location. Our physical presence in the

state and involvement with correctional programs allowed us to gather extensive information at low cost. Alabama is faced with severe overcrowding and judicial challenge as to the constitutionality of its entire correctional system. Alabama presently uses a centralized correctional system serving two major population centers and a widely dispersed low density state population. The furlough program is relatively new and is being observed closely by the state legislature.

Federal sites were chosen to represent various levels of security and included penitentiaries at Marion, Illinois and Atlanta, Georgia; the reformatory for women at Alderson, West Virginia; correctional institutions at Tallahassee, Florida and Lexington, Kentucky and the prison honor camp at Maxwell Air Force Base, Alabama. Federal regulations were the same at all institutions, but security level and programs gave different views of the furlough program.

Copies of the interview schedules are included in Appendix A. The interviews were focused unstructured interviews. Interviewers were instructed to discover everything they could about furlough program operations. They were instructed to regard the schedules as a guide but to deviate from the schedule if productive leads developed. Each interviewer summarized their findings after each site visit.

A three person team of a senior researcher and two junior researchers was assigned to each major site. Minor sites were visited by two researchers. North Carolina was visited by two local researchers from the North Carolina area. Approximately twenty schedules were completed at each

institution. A sample of ten inmates was drawn from the population list using a table of random numbers. Employees were selected to be representative of the job classifications of the institution. Included were correctional officers, correctional supervisory personnel, caseworkers, corrections teachers and administrative personnel. We used an informed consent approach. All subjects were advised that participation was voluntary and had the purpose of the research explained to them. The number of refusals was minimal.

Additional subjects were interviewed at all primary sites. With the assistance of field services in each of the states we visited, we selected three to five families or sponsors of furloughees. We also interviewed two parole officers, two law enforcement officers, and one prosecutor.

After reviewing the data we decided that the family interviews were inadequate. The selection process apparently caused confusion and anxiety for the respondents. Two attempts were made to expand our data in this area. Using our Alabama resources we identified a number of families through the assistance of various social service agencies. We also utilized local probation and parole officers to locate a second set of families. We found no difference. Sponsors appear to be totally supportive of the furlough process. This data was added to our store of knowledge.

We also collected information from two collateral areas. Furloughs are in almost all cases established by the legislature. In times of stress it is usually the legislature which acts to redefine furlough programs. In order to gain

insight into legislative perspectives we interviewed a non-random sample of state and federal legislators. We also noted that volunteer programs interface with furlough programs. We contacted a number of persons involved in volunteer programs and sought their opinions.

The data thus generated was then used to develop flow charts, theoretical models, and a single site evaluation design. From these products and our data we have identified information needs and developed a model for gathering this information. In the remainder of this report we will discuss what we have discovered.

CHAPTER 3. HISTORY OF PRISON FURLOUGHS

When one follows a strict definition of prison furloughs to exclude education leave, work release, and the special leaves awarded inmates because of extenuating circumstances and characterized by the prison guard escorting the inmate, there is a surprising lack of antecedents for the twentieth century practice of unsupervised leaves for inmates.

A. The Search for Antecedents

With other types of correctional innovations one normally finds scattered references to experimentation at various points in time. Generally, such experiments are subject to the changing fads in terminology as well as in application of technique so it is customary to seek similar practices that can be conceptualized as antecedents to current practice. However, even strained analogies do not seem to fit the modern furlough practices.

Frederick A. Moran, then chairman of the New York State Board of Parole, wrote a classic article in 1945 entitled "The origins of parole."¹ The article, appearing in the National Probation Association's Yearbook for 1945, is highly innovative in surveying historical practices that can be conceptualized as antecedents to parole. Such practices had in common some mechanism for getting the prisoner out of the prison on some sort of conditional release. Moran notes the English enabling legislation of 1597 providing for the transportation of criminals to the American colonies beginning early in the seventeenth century. The principle involved in

considering transportation as an antecedent to parole is the conditional pardon necessary to divert the prisoner from the punishment established in the sentencing process to some lesser punishment. A listing of this type of antecedent is especially innovative when one considers that the American Quakers would not establish the principle of making the serving of time in prison the primary punishment for crime for another 150 years after transportation of English convicts began. Parole, after all, is early release from a prison sentence, and the prisons of the early seventeenth century served mainly as holding places where the offender waited for trial and, after conviction, waited for the capital or corporal punishment specified.

Even using Moran's technique of searching for correctional practices bearing some faint resemblance to current penal practices, one finds a paucity of historical references to anything remotely like the modern unsupervised prison furlough. The ticket of leave system developed for English prisoners transported to Australia from the days of Henry VIII is a form of conditional release somewhat like modern parole. One has no great difficulty in conceptualizing Sir William Crofton's Irish system of ticket of leave as an antecedent to modern parole in viewing penological developments around 1854, nor, for that matter, Zebulon R. Brockway's use of the indeterminate sentence to establish parole at the Elmira Reformatory in the 1870's.

However, parole and furloughs are vastly different. Even using the imaginative style of Frederick Moran, it is difficult to uncover antecedents that can properly be considered to be forerunners of furloughs. Obviously, the same practices considered to be antecedents to parole are not appropriate.

There is, nonetheless, one train of thought in the correctional literature that seems to presage the furlough practice. While it is an awkward analogy, it is worth considering because the historian who searches for antecedents to furlough practices will better understand the lack of references to such practices by gaining an understanding of the social thought that precluded the granting of furloughs until the twentieth century. One may reject the notion that the following constitutes an antecedent to furloughs, but can still gain insight into the rigidity of thought that delayed development of the practice.

Blake McKelvey's classic work, "American Prisons: A Study in American Social History Prior to 1915",² is one logical place to look for antecedents to furlough programs. McKelvey thoroughly and carefully notes the development of correctional theory and practice from the era of the Walnut Street jail to 1915. Since we will soon note that formal furlough programs started in 1918, McKelvey's coverage serves our purpose nicely. A careful reading of this classic work does not uncover even one single reference to any penological development even remotely similar to a modern prison furlough. McKelvey carefully analyzes developments in social thought during the relatively long period of time considered in his

treatise and periodically lists a number of treatment programs established by the more progressive institutions at various points in time as the reformatory movement with its ideology of reformation gradually gained currency. While the programs listed are varied and interesting, there is no hint of even so much as a special leave being granted to any inmate. In searching the pages of McKelvey's masterpiece, one is reminded of the since forgotten debates, quarrels, and outright fighting among early penologists over the relative merits of the Pennsylvania solitary system and the Auburn silent system. In reviewing these early ideological struggles, one gradually begins to realize that there probably are no hidden or long forgotten experiments in the granting of furloughs because such a practice would have been completely alien to the thinking of even the most progressive of prison reformers prior to the twentieth century.

In studying McKelvey's scholarly insights into American penology, one recalls the original foundation of American correctional thought. The Pennsylvania system was founded on the principle of solitude and, when operating properly, the inmate never saw or spoke to any other inmate during the entire period of confinement. Inmates spoke only with those persons designated by the prison staff as religious instructors, and such occasions were infrequent. In principle, the very essence of the Pennsylvania system was complete physical and emotional isolation of the inmate to allow him to do penitence. Inmates were so effectively cut off from the outside world that even historic events passed unnoted. It is

fairly obvious that any practice resembling the modern furlough in any way would be altogether incompatible with this philosophy.

The development of the Auburn silent system established an alternative philosophy of incarceration that laid the foundation for decades of stormy debate over the relative merits of the two systems. The Auburn system, with its work in congregate shops under a rule of silence and solitary confinement at night, was not more compatible with the concept of furloughs than the Pennsylvania system. Both stressed the social isolation of the inmate to the maximum extent possible compatible with the considerations of economic efficiency in prison industry. The Auburn system, no less than the Pennsylvania system, intentionally isolated the inmate. Disciples of either system would never have thought of suggesting that an inmate be allowed to visit persons outside of the institution--with or without an escort. Such an event would have been self defeating given the parameters of thought involved.

There were, of course, prisons developing in the various sections of the country that were not in the mainstream of the great debate over the two primary systems. On the whole, such prisons were concerned with economic efficiency, discipline, punishment, and custody. Reformation was not an element in the ideology of such prisons and their administrators were not prone to experiment. Reform of these prisons usually was reflected by the conversion of their ideology to the mainstream of penological thought which increasingly leaned toward the Auburn system.

For the many decades of debate over the relative merits of the Pennsylvania and Auburn systems, there was no room in correctional thought for the development of any program that provided temporary release for the inmate. Long before the debate subsided, however, the efforts of Louis Dwight and other noted prison reformers began to make an impact on the daily operation of prisons by establishing the idea that it was possible and desirable to do something for the inmate while he was incarcerated. Reform through solitude, penitence and hard work would be supplemented by additional efforts to instruct the inmate in secular skills as well as in religious matters. Such programs did not propose the radical taking of the inmate into the community for interaction, but increasingly brought outsiders into the prison to administer various kinds of activities. This reform ideology was accompanied by a wave of humanitarianism and brought about the change of direction in American penology that would portend the furlough of the, as yet, distant future. McKelvey notes, almost in passing, that the 1860's brought a relaxing of the old rules of silence and the occasional granting of holidays in the prison yard. It is this trend, the relaxing of the dogmatic position of constantly and consistently seeking complete social isolation for the inmate, that constitutes a true antecedent for the furlough of the future. It was, in other words, not until after the Civil War that penologists felt comfortable with the idea of letting inmates out of their cells--not to leave the prison temporarily--but merely to leave their social isolation

temporarily to mix freely in the prison yard for a few hours. If there is an antecedent to the furlough, it is this granting of "freedom of the yard" privilege which gradually became established in prisons and set the stage for the next logical step: the inmate allowed to leave the isolation of his cell to mingle with other inmates for a few hours in a social setting might eventually be trusted to leave the prison for a few hours to mingle with non-prisoners in a social setting.

B. The Establishing of Furlough Programs

For most of our history, the idea of allowing the inmate to leave the institution temporarily for an unescorted visit to persons in the community has been alien to our corrections ideology. The following summary, condensed from Carson W. Markley's survey reported in the March, 1973, issue of Federal Probation, illustrates the slow, halting start of furlough programs in the United States and the rapid acceleration of the programs once the principle became established. All jurisdictions following a date began their furlough programs in that year as reported by the survey.

Mississippi	1918
Arkansas	1923
Louisiana	1964
District of Columbia, Federal Bureau of Prisons, North Carolina, Utah	1965
Oregon, South Carolina, Vermont	1967
California, Connecticut, Delaware, Illinois, Iowa, Maine, Maryland	1969
Alaska, Arizona, North Dakota	1970
Florida, Idaho, Kansas, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, Pennsylvania, Washington	1971

The results of the Markley survey (all fifty of the state departments of corrections plus D.C.) show that out of 51

departments of correction 29 or 57% had furlough programs and 22 did not. Out of the 22 reporting that they did not have a program, 16 indicated plans to implement such a program.

C. Recent Trends

Since the Markley survey was completed in 1971, a number of states have followed up on their plans to implement a furlough program. The following states can now be added to the above list of states having furlough options: Alabama, Colorado, Georgia, Indiana, Kentucky, Massachusetts, Missouri, Nevada, New Hampshire, New Mexico, New York, Ohio, Rhode Island, South Dakota, Tennessee, and Virginia. This addition of sixteen states to the roster of states offering furlough programs is taken from the results of a national survey on prison furlough programs conducted by Corrections Magazine in 1975 and reported in the July/August, 1975, issue by Michael S. Serrill in an article entitled "Prison furloughs in America." Markley, in the 1971 survey, noted that sixteen states indicated future plans to implement furlough programs; however, the sixteen listed here from the Corrections Magazine survey of 1975 are not exactly the same. Most of the sixteen noted by Markley did follow through with their plans, but Hawaii, Montana, and Oklahoma implemented programs only for juvenile institutions. At the time of the Markley survey, Kentucky, Nevada, New Mexico and South Dakota did not indicate any future plans for implementation of furlough programs but have since implemented programs.

In reference to the July, 1975, survey by Corrections Magazine, only West Virginia, Wisconsin, and Wyoming lack furlough programs. Hawaii, Montana and Oklahoma and Texas do not permit furloughs in their adult institutions but do have furloughs from juvenile institutions. (Texas does confer temporary reprieves.) These figures from the two surveys indicate that most of the growth in furlough programs occurred since 1965, since only three jurisdictions had furlough programs prior to 1965. The period of extremely rapid growth has occurred since the beginning of 1971. The Markley survey showed ten states implementing programs in 1971 (the last year covered in the survey) and the Corrections Magazine survey reflects the addition of sixteen states to the list since 1971 for a total of twenty-six states implementing programs since the end of 1970.

Both Markley and Serrill of Corrections Magazine note important influences that have allowed the growth of furlough programs. Both note the changing correctional philosophy that expresses disappointment in institution treatment programs and bases hope for future success in rehabilitation efforts on community based programs. Serrill further notes that correctional administrators have gained confidence in furlough programs by virtue of their success in operating work release programs. They reason that if inmates can be trusted to leave the institution for a job in the community, they can be trusted to visit their homes.

The shift in ideology that so recently has made furloughs popular among penologists is not unlike the earlier shift

that made freedom of the yard possible. Over the decades penologists have gradually redefined the degree of freedom appropriate for the inmate. Their experience has indicated that rehabilitation prospects improve with increased freedom. Thus, the philosophy has slowly evolved toward increased freedom for the inmate from the beginning: the Pennsylvania solitary system completely isolated the inmate from other inmates and most staff members; the Auburn silent system took the inmate out of the isolation of the cell for work in the congregate shops, but attempted to maintain social isolation by enforcing the rule of silence and placing the inmate in a solitary cell at night. Eventually, the reformatory ideology resulted in education and vocational training programs that brought inmates together in a social setting. The humanitarian impulses of the reformatory movement resulted in recreation activities for prisoners and the necessary "freedom of the yard" on occasion to participate in recreational activities. From allowing the inmate to leave the cell for purposes of socializing with other inmates in the prison yard, it is a logical step that social thought evolved to the furlough concept of allowing the inmate to leave the prison for socializing with family and other free persons.

Footnotes

¹Moran, Frederick A. "The origin of parole." National Probation Officers Yearbook, 1945.

²McKelvey, Blake. "American prisons: a study in American history prior to 1915." Montclair, New Jersey: Patterson Smith Pub., 1968.

³Markley, Carson W. "Furlough programs and conjugal visiting in adult correctional institutions." Federal Probation, Vol. 40, March 1973, pp. 19-26.

⁴Serrill, Michael S. "Prison furloughs in America." Corrections Magazine, Vol. 2, No. 6, 1975, pp. 2-12.

CHAPTER 4. FURLOUGH LEGISLATION*

We define furloughs, for purposes of this project, as the temporary release of convicted felons from actual confinement without official escort for purposes other than work or education. Because participants in furlough programs have been the object of a specific state or governmental action, commitment to prison, which is effective for a specific period of time or until further state action (such as parole or judicial intervention), it is necessary for there to be some authority given by the state for their temporary release.

Unauthorized removal of a prisoner from confinement makes both the prisoner and the person obtaining or permitting the removal subject to prosecution for the crime of escape. It is the crime of escape that creates the need for furlough authority; otherwise the fiction of confinement would be completely destroyed by various prison programs, especially where convicted persons are committed to the custody of an official such as the U.S. Attorney General or the state commissioner of corrections instead of a particular prison.** The theory of

*To avoid excessive footnotes, references to illustrative statutes are made in the text by state and year, identifying their location in Appendix B; references to common legal principles or obvious statutes have been omitted; and some citations are combined that would otherwise be footnoted separately. An attempt has been made to force legal cites into an APA style. The reader is asked to bear with us.

**The U.S. furlough statute, 18 U.S.C. §4082(c) was grafted on the statute making sentence after conviction a commitment to the custody of the Attorney General, 18 U.S.C. §4082(a). A number of states have enacted similar statutes making imprisonment the equivalent of the custody of the director or board of corrections, in order to accommodate the diversity of facilities and the need to be able to make assignments based on classification.

constructive custody preserves the fiction of confinement; the sentence is being served during the furlough (La. 1972) but it is interrupted during reprieve or escape. Furloughs under the reprieve power must therefore also use the power to commute sentences, as in Texas, or the sentence will be extended the length of the furlough. Other sentence determining agencies besides the courts, such as parole authorities, may shorten the period of actual confinement but the offender may still be in constructive custody of the prison authorities.

When authority for temporary release is used frequently, or in only unusual circumstances, and is subject to almost complete discretion, such as political reprieves or as an act of grace, it would not ordinarily be thought of as authority for a "furlough program." This authority will be sought only where other authority is absent, and for illustrative purposes.

Authorization for sentences of partial confinement (Pa. 1972) and, more remotely, reprieves could be considered prior definitions of the sentence,* both by express definition and by creation of a reserved authority, but legislative authority for furloughs and other programs could also be described as "conditions of sentence". It would seem more useful to adopt the presumption that a prison sentence is to be served in custody and look at authorized interruptions of the sentence as later occurring exceptions, avoiding semantical problems.

* See discussion of *Wilson v. Commonwealth*, 141 Ky. 341, 132 S.W. 557, 562 (1910) in "Contemporary Issues" chapter.

Collateral developments in escorted leaves (Cal. 1945; Mass. 1952; Idaho 1971), temporary release of misdemeanants (W.CA. 1975; Wis. 1959), temporary release from local jails (Maine 1975; Mich. 1962), and work and study release (N.C. 1957; Md. 1963) are included to the extent that furloughs, as defined, are involved and to show their impact on the development of furlough authorization. Much legislative borrowing will be observed among such programs, with influence going both ways. Complete investigation of the older and less used authority of respites and reprieves has not been made, especially where more explicit authority has been given (La. 1968), but illustrative information is included.

A. Models for Present Legislation

The origins and models for present legislation are: (1) the constitutional and statutory provisions that provide a legal doctrine used in furlough statutes; (2) an existing statute reasonably related to furloughs onto which furlough authority is grafted; (3) an existing statute which was modified or replaced to authorize furloughs; (4) an acceptable statute borrowed from another jurisdiction or (5) administrative regulations on related or other subjects used as a pattern for a furlough statute.

The origin of legal doctrines used in furlough statutes, discussed under the chronology of furloughs supra, are the executive clemency of reprieve and leave of absence; the extension of the limits of confinement in the Huber Law; and removal of prisoners under guard for work or for emergencies. Furloughs

as temporary parole and statutes requiring approval of parole boards clearly use the model of executive clemency, often in connection with other models. The extension of limits is used in work release and the federal furlough statute. Removal under guard provided the initial basis for prisoners leaving the place of confinement to which they were sentenced on the theory that custody equals confinement.

Many states used existing laws onto which furlough authority was grafted. These include statutes providing for authority of officials to assign the place of confinement, to establish other places of confinement such as prerelease centers, to allow visits within prisons, to provide medical care outside the prisons, to work outside the prison, to visit a dying relative or attend a funeral under guard, to provide work or education inside the prison, to parole an inmate by letting him serve the rest of his time outside prison subject to set conditions, to permit the inmate to engage in work or study release or to be transferred to a community or prerelease center.

A number of states modified or rewrote the statutes described above by removing the requirement of escort, by adding furloughs to other approved activities, by reserving furlough authority to prison officials or by replacing them with a borrowed statute.

Borrowed statutes often also used the technique of grafting on, modification or substitution. Most states borrowed furlough statutes from other jurisdictions, either directly or through a neighboring state, making such modifications as seemed appropriate to the adopting state. It is significant

that laws borrowed from another jurisdiction are usually taken to come already impressed with whatever interpretations have been placed on them by the courts of the state from which they were borrowed. The most significant ancestry of furlough laws is the Huber Law adopted into the North Carolina work release statute and then adopted in its revised form by the federal statute. Many states adopted work release and then expanded it by further adopting the federal scheme which added furloughs. A few states adopted statutes patterned on administrative regulations, either borrowed from regulations adopted in states to implement furlough statutes or patterned after their own administrative law techniques.

These models are found in existing furlough statutes in all sorts of combinations and were used in various time sequences. The federal statute, for instance, grafts the furlough and work-education release statute onto the authority of the Attorney General to determine the place of confinement and uses the Huber Law theory and purposes for extending the limits of the place of confinement.

Delaware (1964) grafts furloughs for such occasions as compassionate leave and job interviews onto the authority to provide for visits in prison, and the similar language suggests that this was the model for Louisiana and Arkansas four years later. In 1960 Alaska had provided broader authority for visits at a place other than the prison.

Illinois, which had earlier adopted the Huber Law for local houses of correction, first adopted the federal scheme

for prison furloughs, and then added family visits and separately adopted the Huber Law for its day release program. Indiana which adopted the federal scheme for only work release participants later borrowed the Illinois version of the federal scheme.

California enacted its statute for temporary removal under guard for medical treatment and prison work in 1945. It subsequently added job interviews (1953), medical research (1961), preparation for release on parole (1965), and participation in community activities directed toward delinquency prevention and community betterment programs (1968). In 1968, however, it authorized unescorted leave for medical treatment, prerelease preparation and disaster aid. In 1972 the section was rewritten to provide broad authority for temporary removal or release. Arizona borrowed both the escorted and unescorted removal provisions from California in 1970 and added the general term "furlough" in 1974. The 1968 California provision for escorted participation in community programs seems to be the model for that provision in a number of states. It was adopted as a separate section in 1970 in Maryland, and the Maryland language was used for the initial limited leave program in Georgia in 1971. North Carolina amended its federal scheme plus family visits in 1973 by adding a community activity subsection.

Maryland adopted its furlough statutes one section at a time. In its 1963 adoption of work release it provided leave for participants to look for jobs, added a section on compassionate leave for all inmates (1967), added weekend leave to

the work release section (1969), adopted a third section for prerelease leave (1969), added a fourth section community program participation (1970), and provided for family visits in a fifth section (1972) as well as modifying existing provisions from time to time. The later provisions generally follow the pattern set in the initial work release proposal and enlarged specific program ideas from earlier enactments.

Washington, New York, Montana and, to a lesser extent, New Mexico, formulated furlough statutes after an administrative law model with successive sections providing for authority and operating procedures. Except for New Mexico, they provide a section of definitions of terms used in the statutes and procedural elements for review as well as application. The Montana law has a section on intent and purposes of legislation, but the stated purposes seem to be too broad and inexact for the scope of authority given in the later sections. However, the procedures protecting inmate rights and providing for presentation of evidence supporting the inmate's application and for hearings on revocation seem to be carefully designed or taken from other administrative procedure. They clearly describe a right to due process in determinations made to grant, revoke or modify the furlough privilege.

Modification of statutes has for the most part been in the direction of liberalization. Purposes have been expanded by addition of reasons for which furloughs may be used or by addition of sections for additional programs, eliminating "only" or named reasons as restrictive language, or by

adoption of a catchall phrase or modifying such a phrase to make it more inclusive. In some cases escort or confinement at night has been eliminated.

Usually amendments have been made to decrease or remove restrictions on who may participate as far as required program participation or classification, eligibility for parole, percentage of sentence served, offenses that preclude parole, or classification or approval by other authorities.

Legislative changes have also generally increased the possible frequency, duration, and total time within a given period for furloughs by changing or eliminating such provisions. Other changes favorable to inmates have been made. Some restrictions, however, have been added but in most instances there seems to have been a trade-off or balancing of restricting and liberalizing amendments with a net result of more liberal furloughs.

B. Elements of Furlough Legislation

Within the project definition of furloughs, the essential element of furlough legislation is the bare grant of authority by statute or constitutional provision to some official or agency to release imprisoned felons without official escort for other than work or study release programs, with the provision that they will return to prison. Such release is usually designated as temporary and is usually for a short period of time.

This bare grant of authority is found in many forms, from a simple "the governor has power to grant reprieves" (Tex 1845)

to "the Attorney General may extend the limits of the place of confinement of a prisoner as to whom there is reason to believe that he will honor his trust" (U.S. 1965). In most cases it is discretionary, but it may be mandatory (Del. 1964), but regulations may be mandatory (Ore. 1955). It may be in terms of granting furloughs (Ha. 1967) or establishing regulations (Fla. 1967); it may be authority to establish (Iowa 1969) or adopt a program (Mont. 1969); or it may be permission for an inmate to leave (Ga. 1971) with the approval of an official.

Other elements are used in almost every conceivable combination and may be expressed positively or negatively. A grant to one class of persons or for one purpose may be a restriction excluding all others. As to permitted purposes, the word "only" has been deleted from borrowed statutes, and was deleted by amendment from the federal statute (U.S. 1973). However, in most cases the impact of "only" has been diminished by the use of the catchall phrase beginning "or for any other" (U.S. 1965; Pa. 1970). Any one element may be used to carry the legislative weight placed on other elements by other states. Requirement of parole or work release eligibility (R.I. 1975; N.D. 1969), for instance, usually contains elements of time served, time remaining and custody level definitions. Offense restrictions may serve the same purpose as stated policy concerning public interest or public safety.

Factors may be operating that are not specifically stated in the furlough statute, such as other authorizations or duties for the specific department or for all state agencies, found in

administrative procedure acts, other statutes, sentencing provisions, and court decisions. It is very likely that some of the conclusions concerning the laws will be radically modified by data not available here. For instance, the Kentucky Court of Appeals held that its work release statute was unconstitutional (Ky. 1974). Statutes requiring notice to local police on release of inmates at final discharge may be found to apply to furloughs as well (Wash. 1972). Further, how a program operates may be another matter entirely; whether an agency staff will interpret laws narrowly or broadly cannot be anticipated from the statute itself. As an instance, the Pennsylvania statute (1974) provides two kinds of furlough authority; temporary release from a prerelease center in or separate from a state or regional correctional institution, and release of a person who has served his minimum sentence. Furloughs are generally granted, however, to persons who have served half of the minimum sentence and are in "prerelease status". Departmental regulations bridge the gap between the statute and the operation.

As found in existing statutes, the elements of furlough legislation include:

- A. Grant of Authority
 - 1. Name of official
 - 2. Action
 - (a) Authorized or
 - (b) Required
 - 3. Secondary actions
 - (a) Authorized or
 - (b) Required
- B. Stated policy interest to be served
 - 1. Stated interests
 - 2. Relative importance
 - 3. Relation to other programs and policies

- C. Administrative provisions
 - 1. Promulgation of regulations
 - 2. Concurrent authority of other agencies
 - 3. Notice to other agencies
 - 4. Definitions
 - 5. Procedures
 - (a) Collateral procedures of classification
 - (b) Application
 - (c) Investigation
 - (d) Approval
 - (e) Denial
 - (f) Review
 - (g) Appeal
 - (h) Reapplication
 - (i) Relation to administrative procedure status
 - (i) For exit
 - (ii) During leave
 - (iii) For return
 - 6. Record keeping
 - 7. Reporting
- D. Restrictions
 - 1. Purposes for which furlough may be granted
 - 2. Eligibility of inmates
 - (a) Offense restrictions
 - (i) Specific named offenses
 - (ii) Specific statutes governing offenses
 - (iii) Categories of offense
 - (iv) Type of sentence
 - (b) Length of sentence
 - (c) Time served on sentence
 - (d) Time remaining on sentence
 - (e) Percentage of time served
 - (f) Parole eligibility date
 - (g) Parole eligibility
 - (h) Work release eligibility
 - (i) Custody level of institution
 - (j) Custody level of inmate
 - (k) Conduct of inmate before incarceration
 - (l) Conduct of inmate in prison
 - (m) Prior convictions
 - (n) Trustworthiness: will he return?
 - (o) Lack of risk: will he commit crimes?
 - (p) Detainers
 - (q) Need for appropriateness: treatment goals
 - 3. Duration
 - 4. Frequency
 - 5. Total leave time within given period
 - 6. Place
 - (a) General: within or without state
 - (b) Prescribed
 - (c) Limitation of travel route
 - 7. Return to same or designated place

- E. Information, agreements, duties and sanctions
 - 1. Inmate
 - (a) Furlough regulations
 - (b) Furlough plan
 - (c) Waiver of right to contest extradition
 - (d) Orders and identification
 - 2. Sponsor
 - (a) Sign for custody
 - (b) Provide expenses and transportation
 - (c) Report failures or difficulty
 - 3. Third parties prohibited from interference
- F. Characterization and collateral consequences
 - 1. Constructive custody and escape
 - 2. Not reprieve or parole and does not extend sentence
 - 3. Relation to other programs
 - (a) Community or prerelease centers
 - (b) Partial confinement
 - (c) Transfer to local jails
 - 4. Disclaimer or acceptance of liability

The authorization may be expressed in almost any form and combination of language, and the particular language does not appear to make any difference. Even the passive forms of verbs are used (Ala. 1951; Alaska 1960; Pa. 1970; Utah 1975). Those to whom the authority is given may be named (Attorney General, director, commissioner, warden, heads of institutions, superintendent, secretary, department, division, board, bureau of correctional authority) or assumed from the context of the statute or the otherwise assigned duty to keep inmates confined (Pa. 1972). A number of amendments, not otherwise noted, have been for the purpose of changing the named official or agency to agree with agency reorganization or change of commitment from penitentiary to a department or director of corrections.

In some cases the statute states the policy or policies which the legislature wishes to be served (Ga. 1971). The most forceful is Nebraska's statute (1969) where the public

interest and the inmate's rehabilitation are asserted to be the purposes in that order. Often the policy is found in the catchall phrase for purposes other than those listed, with "any other" serving to reflect the policy back onto the listed purposes. The federal language describing the requisite trustworthiness of the inmate is also a policy statement concerning public safety, and the specific eligibility restrictions based on offense (Ala. 1971), custody grade of inmate (Kan. 1971) and security level of institution (Utah 1975) are indirect statements of that policy. Montana devotes the whole first section of its furlough statute (1969) to "purpose and intent", but its mandate for extending limits for treatment as well as jurisdictional purposes is not clear as to its effect for home visits. Many states added or substituted rehabilitation language for the federal "public interest", but at least one state is currently considering an amendment to withdraw the rehabilitation catchall (Vt. 1967) and to add "only" before the specific listed purposes. Other states have practically eliminated the effect of a statement of policy from the listed purposes by adopting a circular language catchall that adds any other purposes or programs approved by the department (N.C. 1973; Ga. 1972; Ariz. 1974).

Policy statements and the relative weight to be given to the several conflicting values of public safety, family maintenance and rehabilitation are important for the guidance of administrators and for review of their actions by the courts. Massachusetts used as its catchall phrase the basic correctional

policy adopted by the state, the reintegration of the committed offender into the community, but the extent of the state's commitment to that policy may be in question because of current legislative attempts to restrict the program. The National Advisory Commission on Criminal Standards and Goals recommends that states provide a policy statement concerning corrections as a part of correctional legislation, and it would appear that furlough legislation, as well as any other legislation, could profit from that recommendation. Most policy formulations, however, are found more in regulations such as those for the Colorado State Reformatory and for the Colorado State Prison where policies are well set out for staff and inmates.

Except for policies inherent in purposes for which furloughs are authorized and in restrictions for eligibility, few states have spelled out their policies. Delaware (1964) provides that furloughs are to be "part of a program looking to (the inmate's) release . . . or their treatment." Georgia (1971) designates approved activities as those "deemed beneficial to the inmates and not detrimental to the public . . . such as will contribute to the rehabilitation process of the inmate involved."

Statutes usually call for promulgation of regulations (Md. 1972; Ore. 1955) and provide for decisions, recommendation or approval of persons in the chain of command (N.Y. 1972) or in a related agency (N.H. 1967). Some statutes, however, are developed on the model of administrative regulations and include definitions and detailed procedures (N.Y. 1972; Wash. 1971;

Mont. 1969). A few states such as Rhode Island (1975) and Alabama (1971) include a record keeping requirement and Rhode Island includes requirement of an annual report to the legislature similar to reports of executive clemency required by constitutions (Tex. 1845; W.Va. 1872).

A few procedural provisions appear in the statutes where related to required sequences within the department (N.Y. 1972) or involving parole officials or the sentencing judge (N.H. 1967; Pa. 1974). The Montana statute provides details of procedures for inmates to present evidence to support their application and to defend against revocation of the furlough plan (1975), but since the sponsor of the plan is another agency, the alternative is to find another sponsor. Most procedural matters are found in detail only in statutes in New York, Washington and Montana which have enacted essentially administrative regulations.

Most statutes have the grant of authority, purposes and restrictions. The grant of authority and purposes are commonly taken from the federal statute and the restrictions are attempts to qualify in terms of offenses, sentences, custody status and release dates the description of the inmate "as to whom there is reasons to believe that he will honor his trust." While the suggestion of such qualification was rejected in favor of administrative discretion in the Congressional discussion of the federal law, the practice became common with the states, and there have been a number of modifications in borrowing statutes and later amendments, adding or deleting such restrictions as public or legislative apprehension waxed or waned.

The restriction as to purpose was generally ameliorated by the catchall phrase, and "only" was retained or deleted as an indication of the liberality of the legislature. The named purposes often underwent expansive modification and amendment, such as from "deathbed visits" to "visits to critically ill relatives" to "visits to seriously ill relatives" to include accidents to simply family visits and finally to maintain family and community ties. Usually the list of kin expanded (Mass. 1970), and in the most relaxed states who listed them, came to include anyone who had acted in the place of a parent or child.

Contacting prospective employers and seeking a residence were expanded in some states to more general pre-parole and pre-release planning (Md. 1974; Ariz. 1970; Cal. 1968) and pre-release became a special category for weekend furloughs (Md. 1974), but some states required that furloughs for job interviews required the inmate to have an appointment.

Family visits originally provided under "other purposes" by borrowing (N.C. 1965) and by amendment (Ill. 1971; U.S. 1973) came to be provided under their own specific authorization. The purposes related to community activities developed as a separate genre after first being attached to education. They came to include volunteer work, religious meetings, panels on drug and crime problems and appearances on television (Va. 1969; N.Y. 1974; Ind. 1973); and athletics (Md. 1972; N.Y. 1974).

Restrictions as to eligibility usually combine some elements of the inmate's offense (Kan. 1970), sentence (Wash. 1973), time in prison (N.Y. 1972), minimum sentence (Pa. 1974),

parole date (R.I. 1975; Cal. 1968), and custody level (Md. 1972). These factors are interrelated and may be related to other programs used as criteria, such as work release.

Many states use the thirty day per visit limit of the federal model (Col. 1967); others eliminate it and use "prescribed time" (Fla. 1971). Maryland (1972) indicates "reasonable time"; and others use a lesser period (Minn. 1971) or none at all (Neb. 1969). Actual practice and regulations are often shorter than the statutory limit. Shorter periods are generally specified when the purposes are not limited (Cal. 1972; Minn. 1971) or clearly include home visits as a major use (Ill. 1969). Some states have different durations for different purposes (Wash. 1973). Medical leave is more generally exempt from a time limit (Cal. 1972) or is subject to fewer eligibility restrictions, along with compassionate leave. Family leave may be subject to special limitations (R.I. 1975) and looking for jobs or residence may be limited to near parole date or release. New Jersey authorizes thirty days without references to purposes and provides for an extension beyond thirty days for the usually stated purposes. Washington (1973) now limits emergency leave to two days and the first two home visits to seven days each.

Frequency is not usually limited in the statute, but total leave time within six months (R.I. 1975) or a year (Mass. 1972) is sometimes restricted. The federal statute does not limit frequency or total time, but Missouri (1972) converts the thirty day duration limit to thirty days per year. Most

states, however, handle the question of frequency or total days per year by regulations or official discretion. Another set of combinations is produced by statutes that have different eligibility restrictions and different duration, frequency and total time restrictions for different purposes (N.Y. 1972; Mo. 1972).

Many states restrict furloughs to within the state (Ga. 1971), but several specifically authorize furloughs outside the state (Ala. 1971), and some of those authorize the official to require waivers of the right to contest extradition before granting out of state furloughs (Md. 1974). Modifications have added and deleted out of state furloughs (Md. 1972; Ala. 1971; Kan. 1971).

Statutes also may restrict the place of furlough to a prescribed place by furlough orders or plan extending the limits of the place of confinement, reflecting the federal and Huber Law origins. Place of visit may also be restricted by requirement of sponsor, family visit purpose and definition of escape as not staying in the bounds of extended confinement. Further limitation of place in terms of travel is accomplished by requiring the inmate to return to the same or another facility. The last alternative allows use of furloughs to transfer inmates to other facility without guard.

A few of the more detailed statutes determine what information must be given to inmates of their sponsors, what agreements and duties are involved for each and what sanctions attach to failure of the inmate to carry out the furlough

plan. A few provisions require an approved sponsor, or that the sponsor sign for custody of the inmate (La. 1972) or provide transportation. Washington is most rigorous in requiring sponsors to immediately notify correction officials of any difficulty that may cause failure of the plan.

Maine (1969) and Utah (1975) have adopted sanctions against third parties that interfere with the inmate on work release or furlough. In Maine it appears to be directed at association with unsavory characters who may be prosecuted if they fail to cease and desist in said relationship or association "after having been warned by the head of the institution".

A number of provisions have been added to furlough statutes to indicate what their legal characteristics are in relation to specific problems. The general characterization as a privilege strengthens the idea of decisions being committed to official discretion, but will not sustain arbitrary official action above review by courts, as has been found in the developing case law.

Escape from furlough is usually defined as willful failure to remain within the extended bounds or to return to the designated place at or before the end of the prescribed period (U.S. 1965; Ky. 1972). A few statutes are more broad in defining escape as failure to observe the terms of the furlough (Idaho 1974), but it is not clear whether other than time and space requirements are included. Escape is usually defined by reference to the general escape statute (Maine 1975) but sometimes the punishment is given (Ariz. 1974) without reference to the escape

statute, suggesting the creation of a new offense. Some amendments have taken place to add (Conn. 1973), delete (N.D. 1975) or define escape (Md. 1972).

Other characterizations are rare. One is found in distinguishing furloughs from reprieve (La. 1972) with the result that sentences are not thereby extended; another distinguishes furloughs from parole (Col. 1967). A few statutes provide statements showing the relation of furlough authorization to other programs, such as community facilities (Pa. 1972), partial confinement (Pa. 1972) and local jails (Ariz. 1970; Mont. 1969).

Mostly because of the work release subsections, many statutes have a disclaimer of any state responsibility for the inmate as a servant, employee or agent (Neb. 1969; N.M. 1969) while on furlough, work or traveling in between. In relation to work release, some states exclude inmates from regular worker benefits under state law (N.M. 1969) or state specifically what benefits or protection of labor law apply to them (N.Y. 1969).

In the most unique and short-lived provision found in furlough legislation, Washington (1972) enacted and then repealed the next year a section accepting retroactively up to \$25,000 liability for the state for damages caused by criminal conduct of furloughees. It waived collateral estoppel defenses of failure to prosecute and of acquittal, and acknowledged conviction as proving criminality of the conduct involved.

By the end of 1975, 42 states and the federal government appeared to have explicit statutory authority for more or less comprehensive programs. Comprehensive furlough programs are counted as including emergency family or compassionate leave, home visits, and preparole or prerelease provisions for looking for a job, securing a residence, or resocialization. The federal statute applies to The District of Columbia but has been restricted in its implementation as a result of administrative regulation.

An additional five states appear to have limited statutory authority for furloughs, restricted either as to purpose or participation (work release program only), or unclear as to the extent of furlough authorization. The remaining three states, Texas, Oklahoma and West Virginia, have constitutional authority for reprieves. This authority is used extensively in Texas for furloughs with administrative procedures both for granting reprieves and for commuting that part of the sentence not served because of the reprieve. This activity is regularly reported by the Board of Pardons and Paroles. Oklahoma statutes and procedural rules relating to pardon and paroles indicate that the reprieve power is used for furloughs in that state.

Of the states with unclear or limited authority in statutes, Mississippi uses the constitutional reprieve authority extensively for Christmas furloughs and has an administrative procedure for application by inmates and decision by the prison authorities and the governor. Otherwise, there appears to be limited authority for furlough activity within the work

release program. Mississippi, Montana, North Dakota and Nevada, while authorizing work release, also authorize furloughs other than work release.

Nevada is the most narrow, authorizing furloughs only to look for jobs within the state for an inmate on work release. Montana provides for participation in education, treatment and training programs but the act is to be liberally construed and "supervising agency" may be anyone approved by the department. North Dakota clearly provides 72 hour leaves to work release inmates; it is not clear whether "outside programs" include other furloughs and any other categories of inmates. Wyoming has only work release in its statutes, but employment is defined broadly to include "rehabilitative activity" and the requirement for containment at other times is modified by "except on specific authorization of the warden or his designee".

It appears, therefore, that there is enacted furlough authority in every state except Texas, Oklahoma and West Virginia. Two of these, Texas and Oklahoma, use reprieve power of the governor for at least limited furlough purposes and the practice is provided for in statutes and rules governing procedure. West Virginia has the same constitutional authority; its use is not confirmed except by infrequent court decisions but the Huber Law has been adopted for county prisoners. Appendix B contains detailed information regarding the development of furlough legislation for each state.

CHAPTER 5. REVIEW OF LITERATURE

Relatively little has been written about furlough programs in comparison with other correctional innovations. To a great extent what has been written is impressionistic, dealing with the merits of furloughs on a philosophical basis, rather than in terms of goal achievement or relative effectiveness of programs. A number of issues are discussed repeatedly with conflicting beliefs supported by the strength of the argument or by a single case with a marked absence of supporting data.

One area of concern for those who support furlough programs has been the wife-husband relationship. The issue was first articulated by Ruth Shonle Caven and Eugene S. Zemans.¹ They administered questionnaires at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders asking for information about contacts between prisoners and their spouses and children. They were concerned with the loss of close personal contact of prisoners with their wives. While this data is now dated, it lends international perspective to the issue. In sum, they found that in the 1950's, many European and South American countries were far beyond the United States in providing programs that maintained contact between husbands and wives both in conjugal visits and furloughs. Since that time, progress in both the use of conjugal visits and furloughs has been made in the United States.

In recent years four articles have explored the development of both conjugal visits and the use of furloughs to

maintain positive relationships between prisoners and their spouses. Two of these articles report a 1964 study which attempted to assess the attitude of wardens toward conjugal visits and furloughs.² Seventy-two percent of the wardens responded with 56% opposed to conjugal visits. Both conjugal visits and home visits attempt to deal with the same problems, thus the pros and cons for one can easily be transferred to the other. Some of the major objectives cited were: (1) problem of selection of program participants; (2) if visits are denied for disciplinary reasons, the rehabilitation effect will be lost; (3) common law marriages or relationships would be excluded, creating frustration; (4) non-married inmates would have their frustrations intensified; (5) birth control would be a problem, particularly for families on welfare; (6) institutional security would be compromised, and (7) additional facilities and staff would be required. Some of the major benefits were: (1) the preservation of family life; (2) an additional incentive for positive institutional behavior; (3) potential reduction in escapes; (4) reduction of sex problems and homosexuality; and (5) the potential for improved prisoner morale. Hopper³ points out that the Mississippi Christmas furlough program is just one component in a multifaceted approach to the maintenance of family relationships.

Johns makes another point relative to furlough programs and conjugal visits.⁴ He argues that conjugal visits are so controversial that they will not be put into use in most American prisons in the near future. In addition to the

objections raised by other authors, he points out that legally married inmates are in the minority in most prisons, reducing the overall positive impact and intensifying the negative impact in many prisons. This, coupled with contemporary morals, will effectively prevent the development of programs featuring conjugal visits. He suggests that furloughs, while controversial, are more palatable to the American public and add the element of integration of the offender into other facets of community life. In sum, he feels that the use of home visits is both more effective and more likely than conjugal visits.

Two articles deal with the programs of Denmark and Sweden which are the most progressive programs in existence today.⁵ Their furlough programs are just one component of their relatively open system. In these countries everyone is permitted furlough privileges after a period ranging from six months for mild offenders to three years for those with life sentences. Precautions are taken with those who are potentially dangerous with an assessment of their stability made before furloughs are granted. Before a leave is granted, the prisoner must make extensive plans for his visit with a caseworker. Sweden has a particularly high escape rate of 8%. However, the Swedish community is proud of their correctional system and are willing to tolerate an appreciable escape rate as a part of the rehabilitation process. As in this country, however, many "escapes" are prisoners who return late, rather than prisoners who do not return voluntarily.

Several of these articles deal with the merits of furlough programs from the perspective of the correctional professional.⁶ The use of furloughs can also provide for meeting personal emergencies and the facilitation of the re-entry of the prisoner into normal community life. Many now advocate the use of the furlough to allow inmates to spend time with their families during the period immediately preceding their release. The furlough is often confused with special leaves, which many adult institutions have been willing to grant under extremely extenuating circumstances. In many cases the prisoner travels under escort while with the furlough, the prisoner is under his own supervision. Some programs, like that of Pennsylvania, attempt to reduce correctional pressures as well as meet human needs.⁷ Pennsylvania's program begins with the offender's entrance into the system. Extensive psychological and educational testing, coupled with participation in other institutional programs, influences the decision to grant a furlough. The resident develops his own treatment plan which can include a furlough option. The resident must find a community sponsor and maintain contact with the sponsor during his stay. The prisoner can apply for a furlough after completion of one-half of his minimum sentence. His request is evaluated by his caseworker with the ultimate decision as to release resting with the superintendent of the institution. Pennsylvania notifies the sentencing court, law enforcement agencies, parole and other treatment resources.

Nelson considers furloughs a part of a total community based correctional treatment plan.⁸ The emphasis is on the treatment of offenders or the changing of offenders into law abiding citizens. Work release, study release, and furloughs serve to reintegrate the offender into the community life and community programs. He argues in part that the release of offenders on furlough, like their release on parole, results in an increase in public safety, rather than a decrease. The additional supervision and short term nature of the program reduces the risk of danger by reducing the risk of eventually releasing a dangerous person prematurely.

Nachman argues strongly for the therapeutic value of furlough programs.⁹ He points out that the furlough provides an opportunity for the inmate to experience his release environment in a meaningful way. The primary purpose of the furlough is to allow the system to observe how the client responds to his normal environment. Problems which surface can be resolved before the offender is released and beyond the controlled environment of the institution. Regular leaves can be used to initiate contact with existing agencies so that the offender can avoid a total release context, which would enhance the success of his readjustment to community life. While the furlough can not solve all release problems, it enables institutional staff to deal with many things of which they would otherwise remain unaware.

The popular press has done more to draw out the issues involved in furlough programs than any other source. The

concept of the furlough has drawn heated opposition and response from those outside of the correctional community. These articles have ranged from the 1969 U.S. News and World Report¹⁰ article describing California's furlough programs to Newsweek's blow by blow account of the rise and fall of The District of Columbia furlough program. A pair of linked articles appearing in Newsweek¹² in 1975 assessed the pros and cons of furlough programs. They point out that furloughs enable an inmate to re-establish ties with family, look for a job or look for a place to live. They identify as the critical core of opposition the question of the relative danger to the law abiding public created by the release of prisoners before they have served completed sentences. In particular, public attention had been focused on the release of offenders who have committed extremely violent acts.

Four authors have conducted nation-wide surveys of correctional practices. Smith and Milan investigated the scope, age, and mode of authorization for U.S. furlough programs.¹³ Of the fifty agencies which responded, forty-five reported that emergency leave programs were in operation while twenty-five agencies reported that they had unsupervised leave programs. Leaves ranged from one to thirty days. It is interesting to note that while most agencies reported enabling legislation, four states indicated that their programs operated under the authorization of departmental regulations alone.

Markley reports research similar to that of Smith and Milan with added facets.¹⁴ He has collected information on

program size, selection criteria, anticipated program change, restrictions, and problems encountered. While few states reported problem areas, it is interesting to note that the most common problem cited was bad publicity. Markley points out that few states have attempted to evaluate their programs. Those who have evaluated their programs have failed to consider the impact on recidivism and other critical variables. He also points out that there is a selection bias in that only the "better" inmates are eligible for furloughs in most states.

The Massachusetts Division of Research and Planning in the Department of Corrections has also gathered nation-wide data.¹⁵ While there is no running commentary, the individual descriptions of each state program represent the most comprehensive set of information available today. This report provides a state by state program description including program type, implementation date, statistics, policy and eligibility statements.

A final nation-wide survey appears in Corrections Magazine.¹⁶ It reviews the development of furlough programs and presents an up-to-date count of states with furlough programs. The Corrections Magazine has also examined closely the use of furloughs in The District of Columbia.¹⁷ The District of Columbia has in the past applied the most relaxed furlough procedures in the nation. As a result inmates who constituted a present danger to society were released. Following the arrest of three inmates for felony offenses

during their furloughs the program was sharply criticized and reduced from an annual rate of 38,500 trips by 886 men to about 50 men. Direct legal action was taken by Attorney General Saxbe to restrict the program over the objections of correctional staff. This fits a pattern we have noted in other areas. Furlough programs are begun cautiously. After a period of initial success (no escapes, no incidents) the release of inmates grows rapidly. An incident occurs or the rate of release is brought to the attention of the public. As a result, the program is severely restricted. The program is redefined with firm guidelines and gradually expands. Corrections Magazine features one or two states in each issue. These state summaries include a discussion of their furlough program.

Furloughs have been mentioned in passing in a number of articles dealing with other programs. However, to date no article exists which deals with furloughs in a comprehensive manner.

Footnotes

¹Cavan, Ruth S. and Zemans, Eugene S. "Marital relationships of prisoners in twenty-eight countries." The Journal of Criminal Law, Criminology, and Police Science, Vol. 49, No. 2, 1958, pp. 133-139.

²Balough, Joseph K. "Conjugal visitations in prisons: A social perspective." Federal Probation, Vol. 38, Sept. 1974, pp. 52-58.

³Hopper, C. B. "Sex in prison." Louisiana State University Press, 1969.

⁴Johns, Donald R. "Alternatives to conjugal visiting." Federal Probation, Vol. 35, No. 1, March 1971, pp. 118-51.

⁵Morris, Norval. "Lessons from the adult correctional system of Sweden." Federal Probation, Vol. 30, Dec. 1966, pp. 3-13.

⁶Moeller, H. G. "The continuum of corrections." Annals of the American Academy of Social Sciences, Vol. 29, Jan. 1969, pp. 181-88.

⁷"An evaluation of the home furlough program in Pennsylvania correctional institutions." Temple Law Review, Vol. 47, 1974, pp. 288-320.

⁸Nelson, Elmer K., Jr. "Community-based correctional treatment rationale and problems." The Annals of the American Academy of Social Sciences, Vol. 32, 1972, pp. 82-91.

⁹Op. cit., Nelson, pp. 43-46.

¹⁰"The California Plan--How one state is salvaging its convicts." U.S. News and World Report, Vol. 69, Aug. 24, 1970, pp. 44-47.

¹¹"Furor over furloughs." Newsweek, Vol. 84, Oct. 28, 1974, p. 54.

¹²"Furloughing convicts: Menace to society or a good idea?" U.S. News and World Report, Vol. 78, March 24, 1975, p. 65.

¹³Smith, Robert R. and Milan, Michael A. "A survey of the home furlough policies of American correctional agencies." Criminology, Vol. 11, 1973, pp. 95-104.

¹⁴Markley, Carson W. "Furlough programs and conjugal visiting in adult correctional institutions." Federal Probation, Vol. 40, March 1973, pp. 19-26.

¹⁵Wright, Michele. National furlough data. Division of Research and Planning, Massachusetts Department of Correction, Nov., 1974.

¹⁶Serrill, Michael S. "Prison furloughs in America." Corrections Magazine, Vol. 2, No. 6, Jul.-Aug., 1975, pp. 2-12.

¹⁷Serrill, Michael S. "Profile/District of Columbia," Corrections Magazine, Vol. 2, No. 6, Jul.-Aug., 1975, pp. 53-56.

CHAPTER 6. EVALUATION EFFORTS TO DATE

Most agencies which grant furloughs compile summary statistics focusing on escape, criminal offenses, with a few also summarizing incidences of furlough rule violations. Most states, however, have lacked the capability to move beyond this point. A number of states such as Arizona are presently developing more comprehensive summary statistics with comparisons made for relevant variables. Results reporting escape are not comparable from report to report. Escape in some instances includes late returning inmates. In some cases escape rates are computed with a furlough base while others use a furlougee base. In most cases the specific technique for determining escape rate was not available.

A few states have conducted in-depth studies of their programs. Some of these tend to be impressionistic, others descriptive with one study qualifying as quasi experimental. While Virginia was able to take advantage of environmental changes as a manipulation, most states are limited in their ability to manipulate critical variables even to the extent of establishing an effective control group for comparison.

The evaluation of the New York furlough program was included in a report which focused on the work release program.¹ The study was conducted prior to legislative review of their programs to determine their viability. The programs were initiated on a temporary basis subject to legislative review. The review presents background and an in-depth descriptive analysis of program operations. The

authors state that the program is too new to generate statistical data; thus, the study focuses on the impressions of program participants and institutional staff. The major portion of the project focuses on a set of personal interviews with inmates and administrators of institutions with an emphasis on program participants. In addition to the inmates and administrators, employers of work releasees completed questionnaires. The questionnaires were followed by a set of personal interviews conducted at four key institutions. Community impressions were derived from the administrators with the argument suggesting that these prison staff are also community residents. There is no systematic presentation of the data. The study is impressionistic, but it does establish that program administrators and participants value the program deeply. Summary statistics in the appendix indicate a .9% escape rate and a .3% new arrest rate with more than 20% of the escapees returning voluntarily.

Virginia has attempted to systematically assess their program. They have a unique situation in that data collected over a two year period included three policy changes regarding furlough procedures. Specifically, the rule regarding length of time from parole for numbered sentences changed from one year to two years, then back to one year. There were other procedural changes including length of time from a prior escape, length of time in system and administrative authority for granting furloughs. In addition, these researchers controlled for type of agency releasing the

inmate, prior escapes, total length of sentence, length of time the inmate has left to serve at the time of furlough and the length of time before an inmate is eligible for parole. The only significant variable influencing escape rate was prior escape record. It was also noted that the creation of a furlough committee to secure furloughs reduced escapes almost by half. This study was well planned and executed with appropriate statistical analysis. Results were reported in terms of percentages.

Oregon's evaluation is included in a State Department of Corrections memorandum discussing the furlough program.² It is basically impressionistic, but does not pretend to be anything else. It reflects basic satisfaction with program performance by staff and inmates. They report that of 2,172 leaves, 21 failed to return as scheduled. Sixteen were found to have misbehaved while on furlough. However, all of these were involved in alcohol or drug use or fighting, with no new criminal acts. The respective rates are .97% escapes and .69% misconduct, for a total of 1.66% failure. Only one case involved an arrest. It is interesting to note that when furloughed prisoners were compared with non-furloughed prisoners on offense there was no difference. A survey of Oregon Law enforcement officials indicates that after some experience, almost none of Oregon's law enforcement officials either oppose or support furlough programs. Considering the reactions reported in the popular press, this is progressive. Oregon attributes this to acceptance of the program by basic line

staff and the use of these staff to educate law enforcement officials. It should be noted that this study was conducted prior to a major incident which caused program redefinition.

The Temple Law Review³ conducted a two phase evaluation of Pennsylvania's use of furloughs. The first part was an overall evaluation of furlough program operations with attention focused on success as measured by estimations of community risk and rehabilitation impact. The authors trace the development of the use of furloughs and note three distinct stages. In the early stage correctional authorities were cautious in their release of inmates, carefully screening all inmates who were released. During this period few inmates failed to return and few criminal acts were committed. As the treatment and morale raising impact of the use of furloughs was noted, restrictions on the use of furloughs decreased with almost all inmates eligible for release immediately upon arrival at an institution (five years from their minimum sentence). With less caution exercised, the failure rate (failure to return or detected criminal activity) rose from 2.4% to 11.9%, the highest rate reported for any furlough program in existence. In response to public outcry, the department of corrections revised its furlough guidelines, restricting the use of furloughs by requiring a minimum amount of time served, listing a number of disqualifying factors related to institutional adjustment, prior offense behavior, potential risk of failure and presence of detainers. The regulations also provided for notification of the

sentencing judge with furlough denied if the judge objected. As a result of these changes, the failure rate declined to less than one percent, although 364 persons received 1722 furloughs.

The second phase of this evaluation focused on three eastern Pennsylvania institutions. The evaluation focused on two variables, escape rates and degree of success in obtaining short term goals outlined for specific furloughs. Most of the data for the evaluation were generated from inmate files. The data were used to construct a profile of each offender in the study, his furlough status, if a furlough participant, the extent to which he met program goals, and the inmate's overall orientation or feeling about his furlough. Pennsylvania requires the prisoner and his caseworker to set specific goals and evaluate goal attainment on his return. A questionnaire was also administered to the correctional counselors who process furlough applications. Unusual escape and misbehavior data was collected. They found that staff orientation toward furlough program risks influences their decision to release, with the more public safety oriented staffs making more cautious decisions. In the latter institutions there was little correlation between the reasons given by counselors for furloughs and the goals of the furloughs. In the institutions which identified the furlough as a treatment tool, the same correlation was high. They found, however, that in all institutions there is a general failure to evaluate goal achievement on return. The overall impact is a low escape-incident program with potential for short term goal

achievement, but this achievement cannot be accurately assessed. The researchers' experience, however, leads them to believe that these short term goals are being met but could be met more effectively. This study is basically impressionistic, but provides valuable insight into the development and operation of furlough programs.

California conducted an evaluation of its furlough program in 1969.⁴ The California program authorized in 1968 permits furloughs for any inmate within ninety days of his or her release. Data was collected from three sources. Information was obtained from furlough application forms, the follow-up post furlough interview schedule, and a follow-up questionnaire sent to the family or sponsor of the furlough. The focus was on goal accomplishment and participant satisfaction. The study focused on furloughs granted during the first two months of operation. While the results are generalized to the entire state system, the primary source of the data was the southern conservation center. Of the 150 inmates eligible for furlough only 63 inmates applied. Those not applying either lived too far from the institution, lacked resources, or were unwilling to risk their parole by a possible mishap while on furlough. The data is based on 165 inmates who were released on 195 furloughs with 33 inmates receiving two furloughs; the authors do not state how the additional subjects were obtained. Statistical analysis was limited to simple percentages, an appropriate method as this is a population study.

A major emphasis in this study is an assessment of short term goal accomplishment. The California furlough program is designed to facilitate reintegration. Each furlough is planned with specific reintegration goals such as job location and obtaining a driver's license. Of the 92% who planned to look for a job, 82% used their furlough to seek employment with 59% obtaining employment. Sixty-three percent of those who planned to apply for a driver's license made application. More inmates visited their parole agent than had planned to make contact. The average inmate planned three tasks. While it is claimed that most completed all three tasks, the data is not presented.

Both caseworkers and an independent rater evaluated the positive impact of the furloughs based on application content and follow-up inmate interview schedule content. Both groups evaluated the impact of all but a few as high.

On the whole, both the inmates, their families and sponsors reported the furlough a success and satisfactory. Of 198 offenders released, two did not return (1%), nine returned late (4.5%), two returned under the influence (1%), and one was arrested for a misdemeanor (.5%). Inmates in the furlough program were matched with state inmate profiles. It was found that furloughees did not differ from the general population. It appears that California research design was adequate. It should be noted, however, that it is limited in scope and unclear about sampling procedure. This study is descriptive with no interpretation of variables or a control group for comparison.

Massachusetts has conducted the most extensive evaluation of furlough use available to date including a comprehensive review of all existing U.S. furlough programs.* The use of furloughs in Massachusetts has been evaluated from November, 1972, until the present. The evaluation of the first year of operation was comprehensive examining outcomes by month of release, facility, type of furlough and type of commitment. Furlough failure was determined by escape, late return, new arrest, or violations of furlough rules. While a 10% failure rate was indicated, 7.1% of those were late returnees (less than two hours). Updates of the original study of escapees was conducted. A 1976 report presently being prepared will summarize all findings to date. While a comprehensive review of the results of the Massachusetts study is not feasible, several items are of interest. During these years Massachusetts has released inmates on furlough 23,202 times with an overall escape rate of 1.5% (furloughs-escapes). Over a fourth of these, however, involved inmates who returned voluntarily within twenty-four hours of their designated return time. Any inmate over two hours late is charged with escape. The escape rate has steadily declined since the initial use of furloughs in 1972-3, although the use of furloughs increased in 1974. Since 1974, however, the use of furloughs has declined. When type of institution is considered, escape rates for maximum custody institutions has steadily risen. It is also noted

*Eight Massachusetts reports are cited in the bibliography: Hall, 1974; Farrington, 1974, 1975a, 1975b; LoClair, 1975; Walton 1975a, 1975b; and Wright, 1974.

that the percentage of "late" escapees has increased to 43% of the total escape population. Lifers, first degree murderers, and second degree murderers escape less than other offenders. When the furloughed population is compared with the general population, it is noted that sex offenders are under-represented and narcotics offenders are over-represented. The furloughed population tends to have received shorter sentences, be younger, and married. However, the differences are usually less than five percentage points. Unarmed robbers, auto-thieves and inmates with prior escapes were over-represented in the escapee population while rapists and narcotics offenders were under-represented. Younger offenders and Black offenders also tended to escape more frequently than others. The majority of Massachusetts evaluations are descriptive. However, in every case, the methodology is sound and statistical analysis is appropriate. The primary statistical technique is percentaging.

To date no complete evaluation of a furlough program has been made. Most states gather rudimentary basic statistics. Those states who have looked more closely at their programs have conducted descriptive studies. These studies have surveyed varied aspects of furlough programs. Their results have been reported in running tables and percentages. The narrative is impressionistic with emphasis on participants' impressions of the program. These states are doing the best that they can with limited staffs and the absence of a sound research design.

Footnotes

¹Davis, Christopher L., et al. "Project: temporary release--New York State Correctional Facilities." Albany Law Review, Vol. 38, 1974, pp. 691-763.

²Chambers, O.R. "Temporary leaves for male felons? Oregon's experience." Oregon Department of Corrections, May 1971.

³"An evaluation of the home furlough program in Pennsylvania's correctional institutions." Temple Law Review, Vol. 47, 1974, pp. 33-46.

⁴Holt, Norman and Miller, Donald. "Explorations in inmate-family relationships." Research Report, No. 46, Jan. 1972.

CHAPTER 7. SUMMARY OF SITE VISITS

We visited a diverse sample of state and federal institutions. In all cases we found the staffs to be cooperative and helpful. Because of the excellent cooperation we received from staff, we were able to successfully complete our data gathering task at each site visited. The presence of a research team always creates some disruption of normal institutional functions. We attempted to keep disruption at a minimum, and the host agencies accepted the difficulties created by our presence in a cordial manner.

Generally, all the principal prisons in each state were visited and, in a few states, community or prerelease centers were included. However, in Illinois and in the federal system only institutions representative of each security level were identified and visited because of the large number of institutions, and in Georgia one facility with an active furlough program was visited. In addition to these prison systems, the Montgomery County, Maryland prerelease center was visited in order to include a local department of corrections.

The inmates were also cooperative. We were careful to provide informed consent with easy withdrawal. All but a mere handful of the approximately four hundred inmates interviewed readily consented to participate in our study. The same was true of community respondents. Our efforts were facilitated in every way by field services staff. Representatives of other criminal justice agencies made themselves available to us contributing valuable information.

We noted that furlough programs shared a number of common characteristics from agency to agency. Most furlough programs are interfaced with work and education release, and prerelease and community correction centers, often using work release eligibility as the primary requirement and almost always providing more extensive furlough privileges in connection with participation in such programs. There was also a high relation to security status of inmate or other criteria that would be reflected in security status, such as requirement of minimum or percentage of time served, length of time until release, nature of offense, and good conduct in the institution. While these requirements together would generally tend to agree with security status, individual requirements would sometimes restrict furloughs more than the security level, particularly in the case of long-termers or of specific offenses where the inmate could reach a lower security level and still be ineligible for furloughs.

We did note that in most states women's facilities tended to have more furloughs. There was generally only one female institution in each state to accommodate all security levels and since most of them operated more as a minimum to medium institution, furloughs were an integral part of the total program. Size and inmate-staff ratio usually related directly to security level so that smaller institutions had more furlough experience and furloughs were more integrated into the institutional and individual inmate programs.

In addition to interviewing approximately ten randomly selected inmates and a cross-section of ten staff to represent the different functions of administration, treatment, maintenance and security and various levels of supervision in each facility visited, we also interviewed in each state a selection of families or sponsors, law enforcement personnel, prosecutors and parole supervisors. In most states the central office was also visited for meetings with administrators and researchers.

Generally, higher security male institutions had fewer furloughs as well as fewer other rehabilitation programs, while women's facilities, coed institutions, and less secure institutions had more rehabilitation programs, more furloughs and a greater integration of furloughs into the treatment program. Smaller institutions within a state generally had more highly developed furlough programs, but among states institutional size did not relate to availability of furloughs. Institutional tension, disagreement about how the furlough program operates, dissatisfaction with the program, disapproval of furlough rationales, high security level, large population, overcrowding, lack of consistency and clarity of guidelines were all related negatively to frequency of furloughs.

The main differences between the various furlough programs had to do with the extent and manner of integration of furloughs into the entire program of inmate and institutional management. They were integrated either as a treatment tool, as a way of managing inmate behavior, or both. The size of an institution was significant within a state, but not among

states. Where furloughs were infrequently given they, of course, had little impact even though inmates and staff usually thought they would have an impact if used. Where used as part of a treatment plan, they did not have great impact if the plan was unspecific. Where used forthrightly as a reward for behavior with the behavior specified, they had great impact and increased usage. Much suspicion was voiced as to whether such behavior was "sincere" and whether, if not sincere, it was meaningful. Such suspicions were uncritical and not placed in the theoretical framework used to discuss other rehabilitation programs.

All of the programs visited operated under statutory authority and regulations issued by the department of corrections except for Colorado where separate regulations were issued by wardens of the state penitentiary and state reformatory under certain guidelines provided by the department. In almost every case the regulations were more restrictive than the statute, and provided details of administration. Rhode Island was unusual in designating in its statute the internal procedure for classification decisions, including the necessary vote reportedly as a reaction to operation of the Massachusetts program. The only site that presented a question of authority was The District of Columbia, where previous departmental regulations were found by legal counsel to exceed statutory authority and where delegation of authority by the U.S. Attorney General had been modified to greatly restrict the program in 1974. Except for minimum security inmates, furloughs were given on a trial, ad hoc basis for Christmas, 1975.

Variations were sometimes found among institutions in the same state or system because of the delegation of the furlough approval function or because of the internal organization of the several prisons.

The actual procedure followed in each institution was substantially the same as the stated procedure. The only significant variations had to do with covert inmate influence on the decisions of staff or correctional officers and development of preliminary screening by a counselor to avoid rejection and consequent delay in reapplication. A few inmates suggested that it was necessary to cause trouble first and then let the staff "help" you, in order to get favorable consideration; that is, it was necessary to mess up and then let the staff straighten you out.

The understanding of procedures was almost always positively related to smallness of the institution and percentage of inmates who were eligible for furloughs. It was also positively related to the integration of furloughs into the classification and management system and to the use of furloughs to reward specific inmate behavior, whether good conduct or program participation. Staff whose reports were considered in the furlough decision generally understood procedures as did individual staff who adopted a sponsoring or helping role with inmates they supervised for either security or work.

Furloughs provided in the systems visited may be placed in these categories: (1) emergency; (2) medical; (3) pre-release; (4) special activity; (5) day passes; (6) holiday; (7) home visits; and (8) complementary to work release. The order in which they are given here generally reflects a progression from the more to less restrictive furlough experience with the result that the more restrictive experiences were available for more inmates. The first five are also purposes for which escorted leave is often provided when general eligibility criteria for unescorted leave are not met or when the individual inmate is evaluated as not being safe to be allowed out on his own. In Rhode Island, short home visits of one-half day are also provided with escort. The order in which they are listed also reflects the increasing requirements for eligibility, with some maximum custody inmates granted emergency and medical furloughs without regard to amount of time served or length of time until possible parole if they are considered dependable. The procedures for these types of furloughs are usually more simple, often involving only the warden and usually only the warden and the director or commissioner of corrections.

While the categories listed varied from agency to agency inmates were usually released for all of these reasons. The wording of the furlough application is tailored to fit an existing category for which furloughs are given when the real purpose is not included in the list of purposes.

Except for the first three narrow-purpose types of furlough, there is often an expected progression in approval

of furlough for individual inmates whether formalized or not, from the more limited in duration and distance, special activity and day passes to the more liberal home visits on the assumption that they prepare an inmate for more freedom and give him an opportunity to demonstrate his responsibility without creating as great a community risk. In this way, the furlough itself is used as an evaluative and training device. Some systems even provide a gradation of hours for day passes and days for home visits, as well as the frequency with which they may be granted. It is common for work release participants to reach a point of regularly scheduled home visits in the last months before release on parole. Almost all systems provided a relatively wide open policy for granting extensive furloughs to those on work release, apparently on the logic that those inmates were carefully screened, often were housed separately and presented no danger to the security of the prison, and were already on their own most of the time anyway. In Louisiana, these assumptions carried over to other inmates for maintenance work at the same satellite facilities which housed work release participants.

Holiday visits are the same, for all intents and purposes, as home visits. However, they appear to provide more justification for furlough and appear less likely to exacerbate the fears of a sympathetic public because of familial, cultural and religious feelings and the tradition of amnesty.

Emergency furloughs or compassionate leave to visit a critically ill member of the immediate family or to attend

the funeral of such a person appears to be the oldest and most accepted kind of furlough. Many states had escorted leave for these purposes before furloughs. As a result, little attention was paid to the procedure or experience of emergency furloughs, except that in many maximum security facilities they would be the only type available. A few states restricted these furloughs to deathbed visits, and there is some variation in the listing of relationships considered within an inmate's family. Some states require minimum custody status for such furloughs, most leave it to the warden to decide whether escort is required, and some require that the department director either be notified or also approve.

The only negative comments reported were questions about the abuse of the privilege if the facts were not checked out. Rhode Island limited the number of visits to the same sick family member to one every sixty days. In Rhode Island general furlough authority rests with the seven member classification board, with the director deciding whether escort is required. The warden, under delegation by the director, grants emergency furloughs which are automatically terminated when the board meets unless extended by the board. In the federal system, the emergency furlough responds to a family crisis or emergency. The information is verified by a U.S. probation officer and the warden approves without using the usual evaluation process. In most states this is done by a counselor who makes the information available to the warden.

All states visited provided medical furloughs, which included psychological treatment and evaluations related to vocational rehabilitation services. As with emergency furloughs, this was an infrequent use and could be accomplished with escort if the prisoner did not qualify as to custody status or other eligibility criteria.

All programs included special purpose furloughs to make job and residence arrangements before release. In Louisiana, this kind of furlough was provided after the parole board had granted parole. In Rhode Island the prerelease purpose was recognized, but no additional time was given, so inmates had to choose between use of the fourteen days each six months for home visits and using them to look for jobs. Most states, however, provided additional furlough time within one or two months before a parole hearing.

In the federal system, as in most states, inmates are generally moved to a prerelease center or a minimum security facility before flat time or parole release, if they have not qualified earlier. Furloughs are often used in the federal system to effect such a transfer, saving the cost of transportation and escort. In both the federal system and the states, inmates often take furloughs to visit a halfway house or community center to become acquainted with the staff and setting, and often to decide if they wish to go there. As part of a program requirement, as part of an individual furlough plan, or sometimes on the inmate's initiative, the parole officer is contacted during home visits or prerelease

furloughs. This procedure was recommended by both institution and parole staff.

Prerelease furloughs were almost unanimously adopted as desirable by inmates, staff and community people. A few custody and law enforcement people thought they should be escorted, some custody staff did not think all furloughees actually looked for work, and a few thought that was the job of the parole officer or family. However, most interviewees felt that since the person was likely to be released soon, there was little increase in danger for the potential benefit to be gained. Parole officers reported that it saved them time and job developers said it was more effective for the inmate himself to inquire about a job and to interview for it, especially in a tight job market as in Massachusetts and Rhode Island. There was, surprisingly, considerable doubt expressed as to whether furloughs increased the prospect of parole success, based most often on the differences in duration and circumstances.

About half of the states provided for unescorted trips by individuals or groups of inmates to participate in civic, community or athletic activities, and several anticipated the inmates' volunteering at times of emergency. The most common civic activity described was drug abuse or crime prevention programs; other activities for the benefit of the inmate were included in some states to encourage participation in Alcoholics Anonymous. In Massachusetts this kind of activity did not come out of the total fourteen days per year

furlough time, so inmates were found to carefully schedule their activities to provide the greatest time away from prison with the least possible use of the limited furlough time.

Many special activities could also be carried out with escort, particularly those involving groups, so the difference for the inmate would not always be great. Obviously, however, furloughs would provide a greater variety of activities. Community volunteers often were allowed to escort inmates to special activities, such as church meetings.

Most prison facilities were found to have day passes for short visits with family members, shopping trips or just free time. Often they were not thought of as furloughs. These seemed to be more common with the women's institutions, but were also used in metropolitan areas such as Massachusetts and Rhode Island. In many states they were used in a carefully graduated system to work up to overnight visits, and in Montgomery County, Maryland, they were matched to specific program achievement week by week. There is certainly a possibility that short daytime leaves might become rather commonplace.

Permitting inmates to go home for specific holidays of the dominant religious groups is the same as furloughs to visit families, but it takes advantage of public sentiment, narrows the risk time and provides more control for correctional staff. It also has a greater impact on the institution as far as decreasing costs and staffing requirements.

Louisiana, Alabama, Georgia, and The District of Columbia emphasize holiday furloughs as far as the general inmate

population goes with work release participants having more access to family visits at other times. Colorado State Reformatory includes holidays as a special purpose furlough approved according to guidelines issued for a single holiday that does not count against earned furlough time.

The administrative procedure varies in some respects from agency to agency for holiday furloughs. In Louisiana, all inmates are processed without initiating a request or providing any information. An approved list is posted, then inmates are asked to name sponsors. In Georgia, in The District of Columbia, and evidently in Colorado, an announcement is made inviting applications, which are then processed. However, in The District of Columbia there is evidently some kind of eligibility list generated by the department or superintendent since the maximum security administrator remarked that occasionally they are sent the name of someone eligible for furlough, at least on initial screening. In most agencies the inmate must apply before eligibility can be determined beyond meeting basic program criteria.

Louisiana has Easter and Christmas furloughs; Georgia adds Thanksgiving and a summer date; Alabama emphasized Christmas furloughs in its statute but other states probably observe this holiday as much because of the preference of inmates to be home at that time if they qualify at all. In the District of Columbia New Year was seen as a particular test because of the likelihood of drinking.

All the states visited provided for certain inmates to be released without escort to visit their families. More

restrict such visits to within the boundaries of the state and some restrict home visits to sponsors who live within the state. The Rhode Island furlough board recognized this problem in approving a sponsor establishing residence at a local motel for the purpose of receiving a furlough visit. In Colorado, the penitentiary regulations exclude visits unless the family lives in the state but the reformatory regulations provide for individual evaluation of out-of-state cases. Arizona provided "sponsored" furloughs for visits with others than family. There were some problems about common-law marriages. In Rhode Island the classification committee had to go beyond the affidavit usually accepted where two inmates claimed the same mentally retarded person as a spouse.

All states restrict the visits to the designated area and some indicate the tolerance for deviation rather closely. Most states notify local officials in one way or another. In Iowa the inmate himself checks in with the police and telephones them twice a day at specified times. Colorado, Illinois, Louisiana, Massachusetts, Oregon, Pennsylvania and Rhode Island routinely notify local police after approval of a furlough. Illinois also notifies the prosecuting attorney and provides for a hearing if he were to object. None have done so. Pennsylvania notifies the sentencing judge who may object and thereby deny a furlough unless a special hearing is held by the parole board. Other states contact police through general field checks of the place to be

visited. The furlough investigation before general approval by North Carolina includes contact with the police. The field check by the local parole officer probably serves this function for the federal system. Louisiana gives the sheriff or local police objection the effect of disapproval for furlough to that area, and administrative reaction to objections in other states may have much the same effect.

Colorado, Louisiana, Oregon, and Rhode Island require the sponsor to accept responsibility for custody of the inmate until returned to the institution. Generally the sponsor signs a custody agreement (during application process in Rhode Island, otherwise at departure). However, it is not clear that this applies to all leaves, such as day passes.

Several states provided contraceptive pills for women prisoners, specifically because of pending furloughs. In Louisiana, participation in the holiday furlough seemed to be conditioned on taking the pill; most agencies offered it, but it was not required. No problem was reported because of pregnancy of inmates resulting from furloughs.

A few interviewees guessed that an unhappy home situation could be a problem and much of the field checks were expected to avoid such a problem. However, no report was given of specific circumstances where such a problem was created. The single case available illustrating such a denial resulted from excessive drunkenness of the sponsor on the parole officer's visit.

Criteria for eligibility were generally considered the first step in screening inmates for furlough, after which certain judgments were made by individual staff, treatment teams, classification boards and a series of administrators. Additional procedures were often required for certain categories of persons described usually by offense but sometimes by some classification status which had been assigned. In the federal system the special offender status which includes persons associated with organized crime, persons with detainers, state prisoners and those whose offenses were notorious, requires central office approval. Usually any additional procedures required review at a higher level.

Generally, initial criteria for eligibility included a percentage of sentence served, actual time served (sometimes different for different offenses), parole eligibility or a prescribed period of time until possible parole or a flat time release, eligibility for work release or prerelease status, minimum time in present facility for orientation, minimum time in required security status, previous limited furlough experience, availability of unused furlough time or length of time since disciplinary report or escape.

Factors considered by a classification board or individual case manager included favorable reports on attitudes or performance from housing, work, program or security staff; absence of unfavorable reports of institutional disciplinary action; involvement in programs; change of attitudes or behavior; possible benefit from furlough; urgency of need for

furlough; length of time until release; previous furlough experience; attitude of inmate when previously denied furlough; associations of inmate with other prisoners; cooperation of inmate with staff or guards; whether inmate has a drug or alcohol addiction problem; whether inmate has been suspected of dealing in drugs; whether sponsor or other associations on furlough might get the inmate into trouble; whether the inmate is likely to observe furlough rules and return; inmate's emotional stability; frequency of visits by sponsor at prison; favorable or unfavorable report from field investigation; objections of law enforcement, court officials, victims, family or other persons in the community; whether inmate has adequate financial resources; seriousness of offense for which imprisoned; aggravated nature of offense; pattern of violent behavior in or out of prison; notoriety of offense; threats to victim, witnesses, family or officials; seriousness of detainers; information from pre-sentence investigation for probation; denial or approval of parole; stability in work or program performance; indications of acceptance of personal responsibility; involvement in community service; and sudden and suspect improvement in attitude, and performance in program participation.

The way in which these factors come to be considered depend on classification and record keeping techniques. Some systems require reports from staff who supervise specific parts of the inmate's activities. Other systems evaluate on the absence of negative reports. Yet other

systems depend on the knowledge of the members of the classification board. In the last two cases, the membership of the board is critical for the inmate because his success depends on how the individual members get and evaluate information. In treatment oriented systems, team members usually make the decision and recommendation, and are primarily concerned with inmate participation in treatment programs. This is usually the case in smaller institutions with a high staff-inmate ratio where many custody functions are carried out by team members. In large, custody oriented facilities, high level security staff often dominate the classification process and use information informally transmitted from the officers they supervise. In such an institution, if the classification function is carried out with minimal security staff participation, only formal disciplinary reports are likely to be considered, and security staff and inmates are likely to complain that important information from security staff is not utilized. It is in this situation that personal favorites receive an advantage because it takes an initiative on the part of a staff member to get favorable or unfavorable information considered.

On the whole there is considerable similarity in furlough programs from agency to agency. The variations are fewer than the common points with the difference frequently being minor except for the range of purposes for which a furlough can be conferred.

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CHAPTER 8. STATE FURLOUGH PROGRAMS

One task completed by this effort was the collection of data from all fifty states for the following criteria: (1) types of furloughs or purposes for which furloughs could be used; (2) entrance criteria and restrictions, and (3) program data for 1974 (from states which had existing furlough programs).

Requests were sent to all fifty states for all information concerning existing prison furlough programs. Most states sent copies of statutes, statements of procedure, and what collateral materials they had. After summarizing the state reports and tabulating the data we found that much information was not readily available. In order to secure information from non-responding states and to obtain missing information from cooperating states a series of phone calls were made to each state. All states provided data with most states devoting scarce manpower to the development of the information we requested.

Project staff members felt, however, that a few state prison officials gave inadequate and/or inaccurate information in response to requests made by phone. When contacted, it was obvious from the time spent answering questions that they were not taking time to look up adequate or accurate information. In addition, when contacted again by different project staff member, conflicting responses were received. As a result, repeat follow-up phone calls were made to all states requesting the information so that we could assess

the reliability of the information provided. On several occasions different information was provided by the same respondent.

Special thanks are due those states whose cooperation and diligent efforts enabled the project staff to achieve as nearly as possible the project goals. It should be pointed out that the information contained in the following illustrations can only be as accurate and complete as the information received from the respective states. The fact that much of the information was not readily available and was developed for our purpose makes much of the information unreliable.

The information received is broken down into the three following illustrations. Illustration 1, page 91, graphically displays the types of furloughs available and the purposes for which furloughs can be granted. Illustration 2, page 98, contains eligibility criteria and restrictions for the furlough programs. Illustration 3, page 103, represents program data for the year 1974. In some instances 1974 data was not available. In these cases data from a twelve month period for which information was available were used. An asterisk will be used to denote estimated numbers where factual data was unavailable to the state prison officials. An asterisk is used only in those cases where respondents actually stated that their figures were estimates.

Eight states do not have prison furlough programs as per our definition. The state of Hawaii does not permit furloughs from its prison. However, furloughs are granted

Illustration 1. Types of Furloughs Granted by Program

State or federal agency		Date initiated	Emergency	Home visits	Job interviews	Public or civic interviews	Meritorious leave	Pre-release planning	Holiday	Religious	Leave pending parole	Extended furlough	Special training or school	Medical	Any purpose consistent with public interest
Federal Prison System		1965	x	x	x	x		x		x		x	x	x	x
Alabama		1972	x	x	x	x		x		x		x			
Alaska		1960	x	x	x	x		x					x	x	x
Arizona		1974	x	x	x			x	x	x	x		x	x	x
Arkansas		1968	x	x	x		x							x	
California		1969	x	x	x	x		x			x			x	x
Colorado	CSP	1975	x	x	x			x		x		x	x	x	x
	REF	1971	x	x	x	x	x	x	x	x	x	x	x	x	x
Connecticut		1969	x	x	x			x	x	x	x	x	x	x	x
Delaware		1969	x	x	x			x				x			
Florida		1971	x	x	x	x	x	x		x	x	x		x	x
Georgia		1972	x	x	x			x	x	x	x				x
Hawaii		1968	ALL FURLOUGHS GRANTED FROM MED. SEC. CENTER, COMMUNITY CEN., CONDI. RELEASE CEN.												
			x	x	x	x	x	x	x	x	x	x	x	x	x
Idaho		1974	x	x	x			x	x	x	x				x
Illinois		1972	x	x	x	x		x			x	x		x	
Indiana		1973	x	x	x	x		x		x	x			x	x
Iowa		1969	x	x				x			x		x	x	
Kansas		1973	x	x			x	x	x			x		x	
Kentucky		1974	x	x	x	x		x	x	x	x				x
Louisiana		1968	x	x	x			x	x				x	x	x
Maine		1969	x	x	x	x	x	x		x	x	x	x	x	x
Maryland		1967				x	x	x	x	x	x	x	x		x

Illustration 1 . Continued

State or federal agency	Date initiated	Emergency	Home visits	Job interviews	Public or civic interviews	Meritorious leave	Pre-release planning	Holiday	Religious	Leave pending parole	Extended furlough	Special training or school	Medical	Any purpose consistent with public interest
Massachusetts	1972	x	x	x	x		x				x		x	x
Michigan	1974	x	x	x			x			x	x	x	x	
Minnesota	1972	x	x	x	x		x	x			x		x	
Mississippi	1918	x	x	x			x	x			x		x	
Missouri	1972	x	x	x	x		x	x	x	x			x	x
Montana	NO	NO FURLOUGH PROGRAM--RESIDENTS OF HALFWAY HOUSES MAY RECEIVE FURLOUGHS												
Nebraska	1967	x	x	x	x		x	x	x	x	x		x	
Nevada	1975	x		x			x			x				
New Hampshire	1975	THIS PROGRAM AVAILABLE ONLY TO INMATES IN HALFWAY HOUSES												
		x	x	x		x	x	x				x	x	
New Jersey	1971	x	x	x	x		x			x	x		x	x
New Mexico	1969	x	x	x			x		x			x	x	
New York	1972	x	x	x		x	x	x	x	x	x	x	x	x
North Carolina	1971	x	x	x	x		x		x	x	x	x	x	
											Board of Parole approves these 3			
North Dakota	1970	x	x	x			x			x				x
Ohio	1975	x	x	x	x	x	x	x		x		x		x
Oklahoma					THIS IS A LEAVE OF ABSENCE PROGRAM									
Oregon	1967	x	x	x	x		x		x	x	x	x	x	x
Pennsylvania	1970	x	x	x	x		x	x	x		x	x	x	x
Rhode Island	1975	x	x	x			x	x		x	x		x	
South Carolina	1967	x	x	x	x	x	x	x	x	x	x	x	x	x
South Dakota		NO FURLOUGH PROGRAM CLAIMED												
Tennessee	1972	x	x	x	x	x	x	x		x	x			
Texas	1955	x			THIS IS AN EMERGENCY LEAVE PROGRAM									
Utah	1966	x	x	x	x		x	x	x	x	x	x	x	x

Table 1. Continued

State or federal agency	Date initiated	Emergency	Home visits	Job interviews	Public or civic interviews	Meritorious leave	Pre-release planning	Holiday	Religious	Leave pending parole	Extended furlough	Special training or school	Medical	Any purpose consistent with public interest
Vermont	1969	x	x	x	x	x	x	x	x	x	x	x	x	x
Virginia	1973	x	x	x	x		x							x
Washington	1969	x	x	x	x	x	x	x	x	x	x	x	x	x
West Virginia	1972		THIS STATE ONLY HAS FURLOUGHS FROM WORK RELEASE CENTERS											
		x	x	x	x	x	x	x	x	x	x	x	x	x
Wisconsin			NO FURLOUGH PROGRAM											
Wyoming	1975	x	x	x	x	x	x	x	x		x	x	x	
D.C.	1970		x	x			x	x			x	x		x

from the Medium Security Center, Community Centers, and the Conditional Release Center.

The state of Montana does not grant unescorted leaves from prison under any circumstances; however, furloughs from halfway houses are permitted. Several states make furloughs available only to residents in halfway houses. The states of South Dakota and Wisconsin do not claim to have a prison furlough program although enabling legislation exists. Not even the work release and study release inmates receive furloughs. Inmates may receive emergency leaves, but they are escorted. The state of Texas has a reprieve program. It consists of emergency and medical reprieves only. The state of Wyoming does not permit unescorted leaves from prison, but they allow supervised emergency leave. However, furloughs are permitted for inmates who participate in the work release program.

The state of Oklahoma defines its program as a leave of absence program. The governor is the final decision maker, and he can grant leaves of absence with or without the recommendations of the Pardon and Parole Board. He can grant a leave of absence up to sixty days, and it can be renewed. While on a leave of absence, the inmate does not receive credit on his sentence for the days he is absent.

According to Markley² who has conducted considerable research in the area of prison furloughs, Mississippi began the first furlough program in 1918. As recent as 1975, four states have initiated some type of furlough program. In general, furlough programs are a product of the last decade. One discrepancy was found between the research Markley had conducted and

information received from the state of Alaska. Markley states that furlough legislation was passed in Alaska in 1970. Information gathered from the states shows that in 1960, family visitation was being approved by the superintendent without specific legislative authority. It is felt that other states may have been allowing furloughs by administration policy prior to legislative enactment. Several states have also had statutory provisions for some time before they initiated a furlough program.

Most states permit furloughs to be used for the following purposes: emergency, home visits, job interviews, pre-planning release, leave pending parole and medical. The majority of the states have a legislative statute which states "furloughs may be granted for any purpose consistent with the public interest or rehabilitation." A minority of the states permit furloughs for these reasons: public or civic interviews, meritorious leave, holiday, religious, extended furlough, and special training school.

A few qualifications need to be made concerning Illustration 1. Some states permit inmates to make public or civic interview appearances, but the inmates are escorted by a staff member or sponsor. In cases such as this, the state did not meet our definition of a furlough and were not counted as having public or civic interviews.

Most of the states do not have meritorious leave. However, they do have meritorious good time and consider institutional good behavior before granting furloughs. Inmates receive meritorious good time for good behavior within the institutions.

Although states which have holiday furloughs are in the minority, it does not mean that the states feel that the holidays do not hold special meaning for the inmates. Most of the states do not limit their furlough program specifically to the holidays. Inmates may plan to take their furloughs on holidays even though the states may not have holiday furloughs per se.

States that have leave pending parole are in the majority. However, some states have leave pending end of sentence, so that there will be no interference with the authority of the parole board. Alabama is one such state which has leave pending end of sentence, whereby inmates may be released for up to ninety days before their discharge.

While a minority of the states actually extend furloughs, extending furloughs for short periods of less than twenty-four hours is a regular occurrence in many states. In other states extended furloughs are only permitted under certain circumstances and after rigorous verification or extraordinary happenings.

States which permit furloughs for the purpose of receiving special training or schooling are in the minority, but many states do have a study release program. Study release is not included in our definition of a furlough. However, quite a few states permit furloughs for receiving special training. One such state is Oregon. Inmates there can be furloughed up to thirty days in order to receive special training. This type of furlough can be renewed in Oregon.

The majority of the states have medical furloughs. Several states required that a staff member or correctional officer stay at the hospital with the inmate thus are not included in our definition of a furlough.

Prison furlough entrance criteria and restrictions cannot easily be grouped into very many generalities because each state varies from the other states in restrictions as can be seen from Illustration 2. It can be generally stated that the majority of the states do not allow an inmate to receive a furlough if he has a detainer. Some states consider detainers on an individual basis. These programs are coded as "varies" on the illustration. Inmates who have detainers may receive escorted furloughs for emergency or medical purposes. However, this does not fit our definition of furlough.

Most of the states require that a portion of the inmate's sentence be served before he is eligible to receive furloughs. This requirement varies widely according to the states and the type of offender.

Some states require that the offender must have served a certain portion of the sentence before he is eligible to receive furloughs. This requirement also varies according to the states. A majority of the states do not have a parole eligibility requirement that must be met before an inmate is eligible to receive a furlough. We have found, however, that an informal parole eligibility standard is applied in many states.

In all fifty states institutional good behavior is considered before an inmate receives a furlough. In many

Illustration 2. Furlough Program Entrance Criteria and Restrictions

State or federal agency	Detainers prevent furlough participation	Portion of sentence previously served	Portion of sentence remaining to be served	Parole eligibility	Institutional good behavior	Offenses which exclude participation	Custody grade requirement
Federal Prison System	yes	no requirement	no requirement	no requirement	yes	none	min.
Alabama	yes	min. custody six mo.	no requirement	no requirement	yes	drug peddling, child molestation, rape	min.
Alaska	yes	no requirement	within 6 mo. of parole or release date	no requirement	yes	none	min.
Arizona	no	180 days in particular facility	within 6 mo. parole or heard by board or without fixed max. sentence	no requirement	yes	a "lifer" who has fixed min. sentence	none
Arkansas	no	no requirement	no requirement	no requirement	yes	sexual	min./med.
California	yes	no requirement	no requirement	yes	yes	sexual, capital, mental cases, ward of youth authority	min.
Colorado	CSP yes	4 mo. for indeter. sent.	2 yr. or less from parole board	no requirement	yes 3-6 mo.	none	med.
	REF' Varies	no requirement	no requirement	yes, must be eligible within 2 yr.	no	none	min. (4th step)
Connecticut	No	1/2	no requirement	none except for sexual off.	yes	none	none
Delaware	Yes	lifer must serve 5 yr.	no requirement	no requirement	yes	none	min./med.
Florida	varies	5 yr. or 1/3 sentence	no requirement	no requirement	yes	varies	min.
Georgia	no	1/4	no requirement	no requirement	yes	violence against officer, guard, law enforc. officer, 2 or more preceding conv. vio., sex offender	trustee

Illustration 2. Continued

State or federal agency	Detainers prevent furlough participation	Portion of sentence previously served	Portion of sentence remaining to be served	Parole eligibility	Institutional good behavior	Offenses which exclude participation	Custody grade requirement
Hawaii	varies	CONDITIONAL no requirement	RELEASE CENTERS, MED not more than 12 mo.	within 14 mo. of parole	yes	none	med./min.
Idaho	varies	no requirement	within 90 days of parole	yes	yes	varies	max./min. med.
Illinois	varies	no requirement	within 60 days release, home visit or 30 days parole plan	no requirement	yes	organized crime, murder, class I felonies	min.
Indiana	varies	1/3	60 days	6 mo. of parole	yes	varies	min.
Iowa	yes	no requirement	no requirement	no requirement	30 days	life sentence offenders	min.
Kansas	yes	2 yr.	no requirement	no requirement	yes	none	min.
Kentucky	yes	no requirement	within 3 mo. of	yes	yes	armed robbery, rape, assault, escape	min.
Louisiana	yes	1 yr.	no requirement	no requirement	yes	sexual, drug, armed robbery, aggravated assault, burglary	min.
Maine	yes	1/3 or 4 mo.	no requirement	no requirement	yes	escape, bail jump, vio. per assault	none
Maryland	yes	no requirement	varies	within 10 mo. of parole hear.	yes	varies	min.
Massachusetts	no	1st, life-5 yr. 2nd, life-3 yr. rest-- 20% of time served	no requirement	no requirement	yes	sexually dangerous persons	none
Michigan	varies	1 year	within 6 mo. of completing min. sentence	6 mo.	yes	crimes of vio., sexual, mentally disturbed	min./med.
Minnesota	yes	no requirement	one yr.	must be eligible at next hearing	yes	varies	reduced

Illustration 2. Continued

State or federal agency	Detainers prevent furlough participation	Portion of sentence previously served	Portion of sentence remaining to be served	Parole eligibility	Institutional good behavior	Offenses which exclude participation	Custody grade requirement
Mississippi	varies	varies	varies	no requirement	yes	varies	min./med.
Missouri	varies	no requirement	varies	no requirement	yes	capital & varies	min./med.
Montana		NO FURLOUGH	PROGRAM				
Nebraska	yes	1/3	no requirement	no requirement	yes	none	min.
Nevada	yes	no requirement	6 mo.	yes	yes	psychiatric	min. "A" custody
New Hampshire	no	none	90 days of release date	yes	yes	none	halfway house status
New Jersey	yes	5 yr.	no requirement	within 6 mo.	yes/ 2 mo.	offense against persons	min.
New Mexico	yes	within 6 mo. parole board	no requirement	no requirement	yes	sexual	min.
New York	varies	30 mo.	10 mo.	within 1 yr.	yes	narcotics, sexual, escape	min.
North Carolina	yes	must reach level 4	no requirement	no requirement	yes	none	min.
North Dakota	yes	no requirement	60 days	yes	yes	none	min., work or study release
Ohio	yes	6 mo.	no requirement	no requirement	yes	alcohol	min. (2 years)
Oklahoma	varies	no requirement	no requirement	no requirement	yes	gen. sexual but no written policy	trustee & med.
Oregon	varies	no requirement	no requirement	no requirement	yes	none	none
Pennsylvania	yes	1/2 min. or 9 mo.	no requirement	no requirement	yes	life sentence	none
Rhode Island	yes	1/6 min. "lifer"-10 yr.	no requirement	no requirement	yes 6 mo.	sexual involving minors	none

Illustration 2. Continued

State or federal agency	Detainers prevent furlough participation	Portion of sentence previously served	Portion of sentence remaining to be served	Parole eligibility	Institutional good behavior	Offenses which exclude participation	Custody grade requirement
South Carolina	varies	long enough to obtain "AA" custody	90 days	3 months	yes	none	"AA" custody
South Dakota		NO REPORTED FURLOUGH PROGRAM					
Tennessee	yes	no requirement	180 days	no requirement	yes	varies	med./min.
Texas	yes	no requirement	no requirement	no requirement	yes	none	Class 1
Utah	yes	long enough to earn "C" custody	no requirement	no requirement	yes	varies	min. "C" or "D" custody
Vermont	varies	no requirement	no requirement	no requirement	no req.	no requirement	none
Virginia	yes	1/4	6 mo.	1 year	yes	no requirement	min.
Washington	yes	min. 6 mo.	6 mo.	no requirement	yes	none	min.
West Virginia	no	1 yr. or have already seen parole board	3-6 mo.	no requirement	yes	none	work release status
Wisconsin		NO FURLOUGH PROGRAM					
Wyoming	yes	6 weeks in work release program	no requirement	no requirement	yes	1st degree murder, arson, rape	min.
Washington, D.C.	yes	80% of min. or work release	6 mo.	yes	yes	none	min.

instances an inmate must not receive a disciplinary report within a certain time period. Offenses which exclude furlough participation varies widely from state to state. The offenses range from "life" status to alcoholics. Only a few states fail to automatically exclude specific types of offenders from furlough eligibility.

Approximately two-thirds of the states require that an inmate be classified as having minimum or medium security custody status before he is allowed a furlough. Only a few states permit maximum security inmates to receive furloughs.

Most of the states do not have a return tolerance for the inmate returning from a furlough. Of the states that have a return tolerance the time limit is under six hours. Prison officials on duty have discretion as far as the return tolerance is concerned; very few states express concern if they receive a phone call from the inmate saying he will be late. However, some states will penalize the late returning inmate by making him ineligible for furloughs for a certain period of time or by deducting his late time from his next furlough.

When it comes to community notification of the pending furloughs, the majority of the states contact some agency or authority whether it is the probation and parole office, the sheriff, the judge, the district attorney, attorney general, the state or the local police. Some states contact only one of these agencies, others contact a mixture of these agencies. One state (Georgia) puts notification of pending furloughs in the news media.

Illustration 3. Furlough Program Data for 1974

State or federal agency	Number of furloughs granted	Number of furlougees	Number of escapes	Number of arrests	Number of rule violations	Return tolerance	Community notification of pending furloughs	Maximum number of furloughs allowed furlougees per year
Federal Prison System	24,612	ESTIMATES AND PROJECTIONS BASED ON NUMBERS FROM AUG. 11, 1974-OCT. 31, 1974 n. avail.	*128	*40	n. avail.	2 hr.	U.S. Probation Office	Varies
Alabama	*2,675	n. avail.	*14	n. avail.	*21	none	none	4
Alaska	734	FROM 11 MONTHS OF 1974 426	19	11	87	none	Parole officer	2
Arizona	207	DEC. 1974--DEC. 1975 n. avail.	3	n. avail.	n. avail.	none	Parole officer	2
Arkansas	*200	*125	*5	*4	*2	none	Sheriff, Parole Officer	2
California	1,069	STATISTICS REPRESENT n. avail.	15	3	n. avail.	none	Parole officer	varies
Colorado	CSP 1,002 REF. 4,686 man days 1,562*	FEB. 1975--JAN. 1976 900 n. avail.	13 42*	5 2	212 n. avail.	2 hr. 36 hr.	Sheriff and police Local law enforcement and court	varies 4
Connecticut	5,640	n. avail.	4	10	17	none	Police	12
Delaware	167	n. avail.	0	0	6	none	none	varies
Florida	50,734	n. avail.	44	n. avail.	n. avail.	varies	none unless requested	varies
Georgia	n. avail.	2,625	12	n. avail.	n. avail.	4 hr.	news media	4
Hawaii	n. avail.	n. avail.	n. avail.	n. avail.	n. avail.	30 min.	police on extended furlough	varies
Idaho	82	18	2	n. avail.	0	none	Sheriff, parole off.	no limit
Illinois	4,690	n. avail.	21	5	n. avail.	none	State police, attorney in sentencing court	no limit
Indiana	*130	*110	*1	*1	n. avail.	2 hr.	Law enforce. agency and prosecutor	4
Iowa	JUNE 1973-JUNE 1974 3,561	n. avail.	53	n. avail.	n. avail.	2 hr.	Law enforcement	no limit

*Estimated number provided by agency

n. avail. = not available

Illustration 3. Continued

State or federal agency	Number of furloughs granted	Number of furloughees	Number of escapes	Number of arrests	Number of rule violations	Return tolerance	Community notification of pending furloughs	Maximum number of furloughs allowed furloughees per year
Kansas	265	143	1	0	2	2 hr.	State law enforcement agencies and parole office	6 days
Kentucky	288	231	1	n. avail.	9	none	Sheriff, police D.A., parole officer	6 days
Louisiana	1,080	CHRISTMAS AND EASTER FURLOUGHES ONLY			n. avail.	none	Sometimes D.A., sheriff, police	2
Maine	1,576	691	3	3	60	none	Sheriff	varies
Maryland	2,919	n. avail.	157	n. avail.	121	none	none	6
Massachusetts	8,324	1,670	127	n. avail.	n. avail.	2 hr.	State, police	14 days
Michigan	5,282	n. avail.	n. avail.	n. avail.	n. avail.	none	Law enforce. agency parole officer	12
Minnesota	153	107	3	n. avail.	n. avail.	none	Law enforce. agency parole officer	6
Mississippi	400	n. avail.	38	n. avail.	n. avail.	varies	D.A., judge, sheriff	varies
Missouri	934	*300	n. avail.	n. avail.	21	none	Cir. judge, D.A. sheriff	30 days
Montana	NO FURLOUGH PROGRAM							
Nebraska	3,141	n. avail.	1	0	6	1 hr.	Local law enforce.	4
Nevada	n. avail.	n. avail.	n. avail.	n. avail.	n. avail.	1 hr.	Sheriff or police, parole officer	varies
New Hampshire	n. avail.	n. avail.	n. avail.	n. avail.	n. avail.	1 hr.	none	7 days
New Jersey	10,292	n. avail.	83	9	452	1 hr.	Police, parole officer	12 (Com. center-24)
New Mexico	229	n. avail.	1	n. avail.	n. avail.	1 hr.	Parole/prob. officer	limit
New York	16,401	4,628	157	53	315	none	Parole officer	1
North Carolina	*54,264	*16,984	*48	*32	*72	none	Parole officer, police	varies
North Dakota	130	90	1	0	n. avail.	varies	Law enforcement and parole officer	varies
Ohio	n. avail.	n. avail.	n. avail.	n. avail.	n. avail.	varies	Sheriff	14 days

*Estimated number provided by agency

n. avail. = not available

Illustration 3. Continued

State or federal agency	Number of furloughs granted	Number of furloughees	Number of escapes	Number of arrests	Number of rule violations	Return tolerance	Notification of pending furloughs	Maximum number of furloughs allowed furloughees per year
Oklahoma	3	3	0	0	0	none	Sheriff, police	no limit
Oregon	*2,900	n. avail.	*35	n. avail.	*14	15-30 min.	None cñ some. State police notify local police of those who have committed crime against person	no limit
Pennsylvania	DEC. 1970--MAY 1976 *4,545	*1,455	55	1	n. avail.	varies	State police, local law enforcement	no limit
Rhode Island	1,049	249	4	3	35	none	State police, Attorney General	28 days
South Carolina	847	533	1	3	15	varies	Law enforcement agencies	3
South Dakota	NO FURLOUGH PROGRAM REPORTED							
Tennessee	DOES NOT INCLUDE INFORMATION FROM WOMEN'S DIVISION 1,273	n. avail.	47	2	2	4-6 hr.	Law enforcement and parole office	2-3
Texas	729	r. avail.	n. avail.	n. avail.	4	varies	Sheriff	no limit
Utah	*600	*200	*4	n. avail.	n. avail.	30 min.	Law enforcement agency, parole officer	4
Vermont	16,342	506	31	10	103	varies	varies (gen. none)	varies
Virginia	4,156	n. avail.	42	n. avail.	n. avail.	none	Law enforcement, parole officer	2-3
Washington	*3,000	n. avail.	*18	n. avail.	n. avail.	none	Law enforcement, parole officer	60 days
W. Virginia	n. avail.	n. avail.	n. avail.	n. avail.	n. avail.	6 hr.	none	1 every weekend
Wisconsin	NO FURLOUGH PROGRAM							
Wyoming	*3,600	72	2	1	4	10 hr.	Sheriff	no limit
Washington, D.C.	36,763	767	71	19	299	2 hr.	Police	none
TOTAL U.S.	284,798	32,797	1,313					

*Estimated numbers provided by agency

n. avail. = not available

Most states have a set limit on the maximum number of furloughs that are allowed furlonghees per year. The limit varies from state to state and type of releasing facility. Some states set their requirement on the number of furloughs disregarding the number of days, and some states set a limit based on the number of days that an inmate may have for the purpose of furloughs.

An attempt was made to collect uniform basic statistics from each state. The year 1974 was selected to collect a uniform set of statistics. Where 1974 statistics were not available, other years were used as data bases. In each case the figures reference twelve months of program operation. In gathering program data from the states, either figures for the twelve actual months of 1974 were collected or figures for fiscal year 1974 were gathered. When 1974 program data was not available, 1973 or 1975 data were used.

Program data for 1974 consists of five sets of statistics which include the following: number of furloughs granted; number of furlonghees; number of escapes which occurred while on furlough; number of arrests; and the number of furlough rule violators. We felt that these figures, if available, would best reflect the basic characteristics of nationwide furlough program operation. Unfortunately, not all the states have available the five statistics desired. Estimates were taken at times when the data was not available.

The statistics for the number of furloughs granted are tainted because escorted furloughs are included in the totals for some states. According to some states a furlough is a furlough regardless of whether or not the furlough is escorted or unescorted. Some states make a differentiation between escorted and unescorted furloughs, but we were unable to systematically determine specific procedures for each state.

Only a few states keep an adequate and accurate account of statistics concerning their furlough program. Arizona, Massachusetts, and Rhode Island keep the most accurate statistics today. While Arizona and Rhode Island have new programs, Massachusetts has collected consistent data for several years. In many cases the only firm figure was the total number of furloughs granted per year. Other figures were estimated or computed for our benefit. While the data is not accurate, we can make some rough estimates of use. It appears that approximately 285,000 furloughs are granted each year with approximately 1,313 escapes. Thus, less than one-half of one percent of the furloughs granted produce an escape.

Footnote

¹Markley, Carson, W. "Furlough programs and conjugal visiting in adult correctional institutions," Federal Probation, Vol. 40, 1973, pp. 19-26.

CHAPTER 9. THE LEGISLATIVE PERSPECTIVE

If one wishes to measure public acceptance of prison furlough programs, and to evaluate the probable direction of future changes in furlough programs, the attitudes of federal and state legislators can be regarded as a fairly accurate barometer.

This unit comprised interviews with seven key members of the Congress or their staffs and ten key members of the Alabama Legislature. In the U.S. Senate, staff members of relevant subcommittees were interviewed, since the large number of committee assignments generally precludes a Senator's being familiar with details of specific programs. In the U.S. House of Representatives, members of the judiciary Committee were interviewed as well as a member who has sponsored liberal prison furlough legislation. Staff members of the Judiciary Committee were also interviewed. A total of three Congressmen and four committee staff were interviewed, two committee staff in the Senate and two in the House. In the Alabama Legislature, both the leadership of the two houses and the leadership of relevant committees were interviewed.

Although seventeen persons may seem to be a very small sample of legislators and staffs, it may be noted that the ten members of the Alabama Legislature included the presiding officers and key committee chairmen of both houses, and there was a remarkable consistency in responses between the Congress and the Alabama Legislature.

A majority of the seventeen legislators and committee staff had knowledge of prison furlough programs, with only

four claiming no knowledge. Almost half had had personal contact with furloughed inmates.

The more knowledge a given legislator had of the prison furlough system, the more sophisticated and complex became the responses to questions. Conversely, the less knowledge a given legislator had, the more simplistic and ideological the response. Thus, experienced legislators and staff considered inmates to have mixed attitudes or negative attitudes toward furlough programs. Inexperienced legislators tended to assume that all inmates would respond positively to the possibility of a temporary respite from prison routine. Similarly, legislators with highly urban constituencies tended to be more knowledgeable about prison furloughs and to perceive mixed or negative attitudes toward furloughs among inmates.

Legislators generally support prison furlough programs, particularly if good screening and administration are utilized. Most legislators and staff have institutional management and/or public reaction in mind, and most are not yet ready to be sensitive to inmate needs and perceptions when questions of security or public outrage may be at risk. Yet, on the whole, most legislators and staff seemed more understanding, perceptive, and sensitive than might be expected.

Every respondent approved the use of furlough to allow an inmate to get a job or find a place to live a few months prior to release. Only two wanted any conditions placed on the use of the furlough for this purpose. The replies to this question may be best understood as reflecting a perception

of close relationship between a good job and living environment on the one hand and success on parole of the other.

Legislators appear clearly ready to want inmates to be able to find an appropriate job and place to live, being willing to expand the use of furloughs for this purpose.

The next most approved usage of the prison furlough were for special problems like illness or death in the family and for visits to spouses and children. An equally large majority, all but four, approved these usages without conditions. It seems fairly clear that the use of the furlough for illness or death in the family had widespread acceptance, only a small minority even expressing concern about management aspects. This particular use of the furlough could probably be gradually extended to all non-violent inmates with relatively little risk.

A surprisingly large majority also favored the use of the furlough for conjugal and family visits. A number specifically recommend its wider use. It has the same margin of support as the furlough use for illness or death in the family. Apparently, legislators are becoming so keenly aware of institutional sexual problems like homosexuality and their relationship to riots and violence that they are more prepared to approve home visits than correctional leaders apparently realize (or perhaps correctional leaders realize the public approval but are concerned about screening and management problems). In any case, a shift in public opinion may be underway in this particular area, perhaps

intensified by newspaper and magazine articles on prison riots and prison problems. If good screening were utilized, it appears that this use of the furlough could be expanded with relative ease and little public outcry.

The use of furloughs to reward inmates for good institutional behavior brought surprisingly little support. Only four respondents thought that a good record should be a major criterion for award of furloughs. The responses formed a bell-shaped curve, with as many respondents concerned that furloughs not be limited to inmates with good behavior as respondents concerned that good behavior be a requisite. The majority simply accept this as one use of the furlough but not necessarily the sole or even the best use.

Legislators and staff members regarded the benefits, from the inmate's point of view, as including a wide range of rewards such as incentive, change in attitude, satisfaction of personal desires, job finding opportunities, income, community reintegration, normal sexual outlets, family contacts, reuniting with friends, chance to put lives together, normalization of response to fellow man, freedom, break in routine, change of scenery, and relaxation. These responses form a rough continuum, from conservative institution-focused responses such as incentive and change in attitude to liberal, inmate-oriented responses such as a community reintegration and "somebody cares".

From the institutional point of view, benefits were perceived as varying from pragmatic, security-oriented, cost-focused values at one extreme to a smaller number of

atmosphere-oriented values at the other. Specific values listed were: added incentive, decrease in sexual tension, change in conduct or behavior, decrease in number of escapes, increase in morale, assistance in transition to community, reduction in recidivism, population decrease, increase in co-operation, and lower costs. In the United States we are probably still at the point where operation of a well-run institution with good inmate behavior and attitudes is the ideal sought by a majority of legislators and their staffs. Only a minority at this time see gains in transition to community or reduction in recidivism as proper targets for action.

When asked about whether furloughs might contribute to success on parole, a bare majority credited furloughs with this particular benefit. This occurred only after considerable discussion with some of them who did not at first see the relevance.

Costs of the furlough program were mostly related to institutional management, community reactions, and the possibility of danger to people in the community or prison. When asked about problems created by furlough programs, almost all respondents reacted in terms of public reaction, criminal conduct while on furlough, escape risks, resentment among other inmates, eligibility problems, and security problems. Only a very few responses had to do with inmate perceptions, such as inmates hating to return or confusion on the part of the furloughed inmates.

When asked specifically about how the community is affected by furloughs, responses comprised a wide spectrum, from "no effect" to "lack of acceptance". Many considered administration of the furlough program crucial to community reaction. It also appears that legislators from rural areas or small communities were more concerned about how the community would be affected, as compared with legislators from more urban constituencies. A general consensus about danger to the community would seem to be that there is always some risk, but the risk can be minimized with good administration, and in any case the risk seems to be justified. The majority perceived little risk from the returning inmate, but many again considered good management to be important.

The consensus seems to be that the criminal justice system does not work as well as it should, only a very few thinking it works reasonably well or very well. Specific criticism included lack of fairness, a need for revision of the criminal code, coddling of offenders by courts, lack of enough professional staff, and the fact that justice is neither certain nor swift.

The respondents were even more critical of the correctional system, some considering rehabilitation a total failure, some condemning mass facilities, some criticizing parole as ineffective, one commenting on the hotel-like atmosphere of some prisons, one stressing lack of public understanding. There is some indication that legislative readiness for change may be outpacing correctional readiness for change, judging from the range of criticisms and

suggestions for improvement. Suggestions included better classification, congressional oversight, better probation, more staff, better separation of juveniles and adults and first-timers from hardened offenders, more use of halfway houses, more research, more stress on education, abolition of parole, more stress on work and a need to make prisons self-supporting.

Specifically on furloughs, the recommendation was made to assure that furlough eligibility not stress previous criminal record as much as presently is the case. Also, furloughs were praised as giving inmates something to which they could look forward.

A number of respondents favored better screening for furloughs. Many wanted a more liberal furlough system. One favored furloughs as a right rather than a privilege, to be denied only on the basis of serious misconduct. One favored furloughs as a reward. One wanted legislation to punish inmates severely who commit new offenses while on furlough.

On the whole, suggestions were forward-looking and indicative of a sympathetic attitude toward change of the correctional system in general and the furlough system in particular. Most legislators and staff favored better management of the furlough system. Legislators appear to generally support furlough programs, particularly if good screening and administration are utilized.

It is the researchers' tentative conclusion that furloughs are now accepted by legislators for a range of uses, and can

be extended in application particularly with effective administration. With regard both to furloughs and to other aspects of corrections, and possibly criminal justice as a whole, the hypothesis can be advanced on the basis of this research that legislators may be more prepared for change than correctional and criminal justice leaders. Changes, however, may be supported more in prison management than in programs designed for reintegration such as halfway houses and small treatment centers.

Legislators are less worried than the researchers anticipated about danger to the institution from inmates returning from furlough. In fact, furloughs generally do not impress legislators as being dangerous.

Some speculative comparisons may be of interest. There was little overall difference between attitudes at the level of the Congress compared with the Alabama legislature, in spite of the reputation Alabama has for conservatism. However, differences between the two Houses occurred in each case. The U.S. House of Representatives was consistently more sympathetic to the furlough program than the U.S. Senate, pushing for expansion of the existing program and more liberalized use of furloughs. Perhaps this difference related to the greater impact the Federal Bureau of Prisons seemed to have on the Senate compared with the House, and the greater impact public opinion seemed to have on House members and staff. Senate staff members seemed much more responsive to the Federal bureaucracy in the Bureau of Prisons. On the

other hand, both House members and staff clearly seemed both more aware of and responsive to shifts in public mood and opinion.

At the level of the Alabama legislature, the reverse seemed to be true. The Senate members consistently were both more knowledgeable about the furlough program and more willing to see it expanded and improved. House members, however, were more cost-conscious, more fearful of public reaction, and generally more cautious and conservative. This clearcut and impressive difference between Alabama Senate and House members may relate in part to different constituencies. The smaller number of Senate members (35 compared with 105) ensures that more sophisticated urban opinions are more heavily represented than in the House. Also a greater percentage of Alabama Senate members come from urban areas and are well educated. On the whole, committee chairmen in the Senate tend to be more sophisticated and better informed. House chairmen and members tend to be more identified with, and defensive of, the state correctional system.

CHAPTER 10. EXPANDED HOME VISITS AND SOCIAL SERVICE AGENCIES

After the majority of the site visits were completed, it appeared that the family and sponsor data was inadequate. In order to avoid trespassing in a sensitive area of community relations for departments of corrections, we requested each agency, through its field services component, to identify families and sponsors for us. The agencies made prior contact and arranged interview appointments.

Our impressions of the interviews indicated that the selection process and the agency sponsorship might have had an adverse affect on the respondents. The subjects were strongly in favor of and completely uncritical of furlough program operation. We felt that the subjects might have been intimidated by our approach.

In an attempt to rectify this error, we approached furlough families in two different ways. We asked local probation and parole officers to conduct a set of interviews for us. We felt that this would reduce the potential threat imposed on subjects by the "outside agency" image. Second, we identified a set of furlough families by contact with social service agencies with some guidance from a list of furlough families for the Tuscaloosa, Alabama and Birmingham, Alabama areas provided by the Alabama Department of Corrections. We then independently contacted these families with a referral from a social service agency when possible. This removed the threat which might exist by identity with the Department of Corrections.

On the whole our results were the same. Families of furlougees have virtually nothing but praise for the program. Their only complaint usually is in the form of denied expansion. Some families did indicate that they were unsure of their role. They expressed a desire for additional information and instructions from the Department of Corrections.

A. Furlough Families

The parole officer interviewed group was selected from the Birmingham, Alabama area. Most of the inmates had been residents of a halfway house and had received furloughs from both the prison and the halfway house. The interview reports and the summary of this effort provided us with information about both furlough families and parole officer attitudes.

To summarize the information and the impressions gathered from doing these interviews, it is apparent that furloughs have had a very positive impact. We were concerned with interviewer bias because the interviewers were very favorably impressed, after having completed interviews, about the affect that these furloughs have on the families of the men who are granted furloughs. The interviews were positive throughout. There were no negative comments or negative feelings observed or expressed by the family members. It appears that parole officers feel that it is a very valid program with a very positive effect on the families of the men in prison. Without the furlough program as part of the correctional system, our interviewers felt that these situations would be somewhat less than positive and perhaps very negative. The combination of work-release and furlough seems to be having a very

constructive effect on the families of the men in prison. According to the families, it seems to have a positive effect upon the men themselves. It is the interviewers' opinion that this program should be expanded and that a furlough system should be an integral part of the correctional system. The parole officers have first hand knowledge of how the men themselves feel about furloughs and feel it does have a very positive impact upon the men. It is a very workable program and it does help men survive within the system very well.

Similar results were obtained when furlough families were contacted independently. Inmates were interviewed in three Alabama towns---Tuscaloosa, Huntsville and Birmingham. Personal contacts were made by our staff to arrange interviews.

In the Tuscaloosa area one son, one former inmate, two brothers, one aunt, and one wife were interviewed. In one situation, the wife of an inmate was unaware that her husband had been furloughed. It was not clear as to whether or not her husband had preferred not to inform her of his visit.

The aunt to whom one inmate was furloughed felt the visit was the most helpful thing that had been done for the family. She said her nephew, for the first time in his life, felt the furlough meant that he was thought of as being trustworthy. Her nephew had been home twice in a year, and she felt that his ties to his children had been strengthened, and they were subsequently able to be closer to each other. In this instance, the promise of a furlough for good behavior seemed to help her nephew adjust to the prison. Also, the inmate

was able to stay in touch with job opportunities. The members of the near community were glad to have the inmate home and wanted to help him. The aunt felt the nephew now was willing to pay his "debt" as she put it, and that he would return and be a good citizen. She felt the criminal justice system worked very well.

One of the persons interviewed had been on furlough and, subsequently, was paroled. He said the furlough "worked beautifully". He loved coming home to his family. He was very wary about giving information at first, then he felt all would be confidential. He thought the lack of clarity regarding furloughs was very unfortunate. He said the authorities were quite reluctant to give furloughs and one almost had to fight for them. He said very few of the inmates knew of the possibility. He learned of it through a guard. The furlough created no problems for him, but he did hate to return and if it had not been for his wife, he would have "split". He felt that many of his fellow inmates would have profited by furloughs. He spent all his time in his home but was unaware of any community concern. He felt the work release program was very helpful, but that the criminal justice system was more punishment than rehabilitation and was racist. He felt the furlough should be longer and available every 90 days, rather than every six months.

Similar results were found in the Birmingham area. All were positive about the furlough system but seemed to be fearful of telling more than that they would like to have members of their families with them whenever possible.

In Huntsville, one social service supervisor told of attempts to secure emergency furloughs for two women prisoners. The supervisor knew of the program through publicity. In these cases she was unable to find the appropriate channels for requesting release of these women. Furloughs today are initiated only from within the institution with little contact with non criminal justice social service agencies.

There was only one negative response from any family or family member. That was the sister-in-law of one who had been on a furlough several times. She indicated that her brother-in-law had always been a burden, and he did not keep his room clean when he came to their home. His brother, however, said he was always glad to have him. It developed that the two had been orphaned at an early age, and the brother felt most responsible for the one in prison. He wanted to have the inmate feel at home in his home, but the sister-in-law felt that the brother-in-law's presence led to some marital misunderstanding.

There was a general feeling that too much time was required in actually going to the prison and going through the procedures required for bringing the person home. (This was mentioned by most of those in Tuscaloosa.) It appeared that there was very little time for the families to make arrangements for receiving the inmates. Some of them did not have cars and it was necessary for them to ask friends for help. All had been willing to pay for public transportation, but subjects felt that release on furlough requires

the sponsors to physically assume responsibility for the furloughee. One parent suggested that the authorities might have felt that the inmate would not actually arrive home unless the family was physically present. Notification of the furlough came from the prison by telephone, often through a friend or neighbor, as so few families had telephones.

Departments of Probation and Parole were never, to the knowledge of those in whose homes the furloughs were spent, involved. In two furlough situations the inmates refused to return. The parents in one case, and a wife in another, asked the police department for assistance.

B. Social Service Agencies

While working with social service agencies to identify and contact furlough families, information about the opinions of social service workers was collected. In all, sixty-six social service workers were interviewed, all from the State of Alabama.

There appears little doubt but that the administration of the furlough by correctional officials would be a most welcome program for the county departments of Pensions and Security. Their cooperation would be forthcoming, and the group might well assume leadership in any movement which could lead to helping those in prison. There was an almost unanimous opinion that the program was needed. As one director said, "We will do anything to help those in prison and their families."

Two county directors had heard of the program only because they had seen publicity in the papers. They had never been

included in any furlough plans but indicated a willingness to participate. Three of the directors explored with probation and parole workers in their counties their knowledge of the program, but these people also were unaware of the furlough possibilities.

Several counties had no idea how many of those in their caseloads had relatives in prison nor how great an impact imprisonment had on their families. Only two county directors felt that the time involved in furlough planning would be any burden on their adult services division.

There is now a worker in the State Department of Pensions and Security who is developing a program in the women's prison. The objectives seemed to be vague at this time, but there appeared to be a thrust toward "in-service training". Also, four years ago, a seminar for personnel of public and private agencies was conducted. One agency official suggested this type of project should be reinstituted.

Workers in one housing project were aware of two persons who had been on furlough but no personnel in the projects were informed or asked to become involved in planning. The inmates' families told the workers of the matter. They indicated a willingness to assist in furlough planning. The state agencies, public and private, seem to be more than ready to help make the furlough system work.

CHAPTER 11. VOLUNTEERS AND THE FURLOUGH PROCESS

Though volunteers have functioned in various capacities in America throughout its existence, their involvement in the criminal justice system, especially in the area of corrections and rehabilitation, is much more recent. The first voluntary efforts and practices have helped establish and maintain many policies and programs which have been used effectively in the United States since its founding 200 years ago. The first person to do volunteer work in these areas was a Boston cobbler named John Augustus. In 1841, under his own volition, he began a scheme of voluntarily producing bail for court prisoners and then releasing them under supervision, a practice he termed probation.

After probation became an integral part of court procedures, volunteers in the criminal justice system were not really heard of again until 1960 when Judge Keith J. Leenhouts of the Municipal and District Court of Royal Oak, Michigan, began using volunteers in a rehabilitative program for adult misdemeanants. Judge Leenhouts¹ started this program after listening to the advice of a psychiatrist friend named Dr. Richard Knox. Dr. Knox explained to the Judge that in order to help criminal offenders, 85% of whom have character disorders, he had to ". . . insert into their lives inspiring personalities . . . [for] . . . punishment alone rarely changes attitudes. They must be shown, through contact with a personality, a better way to live." With this idea in mind, Judge Leenhouts set up his program with the

assistance of Dr. Knox and seven other interested citizens. His idea of tapping the vast U.S. population for its aware and concerned members who would be willing to donate some of their time, knowledge, and experience to provide services to needy offenders caught on so well that by 1969 an estimated 300 cities were using volunteers in some capacity with court programs, and the number has increased since then.

In today's world along with the fairly recent development of furlough programs has come the cry for more volunteers to aid in the facilitation and organization of these programs. There has also come from authorities in the field of voluntarism, such as Judge Leenhouts, requests for new and constructive thoughts on how to efficiently utilize the volunteer's energies and services within the furlough programs. It is believed that after a variety of ideas have been collected, a number of workable plans may be compiled and put into effect throughout the states. This attitude that a unified plan or a few conceivable alternatives whose implementation is undoubtedly possible through the use of volunteer or volunteers will emerge from this gathering of opinions is based on Judge Leenhouts'² belief that, ". . . for almost every need there is a volunteer to meet that need if we look hard enough, recruit carefully enough, supervise efficiently, and run a program where both the volunteers and the professionals are very proud of what they are doing."

E.L.V. Shelley,³ Chief Psychologist for the Ingham County Probate Juvenile Court, Michigan, expressed the notion that reasons for failure on the part of any volunteer usually

stem from poor training and inadequate supervision of volunteers. The opposites of both of these factors concur readily with what Judge Leenhouts felt were requirements for meeting the needs of any volunteer program. If the persons working on a project are not trained or watched over conscientiously, how could one expect anything but failure?

Dr. Shelley⁴ also listed a few voluntary services that have been offered and administered successfully in furlough programs that appear to be achieving their established goals. The services offered include the following: (1) assistance in handling situations with which the inmate is no longer familiar, (2) a source of information about things that appear new to him and thus facilitate his slow adjustment back into the outside world, (3) assistance in trying to secure a job for the person on furlough, and (4) some transportation, so that the furloughed individual can get to job interviews, appointments, jobs, home, doctors offices, or anywhere else he needs to go. James Spivey,⁵ the Legislative Corrections Ombudsman for Lansing, Michigan, also expressed the need for a transportation service and saw its incorporation into the furlough program as a useful endeavor for volunteers to undertake.

Another suggestion by Dr. Shelley is that volunteers could also function as a continuing liaison between the inmates in the furlough program and their families, or agencies in the community. By doing this they not only could help solidify family unity and ease the way for the inmate's eventual return to his family, but they could also

act as a mediator between an agency and the inmate in order to insure that he and his family receive those agency provisions to which they are entitled. Major John D. Case,⁶ Director of the Department of Corrections, Bucks County, Pennsylvania, refers to the volunteers engaged in these practices as "helping agents". Emphasizing they are to be supervised in order to insure that they function properly, he feels that their main concern and responsibility is to attempt to solve some of the residents' numerous family and interpersonal problems while on furlough status.

Major Case also noted that he has used volunteers as case-worker/counselor aides quite successfully in areas such as the screening of residents in order to determine eligibility and rationale for furlough selection. It is also his opinion that the enlisted personnel could monitor the behavior of the individual while on furlough outside of the institution and that, upon the inmate's return, the two of them could review the resident's progress. This procedure, he allows, has netted rather good results.

Offender Aid and Restoration [OAR] Director Jay Worrall stressed the point that an important aspect of furloughs was to ready inmates for release from prison. In order to prepare the prisoners for their re-entrance into civilian life, Mr. Worrall implies that it is imperative that the individuals have jobs or schools to attend. It is the opinion of federal prison officials that the failure to find a decent job is the biggest single reason ex-cons find themselves back behind bars. Mr. Worrall believes that through the efforts of

volunteers contacting employers and setting up interviews a lot of time and energy may be saved thus providing very valuable aid.

At this time numerous OAR offices also have what they title "walk-in" programs, which provide assistance to released prisoners in finding housing, employment, and other such services upon their return to their home communities. Another suggestion Mr. Worrall had for the furlough programs was to offer a complete list of these offices to the different institutions. By such an act it would be hoped that inmates who plan to receive a furlough would contact these services so volunteers would be aware that the person would be in the community and be prepared to offer whatever advice or help the person needs.

In apparent contradiction to OAR's "walk-in" programs, George Dibble,⁸ Project Director for M-2 Sponsors, Inc., in Hayward, California, tends to advocate what he expresses as sponsor/inmate relationships. This program or relationship begins nine months prior to the inmate's furlough or release (six months prior if it involves a juvenile) and continues on after the convict is no longer incarcerated. Though it has certainly been an important aid to many, it appears from reading about other programs that a relationship starting nine months prior to any type of release from an institution is rather a long time period, though certainly some fine relationships are formed over such a span.

An additional method that has been suggested in regard to volunteers working with inmates both on and off furlough

is the use of volunteers who come from the same social class, have relatively the same age, and who have the same type of background as the offender. This arrangement helps narrow the social distance which exists between many middle-class professional corrections workers and a large segment of their lower-class clientele. By using this technique the defenses of inmates are sometimes broken down thus permitting a working relationship to form even with those persons who are hard-to-reach, unmotivated, mistrustful, and resentful of authority. Along these same lines, the use of ex-offenders as volunteers has also proven very successful.

Aside from assisting the ex-offender with his return to society, the volunteers fulfill the personal desire that causes them to be volunteers in the first place thus contribute to their personal welfare. Volunteers also awaken a total responsiveness in the entire community which demands and ultimately provides excellent rehabilitative services. Lastly, volunteers not only contribute to the welfare of individuals, but also to the viability of corrections, now and in the future.

A frequent argument against furloughs put forth by institutional staff is that it takes quite a bit of staff time to plan, organize, and supervise programs of this nature. Using the fact that there is a definite shortage of professionals in the field of corrections, it would appear that they have a valid objection. This, however, is not quite accurate since this is the type of situation where volunteers can offer the greatest service. "A volunteer with executive

experience and skill can organize a program and needs very little from staff. Other volunteers can deliver the services needed and thus take the pressure off of staff."⁹

Mrs. Mary Louise Cox¹⁰ of Mt. Kisco, New York, formerly with Bedford Prison in Westchester, approached the idea of volunteers working in a furlough program from another point of view. She considered the options of using inmates on furlough as volunteers in a variety of settings such as helping in government agencies, helping with charitable organizations, and doing other types of work along the same lines. This idea seemed sound enough until she described some of the public resentment that she encountered and some of the failures of previous attempts at providing these services.

In review of all the proposals by the various experts who voiced an opinion, it seems quite realistic to surmise that the use of volunteers will play an even greater role in the future of furlough programs.

Footnotes

¹Letter of April 30, 1976 from Judge Keith J. Leenhouts, Executive Director, Volunteers in Probation, Royal Oak, Michigan to Dr. Robert T. Sigler, of the Criminal Justice Program, The University of Alabama.

²Ibid.

³Letter of April 28, 1976 from E.L.V. Shelley to Judge Keith J. Leenhouts.

⁴Ibid.

⁵Ideas presented to Judge Leenhouts by James Spivey, Legislative Corrections Ombudsman, Lansing, Michigan.

⁶Letter of April 26, 1976 from John D. Case, USMC (Retired) to Judge Keith Leenhouts.

⁷Letter of April 22, 1976 from Jay Worrall, Director of OAR to Judge Keith J. Leenhouts.

⁸Letter of April 23, 1976 from George Dibble, Project Director of M-2 Sponsors, Inc., to Judge Keith J. Leenhouts.

⁹Letter of April 28, 1976 from E.L.V. Shelley to Judge Keith J. Leenhouts.

¹⁰Letter of April 24, 1976 from Mrs. Mary Louise Cox to Judge Keith J. Leenhouts.

CHAPTER 12. CONTEMPORARY ISSUES

Much more is unknown than is known about furlough programs. What is worse, furlough programs are rarely thought about; they are just initiated and maintained. The absence of a clear body of knowledge, or at least a clear set of questions regarding the rationale and functions of furlough programs, has led to general confusion. One purpose of this study is to clarify this confusion. There are, however, several clear and many implied theoretical and operational issues. At the present the most critical areas are substantive areas whose lack of clarity leads to an inability to resolve issues at the operational and evaluational levels.

A. Substantive Issues

There is some confusion regarding the appropriate location of furloughs among the alternative release mechanisms viable to the correctional third of the criminal justice system.

There are six basic ways in which offenders obtain release from prison: (1) completion of sentence--mandatory release; (2) successful legal challenge of the state's right to detain; (3) complete release before completion of sentence; (4) release to detainer; (5) short term temporary release with direct supervision; and (6) short term temporary release without supervision. While furlough generally refers to the sixth category, there is at times some confusion with elements from the fifth category.

The first category is to some extent self-explanatory. The prisoner serves his entire sentence in the prison. The "flat timer" is released without supervision and with little or no transition period. Some programs have attempted to soften this abrupt termination of supervision with pre-release training and release ninety days before sentence completion so that the prisoner can be required to report to a community parole agent.

The second category, successful legal challenge of the state's right to detain, includes the traditional challenge of original conviction and the more recent class action challenges to the constitutionality of specific detention facilities. This can be seen most clearly in the action of the Federal District Court Judge Henley in closing the Pulaski county farm, located in Little Rock, Arkansas. The majority of inmates were released because no acceptable facility was available. Alabama may soon face the same dilemma as a result of Judge Johnson's recent ruling, though it is probable that Alabama will be able to develop an effective response without forced release of inmates.¹

The third category, complete release before completion of sentence, includes both reversible and non-reversible release. In the case of commutation to time served, pardon, or modification of sentence to time served on appeal, the prisoner is released and cannot be returned to prison without

¹Judge Henley closed the Pulaski County farm (Little Rock, Arkansas) in 1974. Since that time a new facility has been constructed. Alabama is presently seeking a means for complying with Judge Johnson's order.

reconviction. In the case of parole, the offender is released with the expectation that he will serve the remainder of his sentence in the community. If his adjustment is deemed unsatisfactory, he can be returned to prison without conviction for an additional criminal offense.

The fourth category, release to detainer, is a special case of the first three types of release. There are times when more than one jurisdiction has charges filed against an offender. These jurisdictions file detainers (requests that the offender be held for the requesting jurisdiction when released by the detaining jurisdiction). When the offender is to be released, these jurisdictions assume custody of the offender.

Short term temporary release with close supervision is often included under the furlough heading. This occurs because it is usually the third alternative in the solution of a common problem, the rise of an emergency. When the inmate is faced with a need to be released from the institution to deal with a family crisis, the institution has three alternatives: (1) deny release; (2) release without supervision; or (3) release accompanied by a guard. Thus, when a problem arises, these alternatives are seen as two parts of the same process rather than two separate processes.

The sixth category includes the furlough category. We followed Markley (1973) when we defined furlough as any supervised release which includes an expected date of return to the institution conducted on a non-regular basis. Work release is a regular unsupervised release for the

purpose of employment, while study release is the regular unsupervised release for the purpose of participating in an education program. The time period for each of these two programs is undefined as they can be day release, week release, or in some cases, release for more than a month. In each case, however, the prisoner is expected to return to the institution at regular intervals.

Some of the confusion experienced can be reduced if we differentiate between the uses of the furlough on the basis of the philosophy motivating the release. We suggest that four basic rationales for granting a furlough are humanitarian, tension reduction, reintegration, and inmate management.

The humanitarian philosophy sees the offender as having basic needs, both physical and psychological, which must be met. When the offender is faced with a personal crisis or need, we respond to that need. In the case of an extreme crisis or need, correctional institutions take exceptional steps to meet those needs. In the case of a death in the family, an attempt is made to allow the inmate to leave the confines of the institution. In many instances, however, he must be accompanied by a guard with some states requiring the family of the prisoner to pay the cost, including the guard's salary. When an inmate can be trusted to return to the institution and remain stable during his trip, he can be released without supervision to attend the funeral or make a bedside visit and return to the institution. Only the last is a furlough. Similarly, in the case of a serious

illness which cannot be treated in the institution the offender can be released without supervision to a medical facility which can meet his needs without supervision or be transferred to a security hospital or hospital with a security ward under guard. Only the first can be considered a furlough. In each of these cases, however, the inmate has a need to which we respond compassionately. The humanitarian philosophy can be expanded to include less serious needs. Thus, in Sweden inmates are released on a regular basis for vacations or relaxation from the pressures of prison life, leading into the reduction of tension rationale.

In reduction of tension, the ultimate aim is to stabilize institutional activity by reducing the tension which is generated by long term restricted captivity. We find this most prevalent when applied to sexual frustration. The various processes developed for permitting a man to meet privately with his wife and family has led to some confusion with the furlough. In essence, if the man remains within the boundaries of the institution while receiving a visit from his wife or family, we have a conjugal visit. If he leaves the confines of the institution, that is, prison property, and is expected to return at a later date, then he receives a furlough, even if he has simply gone to a nearby town. We suggest that assumptions underlying programs influence decision processes. This particular assumption can play havoc with furlough programs if not recognized. If decisions are covertly designed to reduce institutional tension,

disruptive persons could be released to the community where their behavior would jeopardize program survival.

Inmate management is similar to the covert reduction of tension model. The furlough becomes one more tool for the correctional administrator to apply to the maintenance tasks of his program. The goal of the overall program is to reduce negative activity in the institutional setting. Inmates conform to institutional rules and participate in programs to earn the furlough reward. The potential loss of the furlough privilege coupled with other sanctions is sufficient to insure the appropriate community behavior while on furlough. This model does not focus on the individual offender. Rather it focuses on the smooth operation of the facility. As such it is not suitable for facilities housing dangerous offenders.

There is some overlap between the humanitarian rationale and the tension reduction rationale with the major difference lying within the goal structure. From the humanitarian perspective, the goal is the reduction of mitigation of the stresses created by institutionalization within the individual. Tension reduction follows the same processes, but the overall goal is the reduction of tension within the institutional setting leading to fewer crises and less conflict.

While humanitarian and tension reduction furloughs have been common for some time, the reintegration function is relatively new in the United States. In reintegration there is recognition that institutional life is atypical and the

offender must be allowed the opportunity to both adjust to his return to the community and, in some cases, to maintain community ties. It is assumed that if the offender's reintegration can be smoothed, the incidence of reinvolvement in criminal careers will be reduced. The goals of reintegration involve the subsequent successful adjustment on release of the furloughed offender. Reintegration can be facilitated by special purpose releases for employment interviews, family planning, and related tasks or by continuous release so that the offender can maintain effective community links and contacts.

We suggest that assumptions underlying programs influence decision processes. Lack of consideration of assumptions can play havoc with furlough programs if not recognized. For example, if decisions to release under one of the alternative philosophies reflect a desire to reduce institutional tension, disruptive persons could be released to the community where their behavior would jeopardize program survival.

The failure to clearly identify or consider rationale leads to difficulties when developing operating procedures and planning evaluations. When different groups and individuals perceive the rationale for programs differently, the efficiency of those programs is decreased. The decision making process becomes confused and differences of opinion lead to dissatisfaction and conflict. Before effective decisions about other substantive issues can be made, furlough programs must be clearly defined.

The most widely debated issue regarding furloughs is the degree of public safety which must be maintained. We have observed repeatedly in the literature and in our interviews that many argue that the premature release of offenders, particularly those who have been involved in violent crimes, creates undue and premature risk to the public which outweighs the potential benefit to be gained. Proponents respond that these offenders will be released eventually. The furlough serves as one mechanism which allows correction officials to observe the offender's ability to adjust before complete release. Many of our subjects argued that very few offenders released on furlough are arrested for violations of statutes while in the community. Before decisions can be made regarding the degree to which the public safety can be endangered, both the relative risk and potential gains must be assessed. In programs with restricted goals (humanistic and tension reduction) risk taking behavior should be less and only "safe" inmates should be furloughed. If the reintegration rationale underlies program operation, then greater risks are justified or the long term goal is improved public safety through interruption of criminal careers.

The issue of eligibility then is closely linked with public safety. Assuming that furloughs are going to be granted, then there must be some criteria for determining who will be released and who will be denied access to furlough programs. The approach to eligibility should be determined by the rationale underlying the granting of furloughs with some

evaluation of the dangerousness of the offender in every case. In programs with limited short term goals specific types of offenders who are defined as inherently dangerous should be excluded from the furlough eligible group. In a humanistic approach the need of the individual should be weighed against the degree of danger posed with conservative decisions being the rule, as undue risk to the public can be questioned. In reintegration, which includes rehabilitative furloughs, occasional justifiable risks could be taken with the degree of risk justifiable increasing as the offender neared completion of his sentence. It is suggested that reintegration can best be accomplished by maintaining community ties. If an inmate is effectively prohibited from maintaining community contacts, then many resources would disappear which could be maintained by regular contact.

A virtually untested issue relates to institutional tension. Some respondents argued that furlough programs increase institutional tension. They point out that only a limited number of inmates can qualify for release on furlough. Those denied furlough or who can not qualify for furlough become more frustrated than they would become if furloughs were not available, increasing tension. It is also possible that the inmate may become aware of community problems, thus be motivated to escape to solve those problems. In addition, the use of furloughs opens one more avenue for the introduction of contraband into the institution, creating additional pressures for correctional personnel. Supporters argue that providing outlets for tension

reduction for any part of the prison population reduces the overall tension in the institution. They also note the reward potential inherent in any systematic use of furloughs. Inmates will be motivated to conform to institutional rules in order to qualify for furlough consideration. The potential for an actual release of qualified inmates can increase institutional morale, producing lower institutional tension rates. Escapes, for furlough eligible inmates, will become less frequent when inmates have a legitimate means to obtain release to deal with family crisis and personal emergencies.

We have noted that the impact of a furlough program on institutional tension tends to be related to the size of the furlough eligible group and the clarity of eligibility requirements. As a general rule, the clearer the selection criteria and the justification for denial, the more likely it is that the use of furloughs tends to decrease institutional tension. In institutions with small furlough eligible populations there appears to be little or no impact on institutional tension generated by the furlough program. In medium security institutions with moderately large (less than 50%) furlough eligible groups, the program tends to increase tension or have no impact depending on the clarity of eligibility policies. These judgments are of course impressionistic and must be verified by competent formal investigation.

The courts have consistently supported the concept that furloughs are discretionary in nature. The courts have also

held, however, that furlough decisions must be made in a manner that is not prejudicial. When clear eligibility standards are not enumerated and adhered to, personalities and personal beliefs come into play. While this may not produce discrimination on a group basis, it can lead to confusion and conflict in the institutional setting.

Little attention has been paid to the length and frequency of furloughs. Most states, in the absence of a clear rationale for their programs, have established arbitrary length and frequency guidelines. We have no information to support any of the models observed. As in other issues the underlying rationale and assumptions should determine initial standards with modification of furlough length following firm evaluation.

B. Procedural Issues

Most procedural issues flow from substantive issues. The absence of clearly defined rationales, assumptions, and goals has produced sets of procedures that are administratively determined or reflect arbitrary administrative decisions. If we assume that clarity of goals and procedures enhances program effectiveness, then the most basic requirement of furlough programs at this point is a clearly defined set of procedures, eligibility requirements, restrictions, and general statement of rationale. This information, if made available to employees and inmates, would provide a clear mechanism for the smooth operation of furlough programs.

Involvement of both criminal justice components and non criminal justice components in the effective decision making process is an issue that has multiple solutions and which is closely linked with the decision making process. There are two facets to this issue: first, what parts of the non correctional community should be involved and second, what weight should community information bear on the final decision. The types of people consulted varies from law enforcement personnel through judges and prosecutors with some systems relying heavily on field services. In some cases community rejection is binding; in others it is one factor considered among many others. In either case, early input would be advisable.

At some point in the process the application process becomes routine. The effective decision making authority rests with the last unit which closely evaluates the facts and makes a decision. In cases where the effective decision making authority rests with the caseworker or treatment team, community input should be considered before the application leaves that point. Even when the effective decision maker is further up the chain of authority, community input should be considered in early stages. In many systems the effective decision maker is the caseworker or treatment team; in others the warden or superintendent makes the effective decisions. In a few systems the central office screens each application closely. In some systems the sponsoring institution makes a recommendation which is then

screened by field services with field services having the power to reject. It is assumed that if clear eligibility guidelines exist, effective decisions can be made by caseworkers and treatment teams with community input evaluated. Thus, central office staff would monitor applications from a monitoring perspective, rather than from an effective decision making perspective.

Notification procedures vary from program to program. In most cases law enforcement officials are notified when an offender is to be released on furlough. Other states include prosecutors and judges, while in other programs, only the sponsor and field services are notified. Again, the absence of a clearly articulated rationale has produced a set of procedures that are arbitrary, rather than reasoned.

In almost all programs little is done to prepare the family or sponsor. In most cases they are simply advised that the offender's application has been approved for a specific set of dates. The rationale for the release is not provided nor are the sponsors provided with a set of guidelines or goals for the release. When specific goals have been established, all participants who are notified should be well informed.

Qualifications for sponsors have not been articulated. In many cases the only criteria for sponsorship is a family relationship or friendship. In limited cases offenders are released without sponsors. In some programs the sponsor must appear at the institution and sign a statement of

responsibility for the offender. In other programs the offender is released and makes his own way to the furlough site.

In almost all programs the offender or his sponsor must bear all direct costs of the furlough. We have found that while most furlough eligible inmates can generate the resources necessary, some can not. The most prohibitive cost appears to be transportation. If furlough programs are to be equitable, some consideration must be given to the provision of minimal funding for inmates who lack resources. If goals can be articulated and benefits defined, then funding can be justified.

Procedural issues can not be resolved until there is a clear statement of the rationale, assumptions, and goals underlying the operation of the furlough program. For each issue, there are a number of viable options. The decision as to how a particular program is operated must be determined by underlying principles underlying program operations.

C. Research and Evaluation Issues

The position that the rationale, assumptions, and goals of a furlough program must be clearly articulated and form the basis for procedural decisions is even more critical for evaluation efforts. The first step in the development of an effective evaluation design is the identification of the variables to be measured. There is a tendency to look closely at what we are doing and at the costs involved to the exclusion of underlying goals and secondary effects.

A primary goal of this effort is the development of an effective evaluation design.

Most states, lacking the capability to develop comprehensive research designs, concentrate on summary descriptive statistics to evaluate their programs. In the case of furloughs most states collect frequency data, failure to return data, and negative incident data.

The best tested issue to date has been the short term success of furlough programs through an assessment of their failure rate. Failure in this context has two facets: failure to return and misbehavior while on furlough. An issue exists as to the proper method of measuring escape rates. Many states measure escapes by comparing the number of escapes with the number of furloughs granted. Critics suggest that the rates would be better stated if the number of escapes was compared with the number of furloughees thus controlling for the case where a single person receives several furloughs. Correctional administrators respond by stating that the proper way to compute a failure rate is to compare the number of incidents with the potential number of possible incidents for accurate assessment. Clouding the issue is the technical definition of escape specified by most statutes and administrative rules. If a person released on furlough returns late, he is an escapee. Thus, we are unable to distinguish between those who do not return and those who voluntarily return late. A similar issue exists for improper conduct while on furlough. Most states do not distinguish between those who violate the law and those who do things which are normally lawful, but

forbidden by furlough rules. The most frequent abuse tends to be drinking intoxicating beverages while on furlough; thus, the inmate who returns under the influence is classified as a violator. It appears that most reports of furlough violations fall into this category.

Almost all evaluations to date have been limited to these measures. A few states have attempted to compare these statistics across a set of background variables. Thus, they can speak about the variation in failure rates as they are related to personal characteristics, institutional differentiations and situational differences. The few states who have attempted to assess goal achievement have relied upon impressionistic data. That is to say, furlough programs are good and achieve goals because participants feel that they are good and that goals were achieved. The absence of a goal setting rationale prevents most states from considering goal achievement as a critical variable.

The absence of a clearly articulated rationale creates an inability to perceive furlough program operations in lieu of goals. Thus, practitioners are unable to or fail to perceive secondary effects as legitimate measurement variables. Thus, while all are concerned with institutional tensions, none define this as a variable or attempt to measure it. The absence of a long term perspective toward furlough programs prevents long term impact evaluation. Furlough programs are seen as administrative processes, thus no attempt is made to measure post release impact.

Correctional institutions are also limited in their ability to define subjects and control groups. Effective research requires a random selection of subjects and random assignment of subjects to control groups. The present climate of institutions could easily result in the refusal to complete questionnaires by reticent inmates. Thus, to some extent the sample would be self-selected volunteers. If the number of refusals is low, there is little impact on the results. If, however, the number of refusals is high, there would be a clear bias in the results. Correctional institutions would find it difficult to administratively randomly assign a sample of furlough eligible inmates to a non-furlough control group. The absence of such a control group, however, prevents the effective support of hypotheses. The results could, in fact, be produced by the factors which make inmates eligible for furloughs rather than by the furloughs themselves.

Effective research or program evaluation requires a carefully developed design before critical variables can be identified; there must be a clearly stated description of the furlough program including the rationale, assumptions, and goals. Care must be taken to collect data in a systematic controlled manner if hypothesis are to be supported.

B. Legal Issues*

Litigation concerning furloughs has involved the issue of whether failure to return from furlough is an escape, the

*Referencing this selection properly is difficult due to the difference between legal style and LEAA style. We have conformed loosely to APA style with all cases listed in a legal site section of the bibliography by common name and case title.

issue of whether inmates have a right to procedural due process in classification and other decisions resulting in denial of furloughs, the issue of whether inmates have substantive due process rights in the administration of furlough programs, and the issue of whether equal protection applies to the discretion exercised by prison officials in conducting furlough programs. All these issues have been resolved in the affirmative.

1. Escape. A large number of cases from state courts on the subject of furloughs are concerned with whether or not failure to return from furlough constitutes escape from prison under the various escape statutes. These statutes usually mention custody and the argument was made that since the prisoner left custody with permission when he went on furlough he could not come under these escape statutes. Under this theory, the prisoner was guilty of a violation of an internal prison regulation and not the separate crime of escape. The courts have unanimously rejected this contention. A typical case is Commonwealth v. Hughes, a Massachusetts case decided in 1973. The Massachusetts escape statute made it a crime to "escape from any penal institution or from the custody of any officer thereof." The defendant claimed he did not escape from any penal institution or from the custody of any officer thereof because he left the prison with permission. The court held that even if the statute was susceptible to either construction, the court was justified in adopting the one favoring punishment of all escaping prisoners. Furthermore, the court found

that it was clear from the statute that the legislature wished to introduce the concept of "constructive custody" for purposes of defining the status of a prisoner while on furlough: "the commissioner may extend the limits of confinement . . . the prisoner shall be considered as in the custody of the correctional facility." Thus, legally, a prisoner is as much in the custody of the correctional facility when he is on furlough as when he is physically within its walls. It follows that if a prisoner violates the terms of his furlough, he has removed himself from the custody of the correctional facility.

2. Procedural issues. The courts have historically been loath to get involved in the administration of day-to-day affairs in prisons. This was especially true if the situation involved benefits or privileges such as furloughs. The theory was that if something was not definitely a right, the courts would not review its denial. This began to change first in regard to paroles, then in regard to discipline or punishment, and more recently, in regard to "privileges". In Landman v. Royster, a case involving the denial of prison privileges other than furloughs, the court said:

"Inquiry into the administration of sentences has also been promoted by the trend elsewhere in the law to reject the so-called right/privilege distinction. Although state law may authorize the grant or withdrawal of certain benefits during incarceration; still the Federal Constitution circumscribes governmental power to withhold such benefits arbitrarily or discriminatorily."

The Supreme Court decided in the case of Wolf v. McDonald, that the denial of "good time" credits was an interest which has

"real substance and is significantly embraced within the Fourteenth Amendment 'liberty' to entitle an inmate to those minimum procedures appropriate under the circumstances and required by the Due Process clause to insure that the state-created right is not arbitrarily abrogated. . . . A person's liberty is equally protected when the liberty itself is a statutory creation of the state . . . the touchstone if due process is protection of the individual against arbitrary action of government."

The Wolf analysis was applied to the refusal to grant an inmate admission to a community treatment program. The prisoner alleged a civil rights violation in the refusal to grant him admission to the program. He claimed a lack of procedural due process in that a guard was allowed to read false reports at a hearing which the prisoner was not allowed to attend. Nor was the prisoner allowed any opportunity to refute the reports. The court stated that in order to state a claim cognizable under the civil rights act, the complainant must allege specific conduct on the part of a state official which violates some constitutional right. Admission to a community treatment program is not a right guaranteed by the U.S. Constitution. However, such a program has been created by Pennsylvania and the Department of Corrections is required to establish rules and regulations for administering release plans. So, it would appear that such a state-supported plan is just as vital and significant to an inmate as a state-created "good time" credit plan of the type involved in Wolf.

Due process is required if the consequences of an official's actions amount to a "grievous loss". If a qualified inmate is denied admission to a community treatment program set up by the state, he would suffer a grievous loss (U.S. ex rel. Meyers v. Sielaff).

The theory of loss of access to furloughs as a grievous loss requiring procedural due process is found in the companion cases of Catalano v. U.S. and Cardaropoli v. Norton. Catalano was one of several petitioners and on appeal the style was changed to Cardaropoli because Catalano's case was not appealed. The petitioners were inmates at the Federal Correctional Institute at Danbury, Connecticut. They claimed that they had suffered grievous loss as a result of their designation as "Special Offenders". They were designated Special Offender because of alleged organized crime connections. Special offenders regularly experienced delay and possible total loss of grants of social furloughs, early parole, and transfer to community treatment centers. Requests for furloughs were usually handled at the staff level at the prison, but due to their special offender status, requests from these inmates were referred to the Washington office of the Bureau of Prisons and were almost always refused. This was held to constitute a grievous loss.

The procedures did not provide for notice to the inmate. The inmate learned about his status only when he was turned down for a furlough. He was not apprised of the evidence against him and had no opportunity to contest the classification. The court said:

"Historically courts will avoid unnecessary intervention and interference in the internal administration of prisons, but the broad discretionary powers vested in the prison officials do have perimeters and are subject to judicial review when a prisoner suffers a substantial loss due to purely arbitrary action of these officials. Social furloughs, work release, halfway houses, and parole are cognizable benefits extended to all prisoners at F.C.I. It seems clear to the court that the treatment inherent in the special offender process constitutes a grievous loss."

The court accepted the special offender classification but held that the usefulness of such classification did not excuse the lack of due process inherent in the practice.

In order to find what process is due in such a case, the court states that an inmate's interest in accuracy of the classification must be balanced against the government's interest in the orderly administration of the prison system. After balancing these interests the court found the following formula to be required in special offender cases:

1. Ten days notice that a special offender classification is contemplated.
2. Specification of the reasons for the designation and a brief description of the underlying evidence.
3. Personal appearance of the inmate before the decision maker.
4. The inmate has the right to call witnesses but prison officials could refuse to call witnesses who would be put into danger or might undermine prison authority.
5. Cross-examination and confrontation of sources of those supplying information is not required.
6. Counsel for inmate need not be furnished.
7. Hearing officer should not have personal knowledge of the underlying evidence beforehand.
8. No transcript is necessary, but written findings should be filed.
9. The decision should be reviewed at each level of authority up to the headquarters of the Bureau of Prisons in Washington.

In Cardropoli the Second Circuit affirmed the District Court decision including the enumeration of procedural guidelines. In answer to the government's argument that an inmate could not claim the right to any condition of confinement related to any classification, but could claim only the right to a benefit he is already enjoying, the court ruled that "preclusion from access to benefits entails a loss as grievous as that occasioned by their revocation."

3. Substantive due process. The next issue considered was, given procedural due process, how far would the courts go in reviewing the decision arrived by correctional officials in furlough cases? What would the standards be when reviewing the decisions? In Marquez v. Warden, Federal Correctional Institution, Marquez was denied a furlough after a hearing because of the ready availability of family visiting where the inmate was confined, the close proximity of his parole, a substantive detainer against him, his being a "prominent figure in a structured criminal syndicate" and other considerations. It was held that Marquez was not denied procedural due process and did not claim any unconstitutional treatment other than arbitrariness and capriciousness.

In reviewing the administrative decision to deny a furlough, the scope of the inquiry is limited; the court will look for denials of due process or equal protection and for treatment which is shocking to the conscience or cruel and unusual, but in a case where the allegation is

that administrative decisions were made arbitrarily, the court saw a danger of judicial intrusion in the policy making area of the prison administration. The court held that the standard of review is:

"Judicial review should be available when the decision maker has abrogated to itself decisions properly made only by the legislature, when the decision in a case is inconsistent with statutory directions, when improper criteria are used, or when the decision has no basis in the prisoner's file."

The court's role in a case such as Marquez is to evaluate the written decision of the prison administration in light of the relevant legislation and determine whether or not the decision has a basis in fact consonant with the legislative intent.

In this particular case the court found no support in the Federal furlough statute for the claim that a furlough is mandatory. Congress expressed full confidence in the ability of the Bureau of Prisons to determine which prisoners are best suited for temporary release. There was sufficient evidence to provide a reasonable basis for concluding that Marquez was a "prominent figure in a structured criminal syndicate." Such a conclusion, rendered after an inmate is given an opportunity to present evidence to the contrary, provides a legitimate basis upon which to deny furlough requests.

Brooks v. Dunn was a case in which the plaintiff alleged that being wrongfully denied a furlough was a violation of his civil rights. Plaintiff submitted an application for a

furlough, and the superintendent of his unit noted on the application that plaintiff had earned a furlough. The furlough committee overruled the superintendent and denied the request, citing an extensive FBI record, a proclivity for committing serious crimes, a history of recidivism, and a failure to adjust to civilian life. The court said that a prison inmate does not have a constitutional right to a furlough and a "proper exercise of discretion by the appropriate penal official is not reviewable under 1983". However, prison inmates are entitled to equal protection of the law and even a discretionary determination such as the denial of a furlough must comport with this prescription. Therefore, in order to establish a constitutional deprivation, a prisoner must show that the furlough committee determination was so arbitrary and capricious as to be devoid of due process or that the determination was designed as a form of punishment. After analyzing this furlough decision, the court said the decision was not without substantial reason, and so could not be characterized as arbitrary and capricious.

Ray v. Parrish involved a prisoner in the Virginia prison who was denied a furlough. The court found no constitutional right for an inmate to participate in a furlough program, but held that a superintendent may not deprive an inmate of due process by making an arbitrary or capricious decision, nor may a superintendent deny an inmate equal protection by making such a determination on grounds that invidiously discriminate between an inmate, or group of inmates, and the rest of the prison population.

There are two cases which give some guidance as to what types of administrative decisions the courts will consider arbitrary. In Bartling v. Cicone the plaintiff was an inmate of the U.S. Medical Center for Federal prisoners who suffered from chronically abscessed teeth. There were two modes of treatment for this condition: The one available at the Medical Center was characterized as a wholly adequate treatment; another, not available in the Medical Center, was characterized as "preferable". Plaintiff asked for a medical furlough for the purpose of receiving the preferable outside treatment at his own expense. The director of the Medical Center denied him a furlough on the basis of the availability of adequate treatment inside the prison. The court said that the congressional purpose in drafting and passing the medical furlough law was to make possible the betterment of a prisoner's physical well-being and that the decision of the director to deny the furlough was arbitrary and unreasonable. The court stated that its holding did not violate the rule that, in the absence of exceptional circumstances or denial of a federal constitutional or statutory right, courts will not undertake to review decisions of prison administrators. This case presented the exceptional circumstance in that the action of the director. was unreasonable and arbitrary.

Another case was Sanno v. Preiser where the plaintiff claimed he was denied a furlough in violation of the Equal Protection Clause of the Fourteenth Amendment. Plaintiff Sanno was imprisoned on a charge of second degree rape. His

request for a furlough was refused for consideration of public safety because Sanno was judged to be a poor risk in view of the vicious nature of his crime, his extensive prior record, his use of drugs, and his pattern of poor community adjustment. The court held that consideration of public safety was a factor mandated by the New York statute and that the New York Department of Corrections had found that community safety required strict control over inmate participation in the furlough program.

Plaintiff did not deny that the decision to deny him a furlough was in accord with applicable rules, nor did he allege that the decision was the result of impermissible factors or invidious discrimination. Instead he claimed that his being denied a furlough was a deprivation of equal protection because other inmates convicted of violent crimes were permitted to participate in furlough programs and that the department had abused its discretion and acted arbitrarily and capriciously.

The court held that the plaintiff was not denied a constitutionally protected right. The factors upon which the denials were based accorded with state procedures and were factors articulated by the decision maker and reflected clearly rational criteria for the state to use in administering a furlough program. Plaintiff's allegation amounted to a claim that the decision of the prison authorities was erroneous or ill-founded, but the court held that such a decision is not an infringement of a constitutional right.

"The Constitution does not assure uniformity or decisions or immunity from merely erroneous action by the executive agencies of a state. The denial of plaintiff's application based on rational criteria and applied to the facts personal to plaintiff reflect a considered and reasoned exercise of administrative discretion in any event they do not rise to the level of constitutional infirmities."

Although there is no support for requiring a prison system to have a furlough program, there is a growing body of decisions to the effect that if a state does set up a furlough program, prisoners must be granted procedural due process in the granting or denial of furloughs and that prison officials must not act arbitrarily in the administration of such programs. Denial of the benefit of furlough is a grievous loss requiring due process whether accomplished through classification procedures or other administrative action.

Absent emergency conditions, process that is due in classification cases requires notice of the contemplated action, specification of the reasons, the right to appear and present testimony, hearing by an independent officer, a written finding, and review at each level of administrative authority. Witnesses need not be called who would be put in danger or whose appearance would undermine authority. Confrontation and cross-examination of all sources of information is not required, counsel need not be furnished, and no transcript is necessary. This due process applies to general classification that limits access to furlough and other benefits available to other inmates. Administrative decisions denying or granting furlough in a particular case, not involving general classification, would appear not to

require as much procedural safeguards. The cases are not clear on this, but some due process along the lines of that required in classification cases is necessary.

3. Constitutionality. The Kentucky furlough statute, which follows the federal language and scheme for providing both furloughs and work education release, was attacked in a suit by the state attorney general as being contrary to state constitutional provisions that require convicted felons to be confined within the penitentiary walls at labor, and denies to the legislature power to authorize employment of convicts elsewhere, except on state public works, public roads and bridges, and county roads and bridges.

The complaint did not attack establishment of correctional centers for non-work activities, nor parole, furloughs for emergency medical care or education release, so the court did not rule on those facets of the legislation. Only two subsections were attacked: the first subsection providing extension of limits for compassionate leave, contacting prospective employers and any other compelling reason consistent with the public interest or to promote the welfare and rehabilitation of the inmate and the fourth subsection providing work release.

The trial court had dismissed the entire suit, holding that neither furloughs nor work release were prohibited under the interpretation in George v. Lillard (1899). A divided Court of Appeals, the state's highest court, affirmed in part and reversed in part, holding non-work

furloughs constitutional on the authority of George v. Lillard and work release unconstitutional on the same authority.

As noted in dissent, the controlling case let parole pass constitutional muster and it has been in effect for 75 years; work release is even more restrictive of a prisoner's liberty. George v. Lillard upheld the constitutionality of parole authority retained in another agency when a board of prisons was created by saying that the statutes did not require prisoners to be confined but only prohibited their employment outside prison walls with the exceptions stated; "within the walls" attached to "at labor" rather than "confined" with the apparent result that "confined" was reduced to a redundancy.

A trial judge in Illinois is reported in the press to have ruled that furloughs in that state are an unconstitutional usurpation of judicial power, but the effect of the ruling has been stayed subject to the decision of the state supreme court on appeal. Furloughs as usurpation of judicial power was raised as an issue in Pennsylvania in 1972 but without the claim of unconstitutionality. The constitutional issue was raised in a similar way concerning parole in Wilson discussed above.

Furloughs given under a state constitutional power of reprieve have been held constitutional, but efforts to limit or transfer this power by the legislature or courts without constitutional amendment have been held to be unconstitutional

and the constitutional provision for exercise of the power according to legislative regulations has been construed to authorize only application procedures and not to limit the exercise of the power outside of such procedures. Most such decisions have to do with parole. However, as indicated in Wilson v. Commonwealth, executive clemency was not so jealously guarded in most states when parole was being considered.

It would appear that counsel for departments of correction should be prepared to deal with such challenges or attacks on furlough legislation and that unique aspects of both constitutional and case law should be considered in formulating authorizing legislation. Legal history and precedents on executive clemency, parole, release or work under guard, actual and constructive custody, sentencing and punishment, commitment and escape all may be involved either as theories to support a challenge or to argue for constitutionality. In addition, it would appear to be provident to be prepared to deal with how courts have made decisions in the past in order to avoid the refusal of a court to deal forthrightly with its role of formulating public policy, especially in view of the changes that have taken place in corrections since most constitutions were adopted and much decisional law was formulated.

While there may be limitations for policy formulation in the face of unambiguous provisions of a constitution, where there are clearly choices to be made between existing but conflicting legal theories, courts should be aided in

exercising their judgment to decide public policy in favor of legislatively sanctioned meritorious progressive and beneficial programs. And, of course, there is little that is not ambiguous in the law.

5. Liability of officials. Very few cases have dealt with the liability of officials in relation to furloughs. Whether granting a furlough to a prisoner not under such mental disability as to require supervision was negligence as a matter of law was dealt with by the Vermont court in Rivers v. State. A drunken inmate on a weekend pass from a regional correctional center drove a stolen truck at high speed without lights at night and struck the vehicle in which two deceased of the administratix were traveling, killing them. The state and its department of corrections were sued in a death action for negligence of officials which was claimed to have set in motion the chain of events resulting in the deaths, and the trial court dismissed on motion of the state after plaintiff's opening statement.

On the first issue of negligence, the court on appeal found that granting a furlough under the authority of statute was not per se a negligent act. The legislature deliberately elected to put upon the public the risks incident to the rehabilitation program it implemented in return for the presumably greater rehabilitative returns, and it was clearly within the province of the legislature to undertake such a policy without its wisdom being a matter of judicial concern.

It was not necessary to allow amendment of the complaint for allegation that the decision to furlough was made in a negligent manner because on the second issue of proximate cause no allegation was made that the inmate suffered from any mental shortcomings that would make him not responsible for his acts or that his state of competency required constant supervision. His independent acts of intoxication, theft of a vehicle, driving without lights and without maintaining a proper outlook and driving at an excessive rate of speed were therefore independent intervening causes.

Foreseeability may be an element in determination of negligence but not of proximate cause, which is cause-in-fact. To transfer the inmate's negligence to the state would be to make the state and legislature liable for such acts as a result of release on probation or parole, early release on good time, release from a sentence too short to rehabilitate, or failure of suspension of license for driving while intoxicated to prevent a subsequent action. That argument was found to be dangerously parallel to those for preventive detention against constitutional limitations.

It is important to note that the action might have succeeded if it were proved that the officials acted outside the authority of the statute, or acted negligently in making the decision, and if the inmate's mental disability were such that he required constant supervision. Whether the state of the officials would have then been liable would turn on state law of discretionary and ministerial acts of officials.

Another kind of liability, prosecution for malfeasance, was dealt with by the Maryland court where a sheriff permitted a prisoner to leave jail unescorted and unsupervised after he plead guilty and was awaiting sentence (Baumgartner). The court did not allow evidence of similar practice by sheriffs in other counties to be introduced into evidence. It would appear that the same set of facts would support a criminal charge of escape against the sheriff.

The last kind of liability found in the cases deals with possible damages awarded under a suit for violation of civil rights. Since many cases are decided on procedural or jurisdictional grounds, and since injunctive relief may be given without damages, failure of any plaintiffs to receive damages in furlough cases thus far does not rule out that possibility.

The cases have held, however, that "a proper exercise of discretion by the appropriate official is not reviewable (Brooker at 978). In order to establish a constitutional deprivation a prisoner must show that the furlough committee determination was arbitrary or capricious so as to be devoid of due process or that the determination was designed as a form of punishment" (Brooker at 979).

Allegations of violation of the Equal Protection Clause that amount to a claim that decisions of an official were merely erroneous or ill-founded do not constitute the infringement of a constitutional right. "The Constitution does not assure uniformity of decision or immunity from

merely erroneous action by the executive agencies of the state" (Sanno at 562).

All of these kinds of liability would seem to call for clear and consistent guidelines with rational criteria and opportunity for hearing and review, reflecting the legislative intent of the statute, with application to the facts of each case in a considered and reasoned way with a record that preserves the basis for decision and provides notice to the inmate of the reasons for the action taken in his regard.

6. Right to furlough. It has been held that a furlough is not a constitutional right (Brooker at 978; Sammp at 777; Webster at 414), but a statutory creation which has been committed to administrative discretion. Its characteristics, however, are determined by statutory, constitutional and administrative law and those characteristics determined by interpretation of statutory law and constitutional law should affect the results reached in administrative law.

Since furloughs are for the most part created by legislation, judicial construction of the statute determines what right or privilege has been created. In reviewing decisions of officials, courts determine first if such decisions are based on the intent of the legislation as found in the statute itself and in the history of the legislation when it was being considered.

The courts will look to the express provisions of the statutes to determine if official decisions are consonant

with the legislative intent. Officials may not arrogate to themselves decisions properly made by the legislature and their decisions must be consistent with statutory directives (Johnson at 930).

The significance of these cases is that decisions of the courts become the law concerning furloughs, along with the constitutions and statutes, in the areas within the jurisdiction of the courts. However, since there is considerable borrowing among the courts as well as legislatures, particularly in new areas of legal activity, decisions of appellate courts in one state may be indicators for other states with similar legal heritage, especially neighboring states. One rule, followed by many courts, is that previous interpretations of a statute by the court in another state are usually adopted along with the statute. This rule and the prevalence of borrowing furlough legislation from the national government and from other states makes most decisions significant. While application of federal constitutional law by the district and circuit federal courts is mandatory only for the states from which the cases arose as far as state action, they are significant as precedent in other areas absent the adoption of contrary law in the other jurisdictions.

Regardless of the question of jurisdiction and differences of opinion among courts, the decisions set forth the legal issues that have been raised and the legal doctrines that are used to resolve them in particular cases. This is the primary interest of this study and generally no

attempt is made to spell out the "law" as the net result of statute and decision in each jurisdiction.

CHAPTER 13. ANALYTICAL FRAMEWORK

An attempt to develop an analytical framework for furlough programs based on costs and goal assessment requires an extension beyond the assessment of the manner in which furlough programs operate. In almost all furlough programs there is an absence of a specific goal orientation. In effect, the conferring of furloughs is a process which has been defined by the legislature. As a general rule, legislative acts specify a set of uses for furloughs with a general catchall phrase expanding furlough use. Thus correctional administrators have considerable discretion in defining their furlough programs. Administrative rules note the specific rules and prescribe a process for approving furlough requests keyed to the specific uses allowed. As is to be expected in a process oriented technique, the goal is obtaining the furlough itself, rather than something which can be achieved through the awarding of furloughs.

Of course, several agencies are notable for their exceptions to this general rule. Some staffs, like that of the women's facility in Oregon, have clearly defined the furlough as a treatment tool. Decisions to grant or deny furloughs are primarily assessed in terms of the treatment needs of the residents in question. Others, like Colorado, clearly use the furlough as an inmate management tool in their medium security facility. Generally, however, the conferring of furloughs is a process oriented, not goal oriented, procedure. In the latter part of this section, we will return to an

analysis of the framework in which furlough programs operate. First, however, we will organize the rationales provided by workers in the field into four theoretical models with their related frameworks.

A. Theoretical Models

We have found that various participants in the criminal justice system endorse various purposes for furloughs, although they lack an overall rationale for the operation of furlough programs. The presence of a large number of elements without an overriding rationale or theoretical construct with different elements endorsed by different participants leads to some confusion. Some of the confusion experienced can be reduced if we differentiate between programs for furlough on the basis of the underlying philosophy motivating the release. The four basic reasons for granting a furlough are humanitarian, tension reduction, reintegration, and inmate management.

The humanitarian philosophy sees the offender as having basic needs, both physical and psychological, which must be met. When the offender is faced with a personal crisis or need we respond to that need. Even at the theoretical level, there are no clearly defined goals in this model. A general conformance to societal norms comprises what can best be defined as the goal. We can not consistently argue benefits to the inmate in that frequently the release context is potentially trying and is as likely to produce a decline in the inmate's mental health through intensified frustration as it is to produce solace and relief. Of course, when a medical

need is identified, a sub goal of medical remedy can be postulated. Thus, in the case of an extreme crisis or need, correctional institutions take exceptional steps to meet those needs. In the case of a death in the family, an attempt is made to allow the inmate to leave the confines of the institution. In many instances, however, he must be accompanied by a guard with some states requiring the family of the prisoner to pay the cost, including the guard's salary.

When an inmate can be trusted to return to the institution and remain stable during his trip, he can be released without supervision to attend a funeral and return to the institution. Only the last is a furlough. Similarly, in the case of a serious illness which cannot be treated in the institution, the offender can be released without supervision to a medical facility which can meet his needs without supervision, or be transferred to a security hospital, or a hospital with a security ward under guard. Only the first can be considered a furlough. In each of these cases, however, the inmate has a need to which we respond compassionately.

The humanistic perspective is most frequently identified with special needs and has the following assumptions:

1. Prisoners are human beings and can be regarded with compassion.
2. Personal tragedy and need justify a reduction in detention.
3. Community needs are less than offender needs in times of crisis.

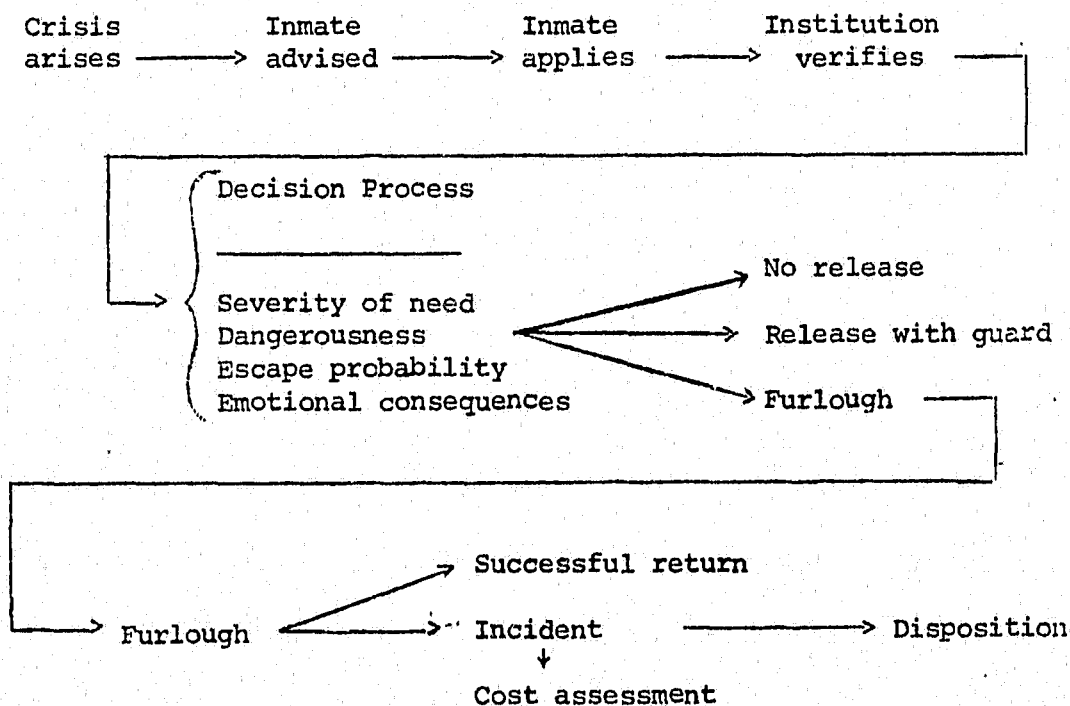
The process begins with a crisis arises. The inmate is notified and the institution usually becomes aware of the

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crisis at the same time as or before the inmate. The institution verifies the crisis through contact with the family or the community parole office. The deciding agency, whether it be a special board or parole officer, weighs the severity of the blow to the inmate against the risk of escape and danger to society created by his temporary release, bearing in mind that there may be emotional consequences regardless of the decision. We can graphically represent the humanistic procedures as presented in Illustration 4.

Illustration 4. Humanistic Procedures



In this model it is difficult to assess goal achievement as goals are not defined; however, costs can be assessed in terms of risk or harm to society resulting from the inmate's release. In the no release option the rationale becomes: this inmate is so bad that he is an exception to the general

rule requiring compassion for those who have special problems. In the release with guard option the rationale becomes: this inmate can be viewed compassionately in his hour of need, but is potentially dangerous to society; thus, he must be escorted. In the furlough option the rationale is this inmate is due compassion and creates little danger for society so can be released without supervision.

In reintegration there is an assumption that institutional life is atypical and the offender must be allowed the opportunity to both adjust to his return to the community and, in some cases, to maintain community ties. It is assumed that if the offender's reintegration can be smoothed, the incidence of reinvolvement in criminal careers will be reduced. While humanitarian and tension reduction furloughs have been common for some time, the reintegration function is relatively new in the United States.

While theoretically the goals are well defined for this model, they are not present in administrative guidelines or in daily operations with the exception of a few agencies such as those in California and Pennsylvania. Even when these goals are specified in the administrative procedure, at times they are not observable in the daily operation of the furlough program.

The reintegration approach has two basic types: the early and continuous use of furloughs and the use of a furlough near the end of a prisoner's stay. The basic procedures are the same with a set of shared assumptions and some dissimilar assumptions.

Shared Assumptions:

1. Total isolation from the community until release reduces the released prisoner's ability to make a successful adjustment.
2. Temporary short term release will permit the offender to re-establish or develop normal relationships in the community.
3. The development of normal relationships will enhance community adjustment.

Early and Continuous Approach Assumptions:

1. The frequent regular use of furloughs prevents the development of institutionalization.
2. The frequent regular use of furloughs insulates the prisoner from institutional pressures and prevents the development of abnormal behavior patterns such as homosexuality.
3. The frequent regular use of furloughs permits the prisoner to maintain relatively normal family and community relations.

Terminal Approach Assumptions:

1. Adjustment to institutional life per se does not affect release adjustment.
2. Inability to readapt to non-institutional life reduces the probability of successful community adjustment on release.
3. Rapid transition with inadequate planning and resources reduces the probability of successful community adjustment on release.
4. Furloughs granted in anticipation of release permit the prisoner to re-establish family relations, seek employment or housing, and establish community contacts.
5. Effective release planning effects the success of the offender in making a successful community adjustment on release.

This is graphically presented in Illustration 5, page 176, and Illustration 6, page 177.

Illustration 5. Reintegration--Early and Continuous Approach Model

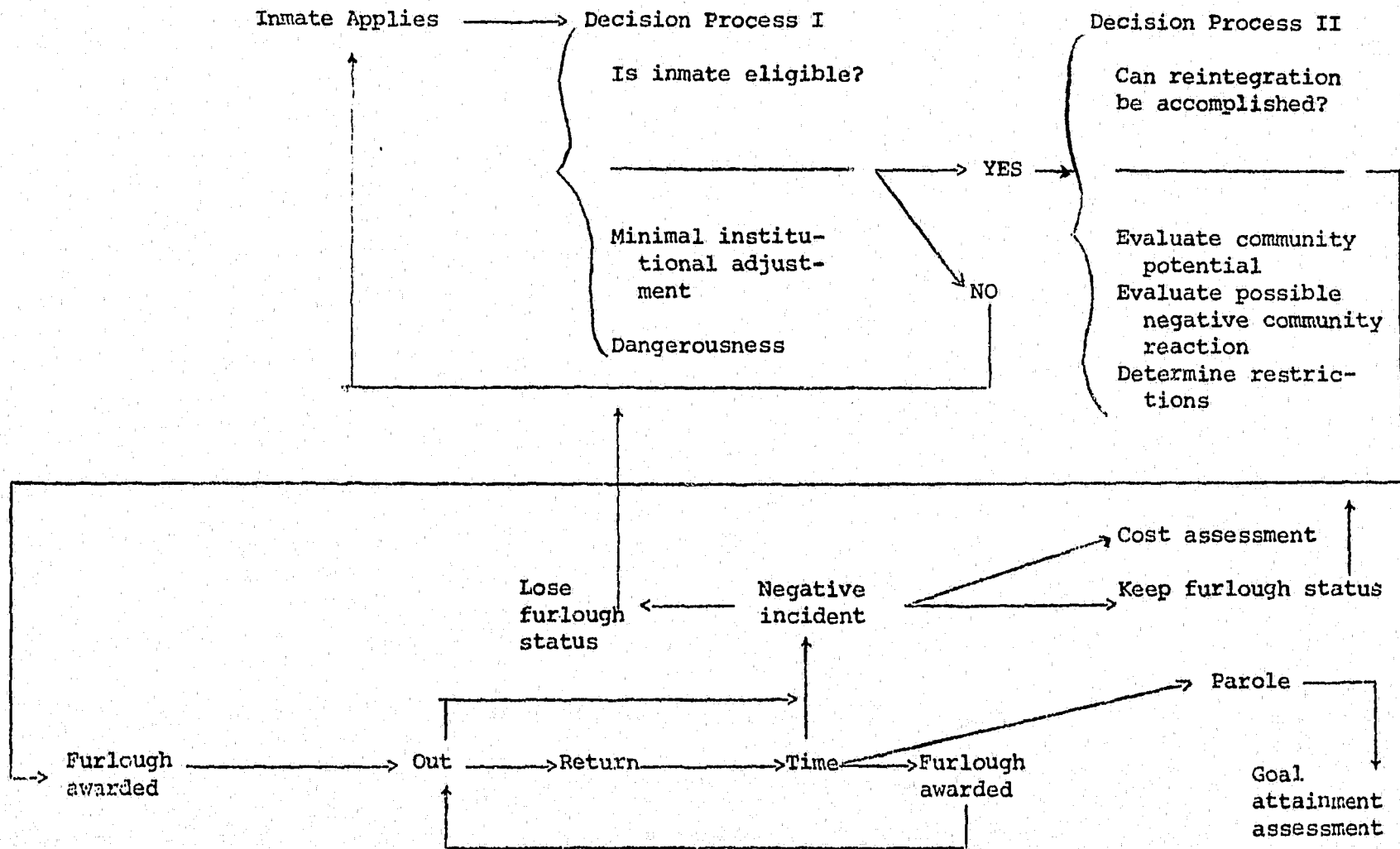
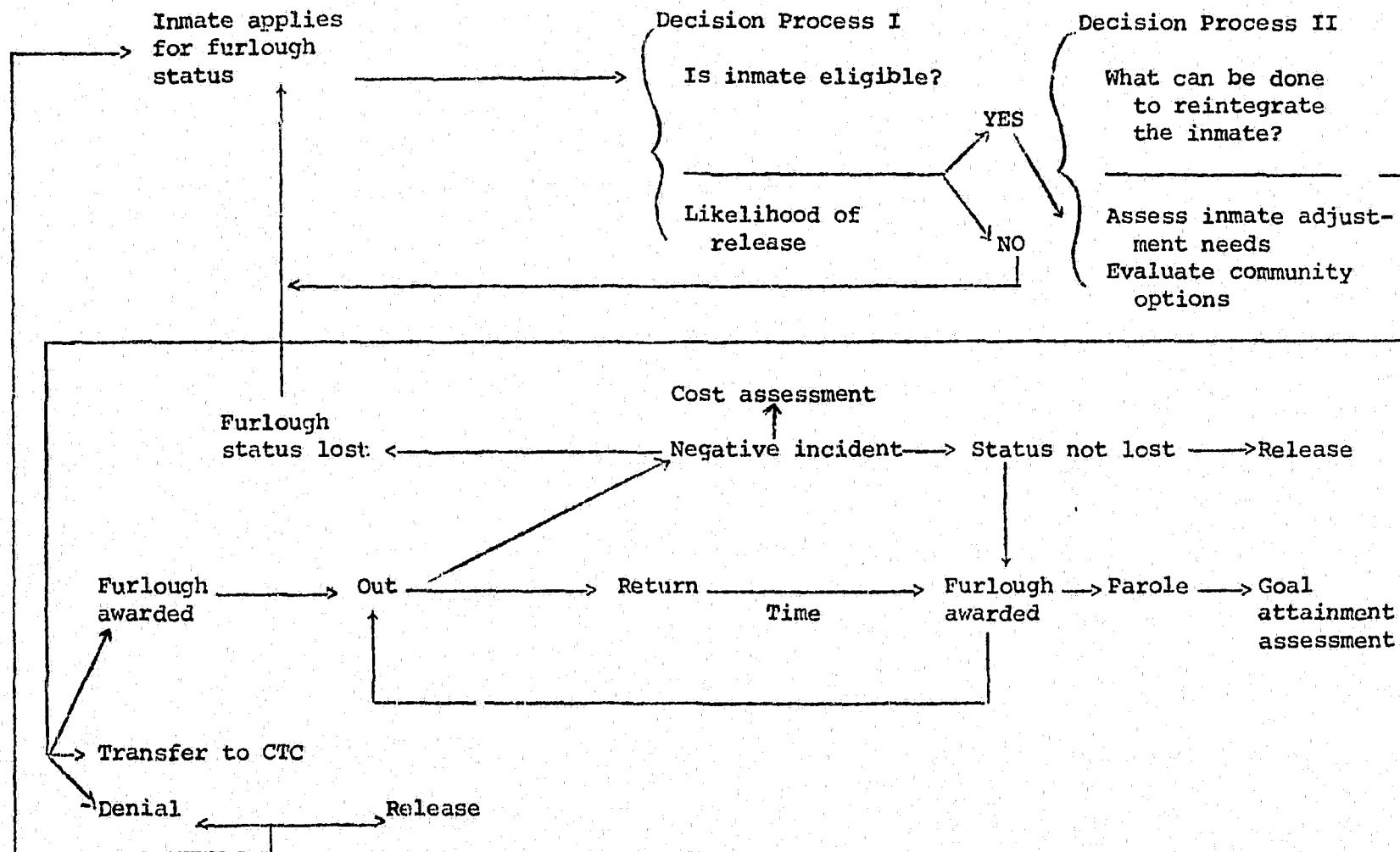


Illustration 6. Reintegration--Terminal Approach Model



While it is difficult to measure goal assessment in the humanistic model, in the reintegration model goal attainment must be measured after release and must focus on subsequent community adjustment. The rationale for a denial is based on the dangerousness of the inmate. That is to say, some inmates are so dangerous that the danger to society outweighs the eventual goal obtained through successful integration. In the terminal approach the community treatment center option reflects a similar concern. The rationale is that the offender must be slowly reintegrated through a gradual reduction in supervision which can only be achieved through a community based facility. The rationale for approval assumes that the inmate poses little danger to society and can be safely released with the minimal risk involved in the release of any offender outweighed by the potential gains of a successful adjustment to society on release.

In reduction of tension, the ultimate aim is to stabilize institutional activity by reducing the tension which is generated by long term restricted captivity. We find this most prevalent when applied to sexual frustration. The various processes developed for permitting a man to meet privately with his wife and family has led to some confusion with the furlough. In essence, if the man remains within the boundaries of the institution while receiving a visit from his wife or family, we have a conjugal visit. If he leaves the confines of the institution, that is prison property, and is expected to return at a later date, then he receives a furlough, even if he has simply gone to a nearby town.

There are two interlinked goals in this model. The first is a reduction in overall institutional tension which is achieved in part by reducing tension of furloughed inmates and in part by changing the climate of the institution. Thus, there are two basic types of reduction--one covert, group based; and one overt, individual. The individual approach makes the following two assumptions:

1. Prison life creates physiological and psychological tension which causes poor mental health.
2. Periodic temporary release reduces tension and improves mental health.

There is an assumption that prison life by its very one-sex close, closed association nature creates physiological and psychological tension for which there is no acceptable method of tension reduction. It is assumed that occasional home visits or release from confinement permit the inmate to reduce tension and maintain good mental health. As an alternative, the inmate may spend a short period in a town near the institution with his family. An alternative not considered furlough is the release of the inmate to special housing outside the confines of the prison, but on prison grounds.

The covert model is similar to the individual model with these assumptions:

1. The nature of the prison is such that a state of psychological tension develops in the population.
2. This tension is caused by a close, closed, intense social system.
3. This tension can be reduced by releasing a portion of the population for short periods.

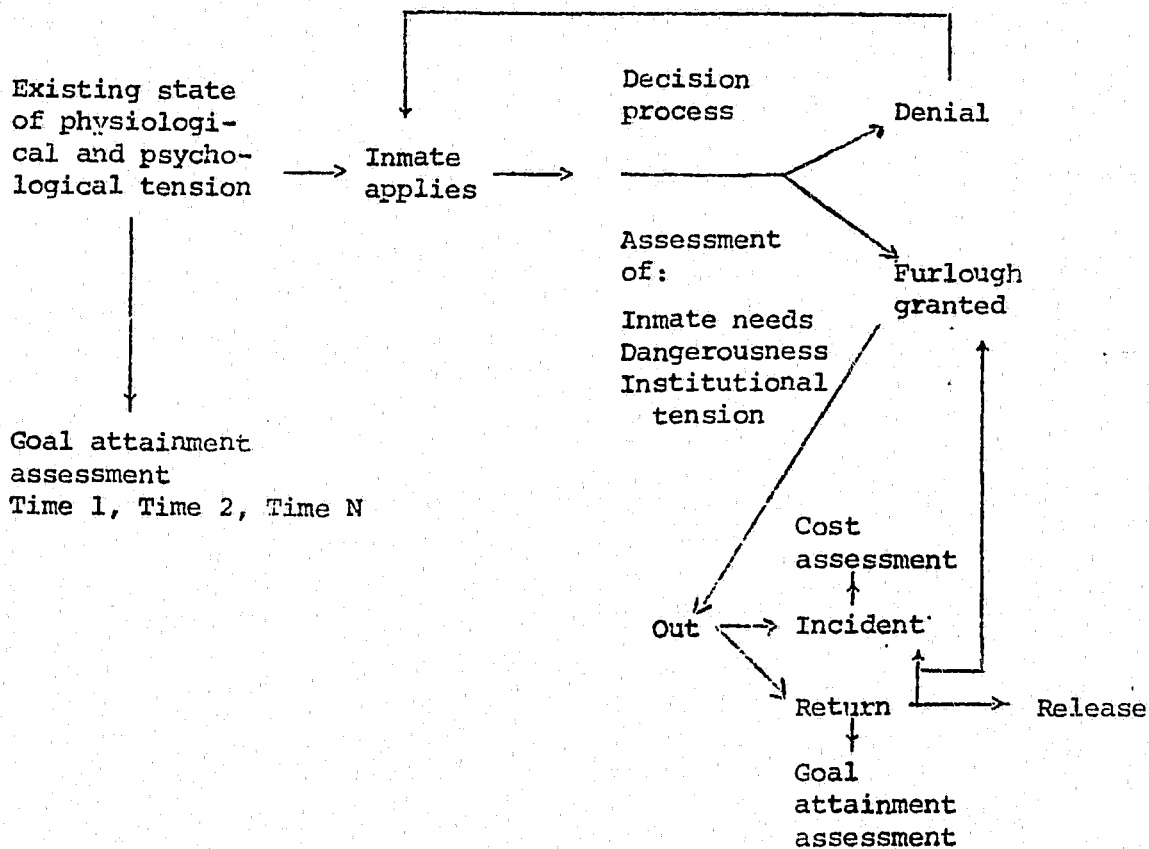
4. Prisoners released for short periods will return with reduced tension.
5. Prisoners not released will be encouraged to modify their behavior to obtain a furlough.

The combination of the reward potential of the furlough program and the reduced tension of temporarily released inmates is assumed to operate to reduce overall institutional tension. As this set of assumptions is rarely expressed, the operation of the furlough program in effect determines selection and processing.

As furloughs were found to decrease tension, expanded use developed. Many systems cite an ever increasing number of reasons for granting furloughs. Inmates are released for recreation and attending family occasions; however, the underlying assumptions match the reduction of tension assumptions. When the underlying assumptions are not realized or are confused with humanistic or reintegration assumptions, the inmate could be released without due care for public safety. Such procedures jeopardize program viability and should be avoided. This model is graphically presented in Illustration 7 on the following page.

The rationale for denial suggests that the potential danger to society outweighs the potential gain for the offender and the institution from tension reduction. Goal attainment is measured by assessment of institutional tension levels and by measurement of individual tension. Costs are measured in terms of potential threat of danger to society as indicated by the rate of failure in existing programs.

Illustration 7. Tension Reduction



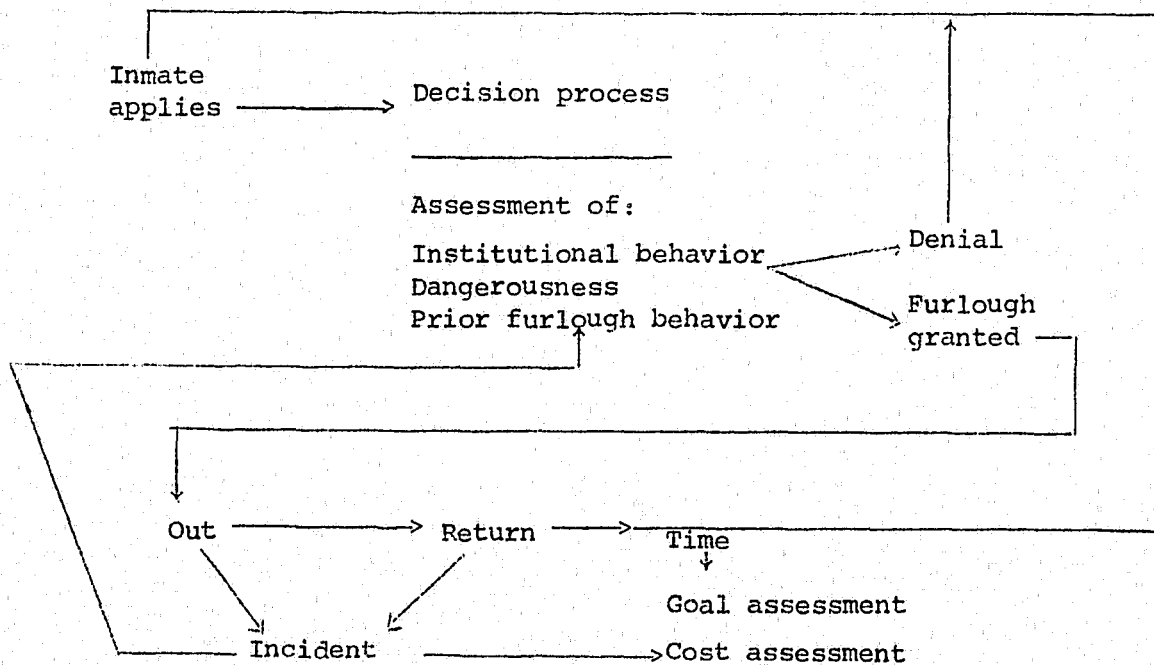
The inmate management model is oriented toward the smooth operation of the facility by controlling inmate behavior. The process and rationale closely approximate that found in the institutional tension reduction options. In effect, the furlough becomes a reward mechanism which prison administrators can apply along with other reward and disciplinary options to control inmate behavior. The assumptions underlying this approach are:

1. Furloughs have reward value for inmates.
2. Inmate institutional behavior can be modified by the use of the furlough reward.

3. Punishment potential exists in the potential withdrawal of the furlough reward.
4. This punishment potential, coupled with other punishment options, can be used to control the inmate's behavior while on furlough.

In this model the goal is clearly stated. By differential application of the furlough reward, inmate behavior in the institution can be controlled. It is assumed that inmates will desire furloughs; thus they will be strongly motivated to conform to institutional rules and participate in institutional programs. This model can be graphically presented as follows:

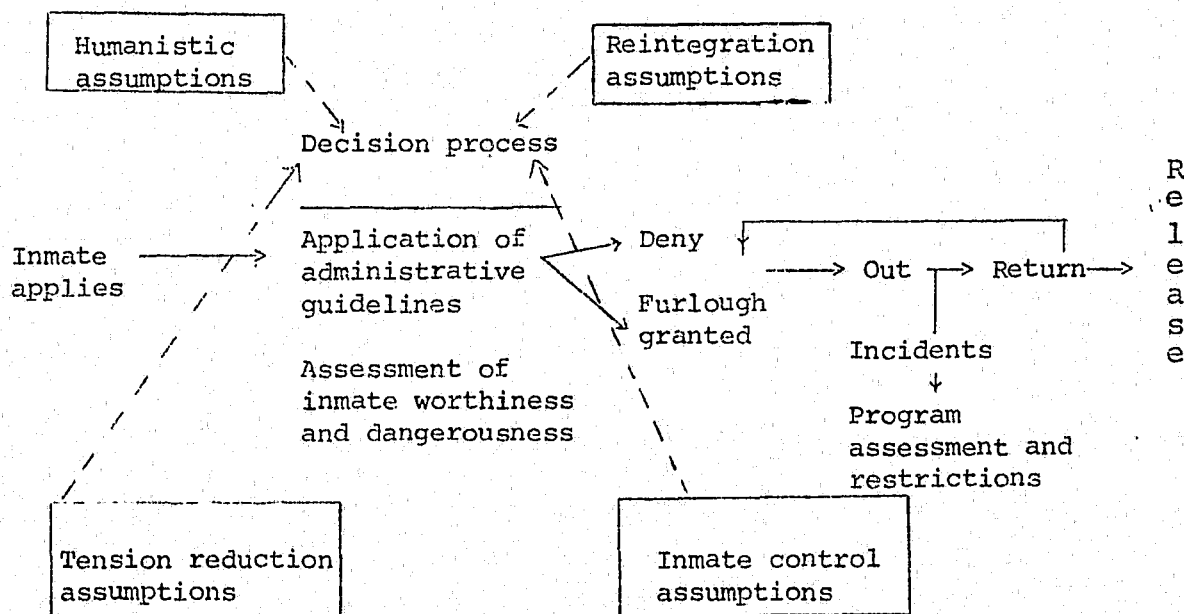
Illustration 8. Inmate Management



In this model the rationale for denial can be either inadequate institutional adjustment or excessive danger to the community. In the second rationale for denial, the risk to society is perceived as outweighing the potential gain from inmate control. Goal achievement is assessed by monitoring individual inmate behavior and the overall level of negative behavior in the institution.

In the operation of most furlough programs the rationale and assumptions are not clearly stated; thus, parts of all of the models are brought to bear in the decision making process. The operation of this process can be graphically presented as follows:

Illustration 9. Field Operations Model



In the overall undefined model applied by most agencies today, the goals, rationales and assumptions underlying the program operation lie in the belief systems of the people who are the effective decision makers. In systems where more than one person effectively makes the decisions, the philosophy applied will shift from case to case as one or the other of the decision makers becomes dominant. This leads to irregularity in decisions creating inmate frustration and negative reaction. This can be seen in the processes utilized by many of the agencies which we visited.

For each primary site visit the actual furlough process was examined. From this information a generic model was developed.

B. The Generic Model

Assessment of the furlough application process of each of the states visited identified procedures and processes which were fairly typical. Thus, after a flow chart of the furlough application process was constructed of each of the states, the charts were reviewed for similarities and differences. A generic flow model was then developed for the two major aspects of the system: the furlough application process and the furlough leave process. It should be pointed out that the charts are designed purposely to be reflective of the general procedures involved in the application and actual leave processes. It is not reflective of any one single system, nor does it attempt to identify all the variations which occur from system to system.

The model does suggest that certain factors are evident in the furlough decision making process in each of the states. It was discovered that seven crucial functional areas were important in processing the furlough request. These functional areas are depicted as flow chart column headings. They include the sponsor, the inmate, the counselor or institutional caseworker; other internal staff and staff committees, the office of the warden, external departmental staff, and external community system participants.

The furlough application process results from statutory authority that is provided to the Department of Corrections by legislation. The general authority and sanction of the department, as well as funding authorization, is of importance. Perhaps of greater importance is attitudinal factors within the state/community.

It was discovered in every state that rules and procedures existed which described when, how, and if furloughs were to be provided to inmates committed to the state. These rules were utilized in the development of the particular procedures which were adopted in each institution. Additionally, it was found in most states that there was considerable information about formal policy, and that this information provided the basis for the initiation of a furlough request.

The inmate initiates the process by talking with his counselor, generally after executing a furlough application or in preparation for making application. While documentation

LEGEND

FLOW CHART SYMBOLS

START

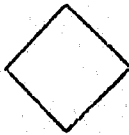
Indicates start point in system



Function block: any process or function which should be completed



Document symbol: indicates paper document, code numbers indicate formal forms (usually with "P.D." or "PRISON") and informal forms ("D" code)



Decision block: a decision is required at this point in the process flow

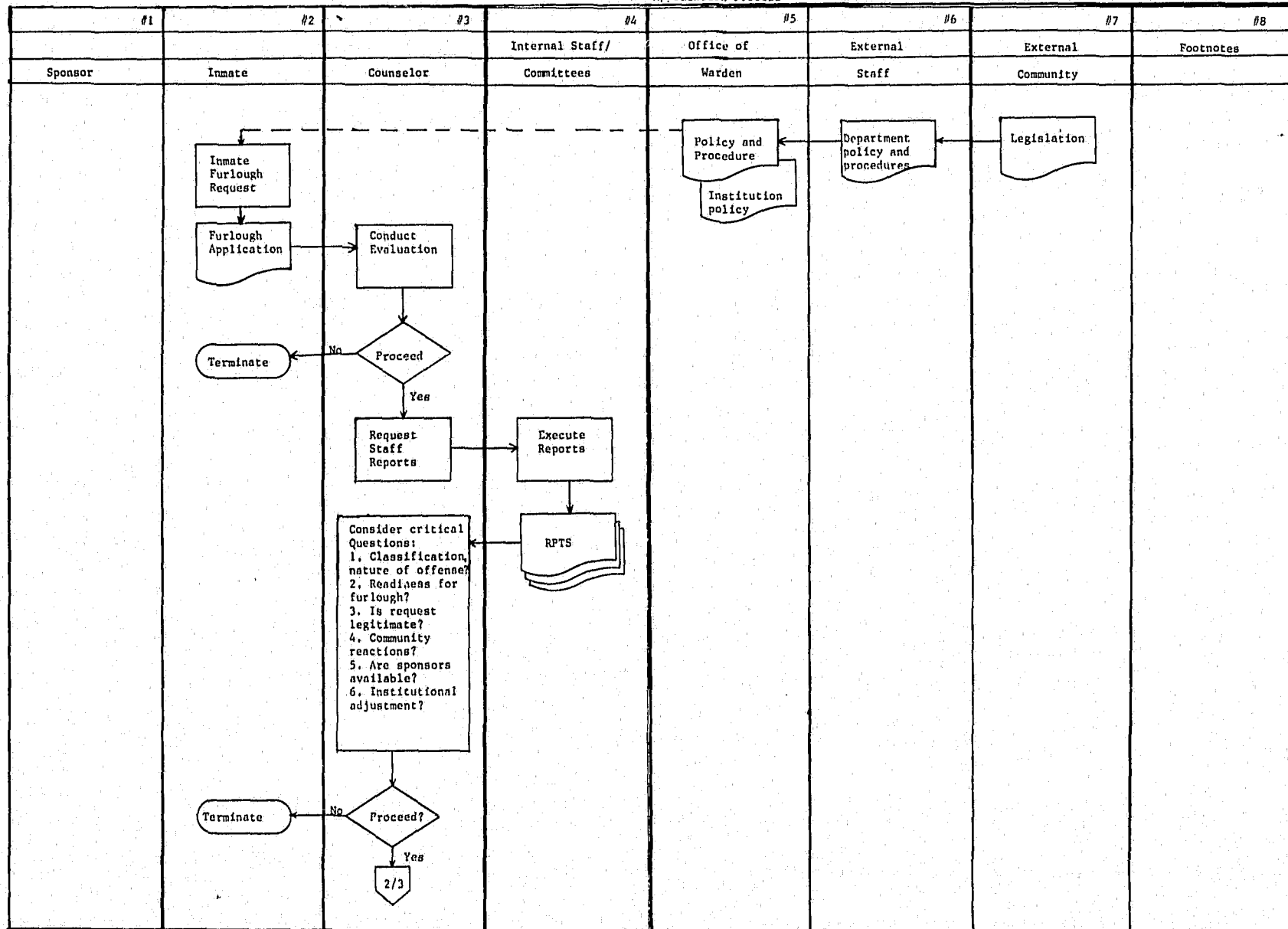


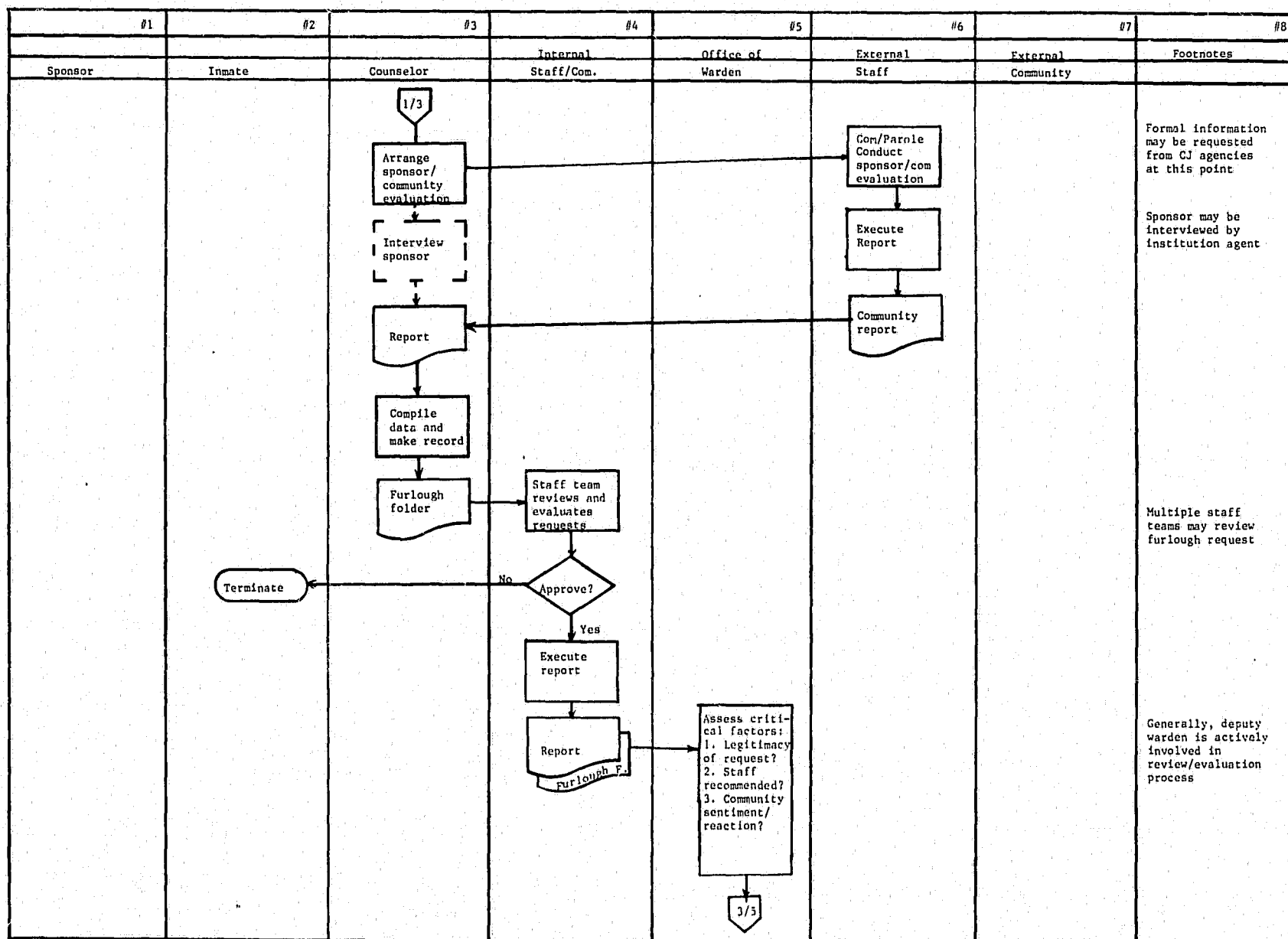
An interrupt point: contains reference directions

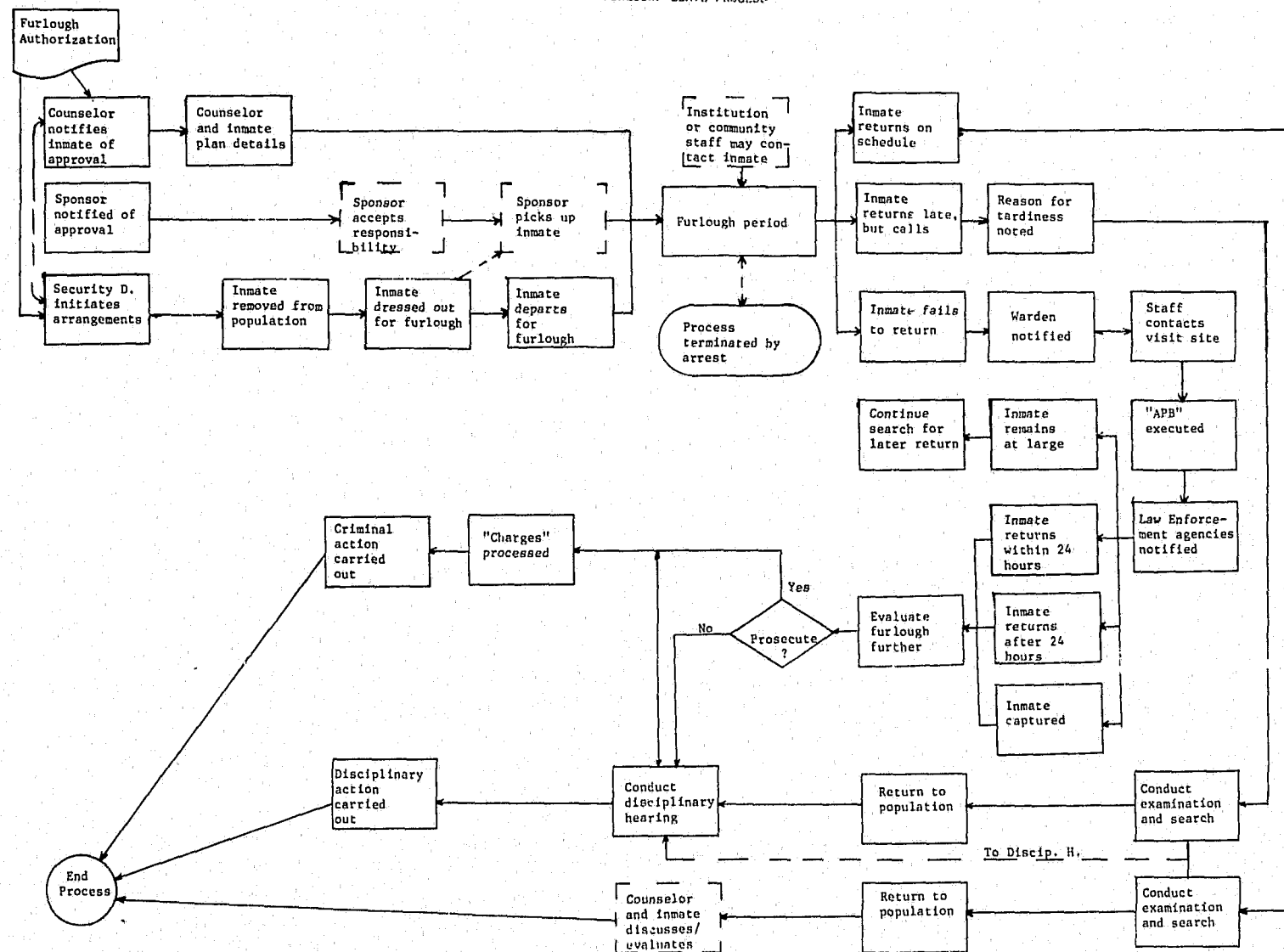


Off page connector: exit to or enter at this point

Furlough Application Process







is limited, it would appear that the counselor has considerable latitude in whether or not to process a furlough application.

The opinions of other staff within the institution were found to be critical to the furlough application process. Generally, the counselor sought these opinions in a formal, as well as an informal manner. Considerable reluctance to proceed with the furlough request was found if there was negative staff reaction to the specific request.

The staff responses and other data regarding the inmate is assessed by the counselor against certain critical issues. If he continues to feel positively toward the application, he arranges for an interview with the prospective sponsor. This usually includes additional information gathering, regarding community factors as well. This material is compiled into a recommendation which is routed to a staff team for evaluation. It should be noted that some programs have several staff team levels to evaluate the request, while others place little emphasis upon the staff team evaluation.

While the degree of team input varies from agency to agency, in each case the caseworker is the primary processing agent. When the caseworker or team has made a tentative judgment, additional information is sought from the community to which the offender will be released. In some agencies the caseworker has verified placement and need at the earliest stages. In addition, at this point, most agencies notify other community agents, permitting their input if they so desire. In most cases a positive action is required from

approving community agents. That is, community agencies are notified and must send a response if they object. Silence is taken as an affirmative.

The caseworker or treatment team then makes a final judgment. In most agencies this is the effective decision making point for the institution. The application is then reviewed by administrative staff at the institutional level. In most agencies final approval lies with the superintendent or warden. In these instances procedures following the warden's approval are notification procedures. In some agencies the application is reviewed by field services and/or the central administrative unit for the department of corrections. In most cases the institutional decision is accepted unless unusual circumstances prevail. In rare instances, the effective decision is made by the director of corrections. The most common exception deals with special offenders or dangerous offenders. In some systems applications by these types of inmates must be reviewed by a special committee or the central bureau after the institution has made a tentative decision.

The furlough leave process itself is even more uniform than the furlough application process. While length of the actual leave varies greatly from agency to agency, each agency processes its furloughees in the same manner. Most deviations are exceptional and reference a single agency. There is some variation in procedures for the release process. Some agencies require the sponsor to appear personally at the institution to receive the inmate. Most agencies, however, will

allow the furlougee to use public transportation. It is interesting to note the similarity in this process as most agencies have no written guidelines dealing with this procedure. The only other difference of note is the official recording of an escape. The procedure appears to vary, not only from agency to agency, but from case to case. With the exception of Massachusetts, most correctional administrators have a great deal of discretion in this matter. As a result, each case is dealt with on the merits of the case.

A selection of site application procedures have been prepared to illustrate the variations in process from site to site, and can be found in Appendix C. Each flow chart is accompanied by a statement of procedure and key guidelines for clarification.

CHAPTER 14. CRITICAL VARIABLES IN EVALUATING FURLOUGH PROGRAMS

Our variables are presented in modules or logical units of variables related to measuring specific costs or goals of a furlough program. Specific program evaluations can be developed by selecting the modules and past modules which reflect the operations and goals of the program to be evaluated. We have designed a set of codes and weights for our variables and modules where needed. The reader must remember that these codes and weights reflect our assumptions and have not been tested. Both a more thorough discussion of variables and their measurement and a more complete description of the appropriate methodology for conducting a furlough program evaluation can be found in the manual for single site evaluation prepared under the terms of this project. We now turn to a brief description of our variables and coding system.

A. Module 1: Crude Costs

Crude costs are figured using a simple cost benefit analysis approach. There are various levels of complexity involved in considering the costs and benefits of a furlough program. Benefits, in particular, are subject to different levels of conceptualization that range from reduced expenditures that can be measured easily (for example, if forty inmates are away from the institution for three days, the institution food service has 360 fewer meals to serve) to benefits that can only be estimated roughly (for example, ten inmates use their furloughs for successful job interviews

which result in earlier parole, earlier employment with subsequent savings in tax dollars due to the parolee's ability to pay taxes and support himself and his family without public assistance) to cost savings that are not subject to measurement at all (for example, an administrator of a furlough program may suspect that the program has reduced the level of tension in the institution sufficiently to avoid the loss of life and property destruction of a riot).

Many of the complexities of cost effectiveness evaluation can be managed by being aware of the alternative ways of evaluating the costs and benefits expected. One must be fully aware of the particular perspective appropriate for evaluating programs for different purposes. One may, at times, need to evaluate the costs and benefits from the perspective of the budget. This perspective is concerned with flows of government funds and is not especially difficult if the administrator gives careful thought to the nature of the program. A second perspective is that of the individual offender participating in the program. It is relatively easy to evaluate the costs and economic benefits to individual offenders in terms of the ways in which the program effects their income and accumulated wealth. A third perspective is the macro-economic viewpoint in which the evaluator is attempting to determine the costs and benefits from the perspective of society as a whole. This latter perspective is the most difficult and complex in that human knowledge has not advanced sufficiently to allow qualification of some types of costs and benefits

(for example, if we could determine which offenders were rehabilitated by virtue of having been exposed to an array of institutional treatment programs, we would still be faced with the task of determining the proportion of the contribution to rehabilitation made by the furlough program).

Despite the complexities of macroeconomic analysis, it is worthwhile for the program administrator to be aware of some of the possibilities in order to be able to explain the full range of benefits from a furlough program in qualitative terms even if quantification is not possible.

B. Module 2: Risk to Society

Every agency will need to assess risk to society as one of the basic costs to society. When public interest about furlough programs is aroused, misbehavior of inmates is almost always the cause. There are two major factors in the risk to society module--escapes and misbehavior. Correctional agencies need to know the exact nature and extent of the risks created by their programs so that they can modify their programs if the risk increases and educate the public if risks are minimal.

There has been some confusion regarding the measurement of escapes as policy varies from agency to agency and as escape is not clearly separated from late voluntary return. There is an assumption that a person who has not returned when expected is dangerous to society thus costs are assessed even if the escaped offender does not commit additional criminal acts. There are some cost factors involved in law enforcement

time devoted to attempted recapture of the reported missing offender. Rather than escape, we will use the broad category of failure to return as scheduled which will have two major sub-categories--late returns and escapes. Late returns will include all cases in which the offender had no escape intent and returned voluntarily. Escape will include all cases where the offender intended not to return. Thus, those borderline cases in which an offender has a change of heart and returns voluntarily after an intentional non-return are escapes.

Late returns will have two categories: late with notification and late without notification. When an offender calls or contacts the agency indicating an inability to return as scheduled but indicates that he will return, we have an authorized late return. When the offender returns late without notification but offers an explanation for his delay, we have an unauthorized late return. As the risks and cost increase as the time interval increases, there are two sub-categories: two hours or less and more than two hours but less than twenty-four hours late. We will assume that an unauthorized absence of more than twenty-four hours reflects an intent not to return. Thus, voluntary returnees after twenty-four hours are recorded as escapees. Two hours has been chosen as the break point because most agencies will issue an APB for the non-returning furlougee at about that point. Escape has two additional categories: involuntary return and inmate at large. We then have two variables to which we have assigned codes as shown in Illustration 12.

Illustration 12. Failure to Return Weights

Late Return	Code
Authorized late return	0
Unauthorized late return--two hours or less	1
Unauthorized late return--more than two hours and less than twenty-four hours	2
Escape	
Voluntary return	5
Involuntary return	10
Inmate at large	15

We have assigned the following weighted values rather than straight numerical values (1, 2, 3, 4, 5, 6) so that the values represent what we project as the increased risk. We suggest that authorized late returns are no risk and are therefore weighted 0. We suggest that an escaped inmate who has not been captured represents high risk to the public thus is weighted 15 or is assumed to be 15 times as dangerous as an inmate who returns less than two hours late. These weights have been arbitrarily assigned and can be changed. However, we feel that these weights will accurately reflect relative risk and urge their use to maintain consistency among agencies.

The second major category in the risk to society module, misbehavior, also has several categories: rule violations, immoral illegal acts such as victimless crimes), and criminal acts (acts against persons and property). Misbehavior by inmates represents real costs to the general public; however, different types of misbehavior are worse than other

types of misbehavior and should therefore be weighted differently. The placement of specific acts in this framework will have to be determined by the criminal code in effect in the jurisdiction in question.

Rule violations will include violations of the furlough agreement excluding late returns and escapes; that is, returning to the institution in any manner requiring the filing of a disciplinary report for other than late return or known legal violations while on furlough. Rule violations will be taken to represent little or no threat to the public. Instead, they will be an indicator of release readiness for the furloughees.

A second category will consider violations of the law defining moral behavior or which are regulatory in nature. Acts such as drunkenness, illegal vehicle operation, disturbance of the peace and similar law violations will be included in this category. Criminal acts will include all violations of the criminal code other than those listed as defining moral behavior. They will be classified into two categories: crimes involving acts against the person such as assault and armed robbery, and acts against property such as shoplifting and auto theft. We suggest that the behavior variable be coded as found in Illustration 13.

Illustration 13. Rule Violations Weights

Rule Violations	Code
Minor DR	2
Major DR	4
Illegal immoral act	5
Crimes against property	10
Crimes against persons	20

We suggest that the usual misdemeanor-felony distinction is not suitable. The misdemeanor-felony dichotomy tends to reflect level of evidence, plea bargaining and jurisdiction more than it reflects type of behavior. The code we suggest focuses on the behaviors from minor misbehaviors to serious misbehaviors. We assume that the order of seriousness we suggest will be acceptable to most readers. The increased rates for acts against property and acts against persons reflect our assessment of the increased severity of these types of behavior.

C. Module 3: Short Term Goal Assessment

This module measures variables which are not included in many basic models. As furlough programs mature, we can expect that they will become goal oriented. While some agencies use furloughs to increase parole successes, the attempts to obtain long range goals are frequently conceptualized in short term goals. Thus, when furloughs are used as a part of an overall treatment or reintegration model, some immediate results are anticipated.

We suggest that all measures be based on 100 points to facilitate interpretation. The base of 100 allows easy comparison as a percentage of success. This component must remain flexible for each case as consistent short term goals will not be possible with a group of subjects with individual needs. The examples we present here will assume a general reintegration goal but other treatment goals can be dealt with in the same manner.

During the furlough planning process, the goals which are formulated should be recorded. The assessment of goal achievement can include both simple success (furloughee John Jones found a job) and effort expended (furloughee John Jones spent twelve hours seeking employment or completed six applications or three interviews). The goals should be stated in appropriate terms for each case. If John Jones has a specific job interview, then both completing the interview and securing employment are relevant measures of degree of success.

Goals should be listed in a measurable manner. If one short term goal is looking for employment, then the goal should be expressed in number of interviews completed or number of hours spent looking for work. The measurement should be consistent from goal to goal. Thus, if job hunting is measured in hours, then all other goals should be measured in hours. When the goals have been listed, then sum the total number of units (hours, contacts, success) and divide them into 100 to get a unit value. For example, if the inmate has five tasks to complete, each task would be worth 20 points. If the furloughee has 25 hours of effort to complete, each hour would be worth four points. These goals can be weighted if some goals are more important than others. In these cases, multiply the number of units by the weight. For example, if you believe that job hunting is twice as important as getting a driver's license, then multiply the number of job hunting units by two. For example:

Goal 1.	Job hunting, 20 hours x 2	40 units
Goal 2.	See parole officer, 2 hours x 1	2 units
Goal 3.	Apply for driver's license, 4 hours x 1	4 units
Goal 4.	Take children to park, 2 hours x 2	4 units
		<u>50 units</u>

Each unit is worth two points ($100 \div 50$) but job hunting units and child interest units receive double points or four points for each hour invested. Any combination of weights is possible as long as they total 100. If this inmate spent 18 hours job hunting (72 points), saw his parole officer (4), and took his children to the park (8), he would have a score of 84. Or roughly speaking, he would have accomplished 84% of the tasks he planned to accomplish.

We suggest that this short term success figure would have to be adjusted for costs. If he completed those tasks but robbed a bank, we would not want to say that he had been 84% successful on his furlough. The adjustment can be made by assessing penalty points for misbehavior. If we combine our codes from Module 2: Risk to Society, we have the cost assessment scale found in Illustration 14.

Illustration 14. Risk to Society Weights

Point Assessments	Points
Late less than 2 hours (unapproved)	1 point
Late 2-24 hours (unapproved)	2 points
Escape--voluntary return	5 points
Escape--involuntary return	10 points
Escape--no return	15 points
Rule violations	
Minor DR	2 points
Major DR	4 points
Illegal moral act	5 points
Crime against property	10 points
Crime against person	20 points

Remember that these weights have been arbitrarily assigned based on our assessment of the relative costs of each of these acts and can be arbitrarily modified if your values differ greatly from ours.

D. Module 4: Institutional Tension

It is difficult to define institutional tension. This variable has been defined as a behavior, a readiness to act, and as an attitude or mental condition of uneasiness which produces certain types of protective behavior. Institutional tension then is a belief that the person is not comfortable in his social setting. This institutional tension can range from dissatisfaction to fear for personal safety. There is usually an assumption that a high tension state produces a predisposition to action of some kind.

Two types of measures will be applied to the measurement of institutional tension--behavioral and attitudinal. The behavioral component will measure inmate activities using existing or modified existing institutional records. The focus will be on disciplinary reports and participation in institutional activities. Disciplinary report rates will be prepared for major and minor disciplinary reports. In addition, assault rates will be computed. These rates will be expressed in terms of number of incidents per man per year for specific time intervals. A base can be established from institutional records controlled for policy changes and exceptional events. As furlough programs expand or are modified, changes in these measures for both furlough groups and non-furlough groups will be compared. It is assumed that

participation in activities will decrease as tension increases. The daily use of the library, gym, music room and other facilities will be recorded as will participation in programs and cell block activities (number of inmates in cell block rather than in cells). Fluxuation in activities will be compared with number of furloughs granted.

A Likert scale has been developed to measure tension. It was designed for administration to both inmates and employees. The schedule will include direct assessment of tension. Attitudinal scores can be compared with other measures of institutional tension to see if they are consistent.

E. Module 5: Long Term Goals

The ultimate measure of the success of any correctional program is its impact on the crime rate. While such measures are questionable on their face due to the impact of a number of additional factors, they should not be ignored. Fluxuations in the crime rate are an indicator of both the overall performance of the criminal justice system and socioeconomic factors as well as correctional programs, but attention to crime rates should not be ignored. While we have suggested that crime rates are the true measure of the success of any correctional program, we point out that the use of furloughs is just one part of a correctional program and just one of several factors which influence the crime rate. As such, measurement of the crime rate is not a realistic measure until you at least have an evaluation which includes all of the components

of the correctional process. Thus, the assessment of long term goals will be restricted to the other measures.

The second long term measure is recidivism. We assume that any design to measure the impact of correctional programs will be sophisticated, involving a sample of all offenders. Recidivism should not be a simple return to prison measure. Recidivism will include return to prison and adjustment in the community. Direct success will be a measure of length of stay in the community expressed in terms of months multiplied by a constant determined by reason for return. We have arranged the measurement of recidivism and successful adjustment so that a 100 point scale is developed to facilitate easy interpretation. High scores will indicate success; low scores will indicate failure.

We suggest the following codes and weights for long term impact. Reasons for revocation will be of four types: a more serious crime than that which generated the original conviction (number of months times $1/4$); a crime similar to the crime which generated the original conviction (number of months times $1/2$); a less serious crime than the crime which generated the original conviction (number of months times $3/4$); and a technical violation (number of months times 1). Positive adjustment will consider employment, family involvement and positive acts such as restitution or civic activities. These factors will form a 100 point scale based on two and one-half years of release. The parolee will receive one point for each month of employment, one

point for each month he resides with his family, up to one point for each month he remains unincarcerated and up to ten points for restitution or participation in civic activities. Job changes can be reflected in positive or negative points. Each time the ex-offender improves his job position, he will gain one point. Each time he lessens his job position, he will lose one point. Improvement or loss in position will be determined by income and working conditions. Inmates who do not return to their families or who have no family connections will receive one point for every month they maintain themselves in an approved social setting as determined by the parole officer. Inmates who reestablish family ties after release receive the ten points positive acts bonus.

In two and one-half years, then, the parolee could accumulate thirty points for staying in the community, thirty points for remaining with his family, thirty points for remaining employed, and ten points bonus or loss for positive behavior or instability in his adjustment. The inmate subjects should be the same inmates who were subjects in the institutional component of the evaluation. As inmates are released at different times, the group is not measured as a group. Measurement for each subject begins on his release and continues until revocation or until two and one-half years have been completed. Inmates who have not completed two and one-half years when summary reports are prepared can be dropped from the summary tables. While not sophisticated, this set

of suggested codes and weights will permit effective measurement by long term adjustment.

F. Module 6: Community Attitudes

Community attitudes affect legislative support of correctional programs. Community attitudes should be assessed to measure both the impact of community education programs and the impact of furlough programs on community attitudes. We have prepared a Likert type scale which has not been tested. A base can be established with changes over time measuring changing community attitudes. Samples of law enforcement officers, prosecuting attorneys, judges, registered voters and furlough sponsors can be selected for each testing.

The Likert type scale has been designed to measure positive orientation toward furlough programs. While Likert type scales are the least complicated to construct. They rank subjects or groups rather than measure specific amounts of an attitude. It can be administered to properly drawn samples and used to measure change in attitude over time for the sample.

G. Control Variables

We use control variables as a check to determine if our results are due to the variables we are measuring. It is possible that changes in institutional tension are due to the racial mix of our samples rather than the use of furloughs. If this is the case, we will notice changes in the tension level as race varies rather than as furlough use varies. Thus, we gather data on as many background variables

as we can so that we can check our results. Control variables for which comparison will be made will include: type of crime, length of incarceration, length of sentence, percentage of sentence served incarcerated, number of days authorized release during incarceration, community resources available, special community resources utilized, demographic variables and prior offense history.

CHAPTER 15. THE NEED FOR ADDITIONAL DATA

A Phase II project is designed when the Phase I evaluation discovers that there is insufficient evidence available to effectively assess program operation. In the case of furloughs we have found that accurate, adequate information is virtually non-existent. Furlough programs are not usually conceptualized in terms of goals much less measurable goals. Instead, furloughs have been adopted on a technique or procedural basis. That is, furlough programs are something new that can be added to correctional programs, so they are added with little thought to purpose and high attention to procedure.

As a result, evaluations have been non-existent. States with comprehensive effective research components such as Massachusetts collect descriptive data related to frequency and incident of misbehavior as controlled for background variables. Even in this program, which is the most advanced in the U.S., there is no real measurement of goals. The few studies or evaluations of furlough programs have been impressionistic focusing on the feelings and beliefs of those who participate in the programs. While most states compile basic summary statistics including frequencies of furloughs and escapes, almost none collect any further data and many do not collect this data systematically over the entire system. In several instances it was clear that we were given guesstimates rather than firm estimates or actual figures.

Our Phase I appears to be the most comprehensive study to date. Of course, by its very nature this study did not

generate hard data. While it was comprehensive, it was also an impressionistic survey. As such it identified the scanty information presently available and examined present program operation. It is clear that there is a need for accurate information regarding furlough program operations.

We propose that the evaluation have two major components. In the first component we suggest that the single site evaluation developed in this Phase I study be implemented in a host state; this would permit the collection of in-depth data from a single site. In the second component we suggest that a nationwide data collection system be established. If each state could be assisted in the development of a consistent plan for collecting basic statistics, then an accurate assessment of nationwide use will be available for summary presentation and comparative studies.

We also suggest that other components of the correctional process should be included. Two additional major programs (halfway houses and work release) combine with furloughs to form a re-entry or reintegration unit. These programs should be included in the basic single system assessment.

A. Component 1: In-Depth Analysis

The first component in our proposed Phase II evaluation focuses on the total operation of a single program. We propose that our Phase I sample site model be applied to a single host state.

We have found that very little is known about furlough program operations. Programs tend to be fairly consistent

with minor variations from state to state reflecting the whim of the legislature rather than sound correctional planning. Furlough programs tend to be operated from a procedural rather than a product perspective. Before these procedural models are converted to product models by correctional agencies, it would be sound policy to examine in depth the operation of a furlough program. With the collection of firm data using each of our modules we will be prepared to assess both the impact of the furlough program and the efficiency of our design.

The setting will be a state correctional system. At a minimum, the host state selected will need to have a furlough program which either explicitly or implicitly includes short and long term goal achievement assumptions. These two modules must be potentially present to allow a complete application of the model. If the host state is large with a number of institutions, it is possible that data will be collected only from a sample of institutions. If possible, however, data should be collected from all facilities conferring furloughs.

A host state must be such that cooperation can be obtained from field services as well as the department of corrections, if the state does not have a unified department of corrections. As there is a time commitment for parole officers with additional paper work, field services must be committed to the evaluation goals to assure consistent collection of data.

Samples will be taken of furlough eligible inmates, furlough ineligible inmates, correctional officers, furlough sponsors, law enforcement officers, prosecutors and judges.

If feasible, a sample of citizens will be drawn. However, such a sample involves considerable man hours due to its technical and complex nature. It may not be feasible or cost effective to gather these data for Module 6.

If feasible, the entire furlough eligible group will be designated subjects. A random sample of non-furlough eligible inmates will be chosen to approximate in size the furlough eligible groups. Appropriate sampling techniques will be used in each case.

An in-depth single site analysis will establish the relationships between the critical variables in the operation of furlough programs. Firm statements can be made regarding the benefits and costs to be derived from the use of this correctional technique. We have discovered a wide range of issues for which there is no substantive data base. The development of an in-depth base will provide an effective base for resolving these issues.

In addition, the single site evaluation can be evaluated and revised. The instruments can be refined. The result will be an improved and tested single site evaluation model.

B. Component 2: National Scope

The second component is designed to add breadth to our effort. We have seen that even the most basic of data is not collected consistently by all agencies. While most agencies can cite negative incidents, many do not consistently collect frequency data and most do not record positive incident data.

By combining an in-depth single site analysis with nationwide summary data, a clear picture of furlough use in the United States can be developed. Providing a broad comprehensive data base will permit effective decision making in correctional practice regarding the use of furloughs. While an in-depth data base is invaluable in making decisions, a broad data base will provide some basis for generalization. The question of generalizability beyond the host state would be a valid question. Nationwide collection of data for two major modules would permit some assessment of the generalizability of the in-depth data to other agency operation.

While correctional institutions share many unique factors which make them unlike other institutions, each facility is unique in its own way. We must be aware of both the common elements and the unique facets of each institution and its overall program. The use of furloughs can be expected to produce different affects in different institutions. When comparing institutions, we must be aware of and attempt to compare results with these factors. The setting, then, would vary from agency to agency creating an additional set of variables for comparison.

Data would be collected for the two major modules, risk to society and long term goals. The single site evaluation was designed to be implemented by correctional administrators with little or no assistance. This approach would provide agencies with assistance in designing their evaluation models as a part of the data gathering program. Thus, we can expand the scope of the critical design components.

Module 2: Risk to Society measures the ultimate goal of a well developed furlough program--the reduction of risks to society from those inmates who utilize furloughs and are subsequently paroled. For a furlough program to remain as a viable reintegration program, adequately supported by society, the immediate goal is to reduce the risk to society as much as possible during the actual furlough period. Thus, the objective of Module 2 is to collect data regarding problematic behaviors which occur during the furlough period which may pose a threat to society. It is assumed that if adequate data is collected about such behaviors, it will be possible to identify those factors which pose the greatest threats, resulting in planned modification of the furlough process.

It becomes apparent that to collect adequate data on furlough programs requires an efficient Criminal Justice Information System [CJIS]. It is widely known that the criminal justice system is divided into multiple sub-systems representing a variety of governmental jurisdictions, resulting in major informational problems between the sub-systems as well as jurisdictional boundary conflicts. Each officer within the system has considerable discretion regarding making official reports of problematic behaviors of citizens. Additionally, major conflicts frequently exist between correctional personnel and law enforcement personnel which creates barriers to information flow. Finally, much behavior goes unreported. These factors, as well as the absence of adequately developed information systems within the states,

compound the problem of compiling objective data about problematic behaviors of furloughees. Thus, furlough officials and CJIS officials must work together to develop an information system that provides objective evaluative data.

When feasible, Phase II evaluations will be designed to link with available Criminal Justice Information Systems. Thus, a secondary benefit will be increased information system development.

Criminal Justice Information Systems will become critical for Module 4: Long Term Goal Assessment. Parole agents can collect client data only while the client is on parole. Criminal Justice Information System linkage can provide continuous data on criminal violations of subjects for the length of the study regardless of parole status.

The combined information for Modules 2 and 4 could include the following files:

1. Number of furloughs awarded. This will be maintained by adjusting the difference between pending furloughs and cancelled furloughs.
2. Number and approved location for current furloughees. This file will be maintained by adjusting between furloughs granted and/or extended and furloughs returned. Requires notifications from correctional officials. Any official agency should be able to ascertain, on an on-line basis, who is on furlough at a given time, their authorized designation and appropriate responsible community agent.
3. Master file of all persons who have received furloughs, numbers of furloughs awarded each, and numbers of problematic behaviors of each. Official reports from CJIS agencies.
4. Master file of all persons who have received furloughs who continue under departmental

jurisdiction as parolees. File updated by notices of revocation or of termination.

5. Number, names, status and location of furloughees who have been revoked during parole as a result of technical violations or as a result of guilty findings in new charges. Maintained by notification from CJIS member agencies. Data will provide information for recidivism analysis on active cases.
6. Number of subjects who have been found guilty of new charges after parole termination. Data analysis should be possible for up to five years.
7. Data on work history of all furloughees on parole. Data to be provided by field agent supervising parole. Elements would include jobs, wages, length of employment, period unemployed.
8. Data on educational history of furloughees on parole. Provided by field agent/parolee reports. Includes part-time or full-time educational pursuits with attainments noted (e.g. GED, certification).

These files could be limited access files if the information was determined to be confidential for any system. The development of such files would both provide usable information for CJIS's users and provide an effective data base for furlough program evaluation.

The information developed by this component will add breadth to the data base we seek to establish. By providing nationwide assistance in developing the evaluations of furlough programs for each participating agency, the linkage with CJIS's proposed will develop state CJIS's and initiate the development of a data base which can be utilized in the evaluation of other programs.

CHAPTER 16. SUMMARY

There is a paucity of information available today regarding the operation and impact of furlough programs. Before correctional agencies can undertake effective planning, a data base must be established so that decisions can be based on knowledge.

Relatively little has been written about furlough programs in comparison with other correctional innovations. To a greater extent what has been written is impressionistic, dealing with the merits of furloughs on a philosophical basis, rather than in terms of goal achievement or relative effectiveness of programs. A number of issues are discussed repeatedly with conflicting beliefs supported by the strength of the argument or by a single case.

It is difficult to trace the development of the use of furloughs to its historical tap roots. The concept of this form of conditional release is relatively new. At best we can view the change in correctional philosophy from isolation to association as setting the stage for the development of the furlough. Furloughs began in Mississippi and Arkansas as holiday rewards for trustees at the turn of the century. No further development occurred until the 1960's. In the late 1960's and early 70's furlough programs grew rapidly to the point where all but two states have furlough programs.

The popular press has done more to draw out the issues involved in furlough programs than any other source. The concept of the furlough has drawn heated opposition and

response from those outside of the correctional community. They identify as the critical core of opposition the question of the relative danger to the law abiding public created by the release of prisoners before they have served completed sentences. In particular, public attention had been focused on the release of offenders who have committed extremely violent acts.

Research efforts have been virtually non-existent. Most states maintain running furlough statistics as part of their regular annual report. The few states who have attempted further evaluation have limited their efforts to descriptive impressionistic evaluation of their program. Of these, two states stand out--Massachusetts for the depth of its descriptive analysis and absence of impressionistic (feeling) data and Virginia for its analysis of a manipulation caused by changes in the system (quasi-experimental).

The issues of interest today are relatively limited and tend to revolve around public safety, eligibility, failure rate assessment techniques, impact on the institution and selected legal issues relating to escape, due process and furlough as a right.

Furlough programs are but one component of the correctional system which is but one component of the overall criminal justice system. Evaluation of any one component must be conducted with an awareness of the context and with linkages to closely related programs.

Furlough programs do not tend to be goal oriented. Programs are adopted on a general or procedural basis with obtaining a furlough becoming the goal. Before effective evaluations can be conducted, furlough program rationale, assumptions and goals must be identified.

We have suggested a number of theoretical models and procedural models for which we have identified modules of variables appropriate for evaluation. Combinations of variables must be selected to match the program being evaluated.

There is clearly a need for additional information regarding furlough program operation. A two component design is suggested. First, a single site in-depth evaluation of furlough program operations should be conducted using the single site evaluation model developed in Phase I. This design should incorporate elements from Phase I designs of related programs. Second, breadth should be developed by collecting nationwide data for Module II, risk to society, and Module IV, long term goal assessment, as modified from this single site Phase I model.

Participating agencies should be encouraged to and assisted in establishing linkages with criminal justice information systems. This process will provide information for CJIS users in the operation of the furlough program and provide a data base for the evaluation of furlough programs. This same data base can be utilized in the evaluation of other correctional programs.

APPENDIX A
INTERVIEW SCHEDULES

INTERVIEW SCHEDULE
INSTITUTIONAL SUBJECTS

SUBJECT NAME _____

CURRENT ADDRESS _____

1. If an inmate wanted a furlough, what would you have to do?
2. How would his/her application be processed?
3. What types of things would be in his/her favor in getting a furlough granted?
4. Who are the people who would be able to help? (Probe: Inmates, clerks, staff, community, friends, relatives?)
5. When you try to get something, there are some things that you can do which will influence your success. What are some of the things someone after a furlough would try?
6. How well do you think the furlough program here works?
7. What do the inmates think of the furlough program?

8. What do the correctional officers think of the furlough program?
9. What do inmates get from the program that is worth getting?
10. What does the institution get from the program that is worth getting?
11. What kinds of problems does the furlough program create?
12. Some states use furloughs when the inmate has special problems like illness or death in the family. What do you think of this? Why?
13. Some states use furloughs to allow an inmate to visit his/her wife or husband and children. What do you think of this? Why?
14. Some states use furloughs to reward inmates who have a record of good institutional behavior. What do you think of this? Why?
15. Some states use furloughs to allow an inmate to get a job or find a place to live a few months before release. What do you think of this? Why?

16. Some people think that furloughs increase the likelihood that people will succeed on parole? What do you think of this? Why?
17. What happens to inmates who can not get a furlough?
18. What happens to inmates who are able to get a furlough?
19. When an inmate is released on furlough, how is the community effected?
20. Some people think that it is dangerous to the community to release inmates on furlough. What do you think of this?
21. Some say that the returning inmate is a danger to the prison. What do you think of this? Why?
22. How well do you think the criminal justice system works today?
23. How well do you think that the correctional system works today?
24. What else do you think we should know?

25. AGE _____ RACE _____ MARITAL STATUS _____
NUMBER OF CHILDREN _____ RELIGION _____

For Inmate Subjects

1. What other programs do you take part in?
2. How many furloughs have you had?
3. How many days have you spent out of the institution?
Why were you absent?

INTERVIEW SCHEDULE

FAMILY AND SPONSOR

NAME _____

ADDRESS _____

1. How well do you think the furlough program here works?
2. What do inmates get from the program that is worth getting?
3. What does the institution get from the program that is worth getting?
4. What kinds of problems does the furlough program create?
5. Some states use furloughs when the inmate has special problems like illness or death in the family. What do you think of this? Why?
6. Some states use furloughs to allow an inmate to visit his/her wife or husband and children. What do you think of this? Why?
7. Some states use furloughs to reward inmates who have a record of good institutional behavior. What do you think of this? Why?

8. Some states use furloughs to allow an inmate to get a job or find a place to live a few months before release. What do you think of this? Why?
9. Some people think that furloughs increase the likelihood that people will succeed on parole. What do you think of this? Why?
10. What happens to inmates who are able to get a furlough?
11. When an inmate is released on furlough, how is the community effected?
12. Some people think that it is dangerous to the community to release inmates on furlough. What do you think of this? Why?
13. Some say that the returning inmate is a danger to the prison. What do you think of this? Why?
14. How well do you think the criminal justice system works today?
15. How well do you think that the correctional system works today?
16. What else do you think we should know?

17. How did you feel while _____ was at home?
Were you comfortable or nervous? Why?
18. Had _____ changed while he/she was away
at prison? How?
19. Did _____ change while he/she was at home on
furlough? How?
20. How did _____ feel when it was time to return
to prison?
21. How did you feel when it was time for _____ to
return to prison?
22. Would you like for _____ to have another furlough?
Why?
23. What changes in the furlough program would you recommend?
Why?

INTERVIEW SCHEDULE
OTHER COMMUNITY SUBJECTS

1. How well do you think the furlough program here works?
2. What do you think the inmates think of furlough programs?
3. What do inmates get from the program that is worth getting?
4. What does the institution get from the program that is worth getting?
5. What kinds of problems does the furlough program create?
6. Some states use furloughs when the inmate has special problems like illness or death in the family. What do you think of this? Why?
7. Some states use furloughs to allow an inmate to visit his/her wife or husband and children. What do you think of this? Why?
8. Some states use furloughs to reward inmates who have a record of good institutional behavior. What do you think of this? Why?

9. Some use furloughs to allow an inmate to get a job or find a place to live a few months before release. What do you think of this? Why?
10. Some people think that furloughs increase the likelihood that people will succeed on parole. What do you think of this? Why?
11. What happens to inmates who can not get a furlough?
12. What happens to inmates who are able to get a furlough?
13. When an inmate is released on furlough, how is the community effected?
14. Some people think that it is dangerous to release inmates on furlough. What do you think of this? Why?
15. Some say that the returning inmate is a danger to the prison. What do you think of this? Why?
16. How well do you think the criminal justice system works today?

17. How well do you think that the correctional system works today?
18. Do furloughs make your job easier or harder? Why?
19. Have you had any contact with furloughed inmates? If so, what was your reaction?
20. What changes in the furlough program would you recommend? Why?
21. What else should we know?

APPENDIX B

SUMMARY OF STATUTE DEVELOPMENT
BY STATE

Alabama

- 1951 42:8 Provides up to five day leaves for death or serious illness in immediate family.
- 1971 42:8 Deleted time limit and substituted for purpose: "for good and sufficient reason . . . within or without the state." Specifically authorized Christmas furloughs but excluded those convicted of drug peddling, child molesting or rape and maximum security prisoners from Christmas leave.

Alaska

- 1960 33.30.150 Honor prisoner with good behavior who has sentence of over a year may visit family out of prison for up to one week each six months; regulations.
- 1967 33.30.250 Work furlough: inmate to be in jail unless court directs otherwise.
- 1970 33.30.250 Deleted many restrictions of eligibility.
- 1970 33.30.260 Rehabilitation furloughs for education, training, medical or psychiatric treatment or other rehabilitation program approved by warden; in jail unless commissioner directs otherwise.

Arizona

- 1970 31-233(B) Temporary removal or release for compassionate or medical, for disaster aid, and for preparole arrangements within 90 days of release date.
- 1970 31-234 Transfer to local jails where subject to local rules and programs.
- 1970 31-333 Local jail work furlough.
- 1974 31-233(B) Amended to add furlough and any purpose consistent with rules and regulations of department.
- 1974 31-233(C) Added that failure to return is a felony punishable by one to five years.

* Dates reference legislation, not program development.

Arkansas

- 1874 Const. Art. Governor has power to grant reprieve or
6 §18 respite.
12-300 (m)
- 1968 46-119 Temporary release for such occasions as
compassionate leave and job interviews.
- 1968 42-2811 Executive clemency, reprieve or respite after
investigation by parole board.

California

- (Penal)
1945 2690 Temporary removal under custody for prison
work or medical treatment.
- 1953 2690 Amended to add job interview within 90 days
of release.
- 1961 2690 Amended to add medical research.
- 1963 2690 Amended to add arranging release program.
- 1965 2690 Amended to add prepare for parole and medi-
cal treatment.
- 1965 6254 Furloughs for community correctional centers
for work or for arranging suitable residence
or employment.
- 1967 6254 Amended to add education, including voca-
tional training.
- 1968 2690 Amended to add temporary release, without
custody, for medical leave, disaster aid and
preparation for parole within 90 days of re-
lease date; provides for regulations.
- 1972 2690 Amended and shortened; authorized removal,
including for college, may be under custody,
limited to three days except for medical.
- 1976 1208(d) Cobey Work Furlough law; inmate confined to
(local) jail unless work furlough administrator
directs otherwise; prisoner classified for work
program permits 72 hour leaves for medical,
dental, psychiatric, family emergency and press-
ing business if there would be a hardship if
not granted.

Colorado

1967 16-16-103(2) Uses federal language; warden has discretion "with assistance of parole director" to extend limits for up to 30 days for critical illness, funeral, medical, job interview under supervision of parole director, any other purpose consistent with public interest or work.

Connecticut

1969 18-101a Uses federal language; 15 day renewable leave for compassionate, medical, job interview or other compelling reason consistent with rehabilitation.

1973 18-101a Amended to add that failure to return is escape, giving penalty and citing statute.

1974 18-101a Amended to add within or without state and to delete penalty and cite for escape.

Delaware

1964 11:6536 Third paragraph; medical furlough.

1964 11:6537 Release of inmates for such occasions as funeral or job interview; language is mandatory but says under reasonable conditions.

1964 11:6538 Requires regulations, looking to release or treatment, for temporary furloughs to visit families or interview employers.

Florida

1967 945.091 (1)(a) uses federal language, provides 24 hours plus travel, investigation and recommendation by parole, compassionate, job interview, look for residence or any compelling reason consistent with public interest.

(2) provides for regulations

(3) defines escape.

Section became law without governor's signature

1969 945.091 (1)(b), deleted 2% prison population limit of enrollment in work release.

1971 945.091 In (1), deleted recommendation by parole; in (1) (a) deleted time limit; in (1) (b), work release for last 12 months instead of last 6.

Georgia

1971 77-342 Special leaves within state with concurrence of sentencing judge for participation in community or meritorious program or activity deemed beneficial to inmate and not detrimental to public and will contribute to rehabilitation; warden, judge and director concur that positive attitude and growth patterns are being established.

1971 77-343 Authorization must be in writing, person to be reconfined in cell each night; sex offenders excluded from leave.

1971 77-344 Purposes are education, training, trade license examinations, interview for job and participate in crime prevention and volunteer programs.

1972 77-342 Deleted concurrence of judge in both places.

1972 77-343 Added: must set determinate period of duration for leave; deleted: reconfinement each night.

1972 77-344 Added any purpose Board of Corrections deems beneficial to both inmate and public.

1975 77-344.1 Warden may grant emergency leave if there is not time to authorize special leave, but not for sex offenders, escapes within 12 months, or if assaultive offense or prison record; must have been in custody sufficient time to demonstrate responsibility.

1975 77-344.2 Director of Correction may delegate to warden authority for 12 hour pass during daylight hours if inmate's limits previously extended for §344 purposes.

Hawaii

1967 353-22 (d) provides that conditional release centers may grant furloughs for work, social reorientation, education and training; (f) provides for regulations.

Hawaii

1973 353-22.5 Authority for furloughs extended to inmates of all correctional institutions; (d) and (f) placed in separate section.

Idaho

1947 20-240 Governor has power to grant respites and reprieves.

1947 20-242 Establishes work camps for parolees and probationers.

1070 20-242 (1) changed to provide authority for local prisoner to continue work or education, or to seek either; (3) provides prisoner will be in jail when not employed.

1971 20-101C Home furlough for inmates if parole has been set who are not under death sentence; provides for regulations; seems to assume escort.

1971 20-101C Amended; home furlough changed to furlough; restrictions related to parole and death sentence removed; fee for guard and arrangements for escort taken out of language; 72 hour limit adopted and detainers excluded; and (7) and (8) added requiring minimum custody for six months and meritorious performance. Failure to abide by terms was added to failure to return as constituting escape. Death bed is expanded to serious illness; family visitation and employment are added as purposes and the catchall purpose is added, "and such other purposes that contribute to and promote a transition from confinement to the free society." Notice to police is also added.

Illinois

(Unified
Corr. Code)

1969 1003-11-1 Uses federal language, authorizes emergency, job interviews, medical, finding residence and issuing regulations.

1969 1003-13-1 Authorizes day release for work.
and 2

1971 1003-11-1 Added (5) education and (6) family visits if half of minimum sentence served or one year from parole, three day limit, in state; regulations.

1972 1003-11-1 All leaves limited to 14 days, but eliminated (effective 1973) separate time and eligibility restrictions on family visits; added psychological to medical.

1972 1003-13-1 Expanded day release to include business or and 2 housekeeping, education, medical and other (effective 1973) purposes directly related to programs of the department.

Indiana

1971 11-7-9-11 Using federal language, authorizes furloughs for participants in work release for job interviews, finding residence, medical or other personal services, training or worship in the community, any other compelling reason, funeral, and family visit.

1973 11-7-9-10.5 Based on Illinois law, extended furloughs to all prisoners and repealed section 10-11. Imposes three day limit, adds visits to seriously ill relative, adds psychological and deletes other personal services, deletes compelling reason language and adds specific reasons like appearances before public groups studying crime.

Iowa

1965 356.26 Allows inmates to leave county jails during reasonable hours to seek employment, work, conduct business or occupation, receive education or medical service, or if a woman, keep house and attend to family.

1969 217.14 Paragraph added after (7). Prisoners serving indeterminate sentences (all sentences except escape, murder, treason and crimes punishable by life imprisonment) may be granted furloughs for emergency, job interviews, training programs, regulations and authority, commissioner of social services. (7) gave director of division of corrections authority to operate a system of rehabilitation camps and to transfer inmates to facilities of department of social services.

1973 217.14 Added fourteen day limit and purpose, "to participate in activities that serve rehabilitative objectives."

1974 356.26 Deleted "if a woman".

Kansas

- 1970 75-20d08 Now 75-5267, established work release program under which inmates may be granted the privilege of leaving actual confinement for up to 30 days for compassionate, medical, job interviews, any other purpose consistent with the public interest, work and training; excludes first and second degree murder, first degree voluntary manslaughter, kidnapping, aggravated robbery, aggravated sodomy, aggravated indecent solicitation of a child, crime against nature and forcible rape.
- 1971 75-20d15 Now 75-5260, provided general authority for three family visits per year for a total of 10 days within the state if the inmate is in minimum security classification, has served two years and has a good behavior record, "for other than reasons now prescribed by law."
- 1973 75-5260 Deleted "family visit" and time limits.
- 1973 75-5267 Deleted offense restrictions from work release and furloughs; added permission for offering inmate services and inmate made goods to other governments.

Kentucky

- 1972 439.600 Using federal language, authorizes visits within state for up to seven days and return to same institution for compassionate, job seeking, medical, educational training program, work, or for "any other compelling reason consistent with the public interest, or to promote the welfare and rehabilitation of the inmate.
- 1972 439.610 Willful failure to remain within extended limits or to return within prescribed time is escape.
- 1972 439.630 Provides that furlough authority extends to all persons committed to any correctional institution or facility.
- 1972 439.580 Definition of relative includes those who have acted in the place of a parent, or to whom the inmate has acted in place of a parent.
- 1974 Commonwealth ex rel. Hancock v. Holmes held that 439.600(4) on work release is unconstitutional. Section (1) for furloughs was also challenged and held to be constitutional. 509 SW2d 258.

Louisiana

- Before 1968 Reported furloughs may have been granted under governor's constitutional reprieve powers. However, no 1964 legislation was found.
- 1968 15:833(A) Authorizes temporary release for occasions such as compassionate or job interview. Member of family or approved sponsor must sign custody receipt and provide transportation.
- 1972 15:833(B) Director may also at his discretion grant furloughs to deserving inmates as a rehabilitative tool to assist the inmate in maintaining family relationships during the period of his incarceration. Furlough is not a reprieve and does not extend the sentence. Member of family or approved sponsor must sign custody receipt and provide transportation.

Maine

- 1969 34:527 Authority to adopt and implement rehabilitative programs; subject to regulations adopted by Bureau, head of institution may permit inmate to participate in activities outside the institution which will contribute to the reformation of the inmate and will assist in preparing him for eventual release.
- Bureau regulations to permit furloughs for up to 10 days compassionate, job interviews, medical which may be over 10 days, and for any other reason consistent with the rehabilitation of the inmate. Inmates to receive regulations and attest receipt. Escape. Punishment by fine of \$500 and/or imprisonment for 11 months for obstructing, intimidating or contributing to inmate violation of terms of furlough after warning to cease and desist in said relationship or association with the inmate."
- 1973 34:527 Amended escape language requiring sentence for escape to begin after sentence being served; sentences may not run out at same time.
- 1975 34:527 Escape clause removed to new Title 17-A, Maine Criminal Code.

1975 34:1008 Furlough from jails, three days to visit dying relative, longer for medical if required; 60 days for escape, not returning within 24 hours of scheduled return punished under 17:1405; obstruction punished as in 34:527 if over 18 years.

Maryland

1963 27:700A Authorizes leave to seek employment for work-release participants.

1967 27:700B Authorizes compassionate leave under reasonable regulations; failure to comply with terms considered escape.

1969 27:700A Added (b-1) authorizing weekend leave for work-release participants who have been in program for four months.

1969 27:700C Established pre-release program for inmates within three months of release or approved for parole; leaves authorized for job interviews, participation in special community programs or educational programs which have as their purpose the rehabilitation of inmates, within or without the state.

1970 27:700D Upon recommendation of treatment staff but solely on the concurrence of the warden or superintendent and the Commission of Correction that positive attitudinal and growth patterns are being established for educational programs, improving job skills, trade licensing examinations, job interviews and to volunteer for a government agency in an activity serving the general public. Waiver of right to contest extradition may be required.

1971 27:700A(b-1) Time in work-release reduced from four months to two months.

1972 27:700D Added athletic competition, civic activities; also added "within or without this State."

1972 27:700A(c) Changed escape to felony.

1972 27:700D-1 Section added to provide for family visits for inmates in minimum security with recommendation of classification team and warden; duration is a reasonable time; Commissioner authorized to adopt reasonable regulations.

1974 27:700C Added weekend leave for pre-release, provides waiver of extradition.

Massachusetts

1970 127:90A Added grandparent, uncle, aunt or foster parent to list of relatives in escorted compassionate leave.

1972 127:90A Authorizes state and county correctional officials to grant leaves, using federal language, within the commonwealth under prescribed conditions for a prescribed period of time up to seven days at a time for a maximum of 14 days a year, for compassionate, interview, secure residence or any other reason consistent with the reintegration of a committed offender into the community; recommendation of superintendent and approval of commissioner both required for temporary release of persons serving sentence for specified criminal code violations or attempt; manslaughter, indecent assault on a child, assault with intent to murder, assault with a dangerous weapon, attempted murder, armed robbery, robbery, rape, rape of a child, attempted rape, attempted extortion, kidnapping, incestuous marriage or intercourse, crimes against nature, unnatural acts and those serving life sentences. These are the same offenses that require two-thirds of sentence before parole.

Michigan

1962 801.251 Court may grant county prisoner privilege of leaving the jail during necessary and reasonable hours for job interview, self-employment, housekeeping, attending family needs, education or medical treatment; housekeeping and family purposes specified "in the case of a woman."

1974 791.265a Using federal language, provides up to 30 day leaves for emergency, medical, job interview, and original federal catchall. Calls for regulations by director and escape for willful failure; violent or assaultive crime makes ineligible until within 180 days of minimum (but may be escorted for compassionate or medical) and first degree murder inmate not eligible until initiation of official processing for commutation and not before 15 years with good record.

Minnesota

- 1967 241.26 Authorizes release for participant to look for work-release job.
- 1971 243.14 Changed temporary parole up to three days under guard to a temporary parole not exceeding five days; before and after limited to state.

Mississippi

- 1832 Const. Art. V, §10 Governor has power to grant reprieves, limited in cases of treason or impeachment.
- 1973 47-5-161 Participant in work-release governed by regulations of parole board as to time off, absence with leave time from the work assignment, and other areas of the work assignment not concerned with confinement and security. The parole board must follow the rules and regulations of the penitentiary board regarding location of confinement and security of the inmate.

Missouri

- 1972 216.224 Using federal language, provides annually 30 days for compassionate, medical, job interview and "to participate in approved rehabilitation programs," but no annual limit for enrollees in work-release. Under interstate agreements established by the board of parole inmates may be granted leave out of state with a waiver of right to contest extradition. Copies of release orders must be sent to the circuit judge, sheriff and prosecuting attorney of the county from which sentenced and of the county of the proposed visit at least 10 days before effective date, except for funerals.
- 1973 221.170 Court may grant county prisoner privilege of leaving jail during necessary and reasonable hours for job interview, work, self-employment and in the case of a woman housekeeping and attending family needs, education, medical treatment or prearranged job interviews.

Montana

- 1969 95.2217 Establishes work release and leaves for treatment, education and training under regulations of the department, with extensive application and due process provisions and use of supervising agencies away from prison.
to 2226.1,
amended, 1975

Nebraska

1969 83-184 After unique introduction, uses federal scheme for compassionate, medical, job interviews, work release and training programs. "When the conduct, behavior, mental attitude and conditions indicate" that inmate "and the general society of the state will be benefited," and "the best interests of the people of the state" and the inmate "will be served thereby, in that order" and on recommendation of the parole board. Persons on furlough are not agents of state. Willful failure to remain in limits or return is escape from custody.

Nevada

1973 209.483 Establishes work release program which may include temporary leave for the purpose of seeking employment in the state, under rules developed by the chief parole officer and warden and approved by the board of parole commissioners and the board of prison commissioners. Inmate is not agent, servant or employee of state.

New Hampshire

1967 651.19 Before 1971 was 607:14a, now in new criminal code. Judges have authority to grant temporary release to prisoners in other than state prison for work or other reason deemed conducive to rehabilitation, on conditions set by the court.

1967 651.25 Before 1971 was 607:14g, now in new criminal code. Warden may grant temporary release from state prison or work or other purpose deemed conducive to rehabilitation under terms and conditions prescribed by the parole board and warden, but if inmate not yet eligible for parole may be released only if sentencing court does not object within ten days after notice. Warden may recall any inmate, subject to review by parole board at its next meeting.

New Jersey

1969 30:4-19.3 Using federal language, authorizes 30 day leaves. Extension beyond 30 days for compassionate, medical, job interview, federal catch-all, work or training; work-releasee not agent of state.

New Mexico

- 1969 42-1-80 Superintendent may authorize inmate volunteering for inmate-release program leaves up to 30 days for only the purposes of contacting prospective employers, attendance at job or school interviews or any other reason consistent with the inmate-release program and the public interest. §78 provides for inmate-release program for work or education; §79 sets standards at minimum custody, physical and mental ability for full performance, no serious emotional or personality defect, no history of violent or overly aggressive behavior, no crime of violence or been identified with large-scale, organized criminal activity, and not likely to evoke adverse public reaction. §81 defines escape as failure to stay in limits or to return at specified time; §82 provides same supervision over conditions of work as for free persons, but denies inmate benefits under Employment Security Act and disclaims inmate as state agent.
- 1971 42-1-80 Added "preparole analysis and parole prediction" to catchall phrase before "inmate release program." Deleted violent and assaultive restriction in §79 and changed "crime of violence" to "crime involving assaultive sexual conduct nor violence to a child, or has been linked with organized criminal activity."
- 1975 42-1-81 Added specification of intent, making it an essential element of escape; defined penalty.

New York

- Correction Law
- 1969 §§851 thru 858 Established work-release program for department of correction.
- 1972 §§851 thru 858 Substituted "temporary release" for work-release and expanded to include furloughs and leave of absence. Furloughs are set up to seven days to seek employment, maintain family ties, solve family problems, attend short-term education or training or anything necessary for furtherance of such purposes. Inmates become eligible within one year of parole or release by approval of temporary release committee including public members and superintendent. If superintendent disapproves, reviewed by commissioner. Leave of absence may be granted any inmate for time necessary to visit dying relative, attend funeral or receive medical or dental treatment.

- 1972 §§630 thru 634 Prisoner furlough program for cities over one million and counties to provide 72 hour furloughs for inmate who is serving six month sentence or more, approved by committee including public members and by warden, to seek employment, maintain family ties, solve family problems, receive medical or dental treatment, or for any purpose necessary in the furtherance of these objectives.
- 1973 631 Added requirement that county prisoner must have served six months of sentence.
- 1974 851 Added community services program to provide up to 14 hours per day for religious services, volunteer work, athletic events and necessary related matters; also added educational leave and industrial training leave.

North Carolina

- 1965 148-4 Using almost complete federal language except for work-release already adopted, provides for job interview, secure residence, medical, training and compassionate; defines escape.
- 1973 148-4 Added "Participate in community-based programs of rehabilitation, including, but not limited to existing community volunteer and home-leave programs, and other programs determined . . . to be consistent with the prisoner's rehabilitation and return to society.

North Dakota

- 1969 12-48.1-01 Established education and work release and authorized parole board to make rules for short leaves for special purposes; inmate determined by warden not to be a security risk.
- 1975 12-48.1-01 Parole board may approve leaves up to 72 hours on recommendation by warden for inmates who have been on work or education release for 30 days. Rules for work release must conform to Executive Order No. 11755 related to pay scales and competition with labor unions.
- 1975 12-48.1-04 Repealed escape provision.

Ohio

- 1971 2967.26 Established work and education release.

1974 2967.27 Provides furloughs up to seven days and a total of 14 days a year, except those arranging employment, parole plan or work and education release plan, for compassionate leave, arranging parole, work or education release employment or residence, visiting with the family or otherwise aiding in the rehabilitation of the inmate. Inmates must be trustworthy and regulations for granting furloughs shall require inmate to have served six months except for compassionate leave, may not pose threat to public safety or have more than two felony commitments nor more than one for assaultive offence.

Oregon

1955 421.165 Provided temporary leave for compassionate purposes; regulations to be promulgated. (Laws of 1955, c. 59)

1963 421.165 Added job interviews as purpose.

1967 421.165 Adopted some federal language, 30 days, medical, and for any other reason consistent with approved rehabilitation and corrections practices.

1973 169.115 Temporary leave up to 10 days from county jails for compassionate or medical purposes; sheriff to consult with Division to establish statewide uniform rules.

Pennsylvania

1963 19:1179.1 Court may order county jail prisoner serving sentence of less than one year to be released during necessary and reasonable hours to work, conduct business or occupation including in the case of a woman housekeeping and attending to needs of family, seek employment, attend educational institution, secure medical treatment.

1968 19:1179.1 Changed from one year to less than five years.

1968 61:1052
1053 Provided work-release for inmates in pre-release centers. Regulations authorized and escape defined.

- 1970 61:1052 Authorized furloughs for pre-release centers in addition to work and education release for "such other lawful purposes as the bureau shall consider necessary and appropriate for the furtherance of the inmate's individual pre-release program."
- 1972 18:1355 (Not added to code until 1974) Court may impose a sentence of partial confinement, the minimum not to exceed half of maximum sentence imposed, giving defendant privilege of leaving the institution for same purposes as in 19:1179.1 for county jail prisoners. It does not restrict correction authorities in pre-release program.
- 1974 19:1179.1 Added "or such other lawful purposes as the court shall consider necessary and appropriate."
- 1974 61:1052 Section added limiting the transfer of inmates to pre-release center to those who have served minimum sentence unless sentencing judge does not object within 20 days of notice describing individual pre-release plan. If that judge not available, court and prosecutor notified. The judge may withdraw his objection after consultation, or board of pardons may approve transfer after a hearing in the judge's district.
- A person who has served the minimum sentence may be released only after notice to the judge, and State Police, county probation officer, sheriff or chief of police in county, and chief of police of the municipality or township of authorized destination must also be notified.

Rhode Island

- 1975 13-2-24 Classification board by vote of six of the seven members, upon approval of director may grant furloughs limited to 14 days in a six month period for compassionate, medical, psychiatric or psychological services, make contacts for employment, secure a residence or family visit. Emergency and medical furloughs may be granted by the warden which terminate at the next meeting of the board unless it extends them. Inmates must be in work or education release to receive other furloughs, or if imprisoned for life, must be eligible to parole. In all cases the director determines whether inmate must be escorted and terminates report by the first Monday in February must

number furloughed in the previous year and include a list of all criminal charges and convictions incurred while on furlough.

South Carolina

1967 55-303.1 Using federal language copied after the North Carolina statute, provides for furloughs for job interviews, secure a residence, obtain medical services, "participate in a training program in the community or any other compelling reason consistent with the public interest," visit or attend the funeral of specific family members, with willful failure to remain within the extended limits or to return within the time prescribed defined as escape.

South Dakota

1973 24-2-25 Bare grant of authority using federal language; warden may grant furloughs to inmate who he has reasonable cause to believe will honor his trust; within the state.

1973 24-8-1 Deleted restriction of inmates convicted of crimes of violence from work and education release authority given in 1967.

Tennessee

1972 41-356 Authorizes furloughs under regulations by commissioner on reasonable basis and under reasonable conditions in the event of serious illness or death of member of inmate's family, when within 90 days of release on parole, when an inmate is on work release program, or when within 90 days of release; limit of three days unless specifically authorized by commissioner and to inmates with good behavior.

1972 41-357 Eligible inmate may apply; commissioner or designee may approve, reject, modify or defer.

1973 41-1254 Metropolitan sheriff may release inmate of workhouse according to regulations prescribed by himself and in his sole discretion, for family illness or death, or if inmate is on work release, or if inmate is within number of days from release set in regulations; for three days unless specifically authorized by sheriff and only for those with good behavior.

Texas

- 1845 Const. Art. Governor has power to grant reprieves and
5, §11 commutations of punishments.
- 1936 Const. Art. Board of Pardons and Paroles must make
4, §11 written, signed recommendation for governor
to exercise power.
- 1965 Code of Fewrote 1925 C.C.P. 952 to conform to 1936
Criminal change in constitution.
Proc. Art.
48.01 Under the above authority the Board and Governor granted reprieves and, on separate application, commutations of the time out of confinement during reprieve. "Trial reprieves" are issued for persons confined to jails, usually after serving one-third of sentence except for medical or emergency reprieves. Penitentiary reprieves include medical, special emergency for compassionate reasons, and those to attend civil court proceedings; commutation will not be considered if basis was for convenience of the inmate. In fiscal 1974, 834 reprieves were granted. Total for previous 27 years was 9,689.

Utah

- 1943 Const. Art. Governor has power to grant respites and
7, §12 reprieves.
- 1951 77-62-3 Refers to constitutional power of governor.
- 1975 64-9a-3 Residents may leave minimum security facility, community correction center, or community based program during reasonable hours if it assists rehabilitation and does not cause undue risk to the public; to work, conduct business or occupation including housekeeping and attending to family needs, education, medical or psychological treatment including addiction and alcoholism, visit family, look for job, any other reason satisfactory to the division, foster home program, any program administered or sanctioned by division; release status of file at state prison.
- 1975 64-9a-4 Requires regulations governing release status, copy to resident, employer or other participant and signed agreement by others to abide by regulations and report violations; division may impose sanctions for violations including

prosecution for escape for unauthorized absence; nearest community correctional center to be notified if resident arrested.

Vermont

- 1966 28:207 Added subsections (c) through (f) authorizing work release programs.
- 1967 28:207 Added subsection (i) using federal language to authorize furloughs up to ten days and return to same institution for compassionate, medical, seeking job, or for any other compelling reason consistent with the rehabilitation of an inmate; defines escape.

Virginia

- 1968 53-38 Added work release without guard during daylight hours only to section providing for sufficient guards to attend convicts working on public grounds or property outside of the penitentiary.
- 1970 53-38 Added release for educational program not available within the penitentiary.
- 1972 53-37.1 Authorized furloughs to visit home or family for up to three days plus travel time subject to Department regulations for inmates eligible for parole within one year; willfull failure to remain within extended limit or willful failure to return within the prescribed time the same as escape from institution itself.
- 1973 53-37.1 Deleted parole eligibility requirement.
- 1973 53-38 Extended work and education release to any hour of the day or night; added authority for Director to use wages for support of family if inmate was convicted of nonsupport or family is on welfare.
- 1975 53-38 Added "other related community activity" to educational programs.

Washington

- 1959 72.64.060 Established prison labor camps.

- 1967 72.65.010 Established work release program.
to .900
- 1967 72.65.020 (3) Limits extended for interview for job application or to enroll in vocational training program.
- 1971 72.66.010 Established furlough program excluding inmates serving mandatory minimum terms for up to 30 days and a total of 60 days per year, may require supervision by parole officer, application must show it will enhance parole success, record reviewed by superintendent to determine if inmate will honor his trust, superintendent recommends and secretary approves, escape is felony punishable by up to 10 years.
to .090
- 1972 72.66.100 State liable for damages up to \$25,000 retroactively for criminal conduct on furlough; acquittal, no prosecution or insanity defense not admissible against claim, but conviction of crime admissible to prove criminal character of acts causing damage.
- 1972 43.43.745 Notice to local law enforcement officials required.
- 1973 72.66.010 Added definition of furlough, emergency furlough, and resident.
- 1973 72.66.020 Replaced with sections changing eligibility, and specifying purposes. Inmates serving mandatory terms are eligible during last six months; all inmates must be in minimum security status; minimum sentence must be set; holder of any detainer must approve furlough; six months of sentence over one year must have been served and 90 days of sentence less than a year with less than six months left. Only purposes are to meet emergency situation such as death or illness in family; obtain medical care; seek employment or training if interviews scheduled, if inmate approved for work release but not placed, or if parole hearing is within 120 days; make residential plans; take care of business if economic security is jeopardized; visit family to strengthen or preserve relationships, exercise parental responsibilities or prevent family disintegration; or for any other reason consistent with plans for rehabilitation of the resident.

- 1973 72.66.030 Replaced with sections providing application only to secretary who must review record; plan must include names of all persons at furlough address; sponsor must agree to report immediately any failure or difficulty; inmate must report as often as required by parole officer; inmate may not enter bar or drink in public; inmate may not leave state but may accept temporary employment with consent of parole officer.
- 1973 72.66.40 Replaced with sections eliminating approval of more than one furlough at one time and requiring special order for each furlough; first and second furloughs usually limited to five days each and emergency furloughs to 48 hours plus travel time but all may be extended up to maximum of 30 days per furlough and 60 days per year; emergency furlough may waive requirement of set minimum sentence, minimum time served, application, sponsor and terms including report to parole officer and staying in state; application is not a "contested case" under state administrative procedure; and reapplication may take place after time set at denial unless modified.
- 1973 72.66.100 State liability section repealed.

West Virginia

- 1849 5-1-16 Governor has power to grant reprieves and pardons.
- 1872 Const. Art.
7, §11 Governor has power to grant reprieves not subject to court review, only must report to legislature.
- 1900 34 S.E. 918 In State ex rel. Stafford v. Hawk, where governor granted 30 day reprieve to Elias Hatfield, Jr., convicted of murder in Mingo County, to allow him to apply to court for writ of error, the state supreme court held that reprieve action of governor was not subject to review.
- 1972 62-11A-1 Adopted Huber law for persons in jail serving a term of one year or less, with catchall phrase allowing release "to devote time to any other purpose approved by the court."

Wisconsin

- 1913 697c(2) Provided in county without workhouse that the jail is extended to any place in the county where work is provided by the sheriff, for inmates to work 10 to 12 hours per day with earnings paid to dependents or the county, one-fourth sentence to be deducted and 10 days on bread and water for each refusal to work. This Huber law was the counterpart of §4947a enacted in 1900 requiring each county to provide rocks and tools for breaking them near each jail for the employment of prisoners 8 hours a day.
- 1957 56.08 Huber law had developed to provide that if inmate had a job he should be allowed to continue and if not the sheriff should help him find one; it was to be fair and reasonable work conditions at fair and reasonable wages; dependents to receive support and balance to inmate on discharge; one-fourth time off for participation and inmate to be confined in jail when not working unless court orders otherwise.
- 1959 56.08 Rewritten Huber law; court decides whether inmate to be released to seek employment, work, conduct business or occupation including in the case of women housekeeping and attending to the needs of the family, attend an educational institution or obtain medical treatment; inmate may be transferred to another county for such purposes.
- 1961 57.115 Emergency removal of convicted person by head of agency or designee administrator or warden, for such time and under such conditions as they determine.
- 1965 56.065 Established work release program.

Wyoming

- 1890 Const. Art. 4, §5 Governor has power to grant reprieves under procedures enacted by legislature.
- 1975 7-378.1 thru .11 Established work release program.
- 1975 7-378.2(b) Defines employment as including vocational training and other educational and rehabilitative activity.

1975 7-378.6 Participant to be confined when not in program except on specific authorization of warden or his designee.

United States

1964 Senate Report 928 February 28 report of Subcommittee on National Penitentiaries of Senate Committee on the Judiciary; suggested basic features of P. L. 89-176; grew out of frequent visits of subcommittee to Federal institutions where it was apparent that more flexibility was needed in preparation for transition following release from institution.

1965 H.R. 6964 Amendment of Title 18, §4082 of the United States Code, including the addition of subsection (c) which provides that the Attorney General may extend the limits of the place of confinement of prisoners by authorizing him to visit for certain reasons or to work at paid employment.

1965 House Report 694 "Rehabilitation of Federal Prisoners" submitted by the Committee on the Judiciary with H.R. 6964, August 2, 1965, Congressional Record, House, 18977. Purpose of the amendment is to facilitate the rehabilitation of prisoners by providing leave for carefully specified purposes and to permit such putatively trustworthy prisoners to work in paid employment. Leaves would be used primarily for sickbed and funeral visits which now require a guard at the prisoner's expense. No costs are anticipated and the government may be saved money as inmates on work release contribute to the cost of their confinement. The provisions should reduce recidivism. The Attorney General writes that emergency or rehabilitation leave is not uncommon in the states or among European nations; at least 10 states authorize sick bed or funeral visits and 13 states extend leave for medical treatment, interview of prospective employers, participation in medical research, home visits, preinduction examinations, and other purposes related to rehabilitation and the public welfare. The proposed amendment will give the Attorney General limited discretion to meet a variety of situations that arise from time to time such as permitting an inmate who has been paroled to discuss his release plan with the

probation officer, authorizing an especially qualified and trustworthy inmate to attend a class or meeting in a nearby college, or to undertake short-term vocational training.

1965 Congressional Record, House 18977

It was also pointed out that North Carolina required minimum custody; is not entitled to claim for unemployment compensation; is not to be considered an agent of the state for tort liability. The chairman said that only those who were formerly called trustees would be eligible, based on his observation of the operation of the Bureau.

1965 Congressional Record, House 18977

Committee will maintain continuing oversight of the program; officials were abjured to be extremely careful in using the new authority; of 22,000 federal prisoners it is anticipated that no more than 1,500 will use the new system; all prisoners including defective delinquents would be included subject to the judgment of institutional staff; only persons who have been convicted of an offense may participate, excluding those hospitalized for mental or narcotic problems in lieu of trial. Two-third voted to suspend the rules and the amendment was passed.

1965 Senate Report 613

Committee on the Judiciary, August 16. Emergency or rehabilitation furloughs are not uncommon in other jurisdictions. The States have commonly adopted the practice either by statutory or administrative authority, it is used for military prisoners and for those committed under the Juvenile and Youth Acts. It is also in common use in England, France and the Scandanavian countries. The trust reposed in a prisoner in allowing him to travel without escort would encourage him in his rehabilitation. Most prisoners are impoverished and the bill would relieve them of the expense of travel and pay, including overtime, for an escort. The Attorney General assured the committee that the authority would be used judiciously and applied only to prisoners who do not present a threat to society.

1965 Congressional Record, Senate, August 18, 20831

Generally emergency furloughs would be only two or three days at most. Programs should have a significant effect in reducing the number of prisoners who commit crimes after release from prison by helping them through the transitional period which is often the most critical in determining whether he makes good. The Bureau considers it the most significant legislation in three decades. It is the House passed version of S. 1808 introduced on April 23. The Attorney General could grant brief periods of leave under emergency conditions or for purposes related to release preparation. It is hoped that the bill will contribute to rehabilitation and cut down on the rising crime rate. Ninety per cent of those released make an honest effort to find a job in the first weeks, but one out of two return to prison.

1973 Senate Report 93-418

Favorable report of Senate Committee on the Judiciary on H. R. 7352 to amend section 4082(c) of title 18, United States Code to provide the Bureau of Prisons a valuable community reintegration tool, expanded furlough authority, to achieve maintenance and reinforcement of the offender's family and community ties during incarceration and the development of gradual release procedures to ease the transition into life in the community since rehabilitative efforts in the institution are limited. Compelling reasons in the 1965 legislation were construed to contemplate emergency circumstances akin to the reasons listed. The proposed amendment would broaden the provisions to allow furloughs to re-establish family and community ties and for any other significant reason consistent with the public interest. It will also provide for graduated release recommended by the President's Commission on Law Enforcement in 1967. State correctional systems that have evaluated their experiments of using furloughs for graduated release have concluded that participants fared better than similar non-participants (Markley). The Bureau of Prisons made similar findings regarding the beneficial relationship between furloughs and correctional counseling (Carlson, Hearing on S. 1678, June 13, 1973). Expanded furlough programs would increase the flexibility of existing community

programs, allowing work or study release offenders who are doing well in their assignments an occasional home visit or weekend with their families. It would also improve community treatment programs where presently only persons on probation or parole, creating a morale problem because of the double standard. Risks are minimized by the Bureau's proven ability to screen participants on an individual basis and allowing only non-dangerous persons who are likely to live up to the trust placed in them. In 1972 less than 1 per cent of 4,126 failed to return; only 5 per cent of 2,800 community placements were reported missing; and only 2.2 per cent of 1500 work and study releasees failed to return from community assignments. Furloughs outweigh the risk by reducing the risk of release without the preparation and testing they provide (Hughes, ABA Commission on Correctional Facilities and Services, Hearings). Twenty-three of 29 states now using furlough programs have experienced minimal or no serious problems since introducing furloughs in their institutions (Markley). The Attorney General writes that even with restrictions of the present law, it has been the best means of assisting a person in the adjustment from the institution to the community; release would be allowed only in carefully selected cases and for individuals who may be trusted, only non-dangerous inmates; emergencies are not the only times when a home visit can be justified.

APPENDIX C
STATE FLOW CHARTS

ARIZONA

Purpose: Medical
home visit
activity
holiday
emergency
pre-release (parole planning)
"any purpose consistent with public interest"

Eligibility requirements: 180 days at institution
sponsor in state
within six months minimum parole
eligibility or no fixed minimum
or already heard by parole board
good institutional behavior for
six months

Length: Two 72 hour furloughs in one year

Sentence exclusion: Life with fixed maximum

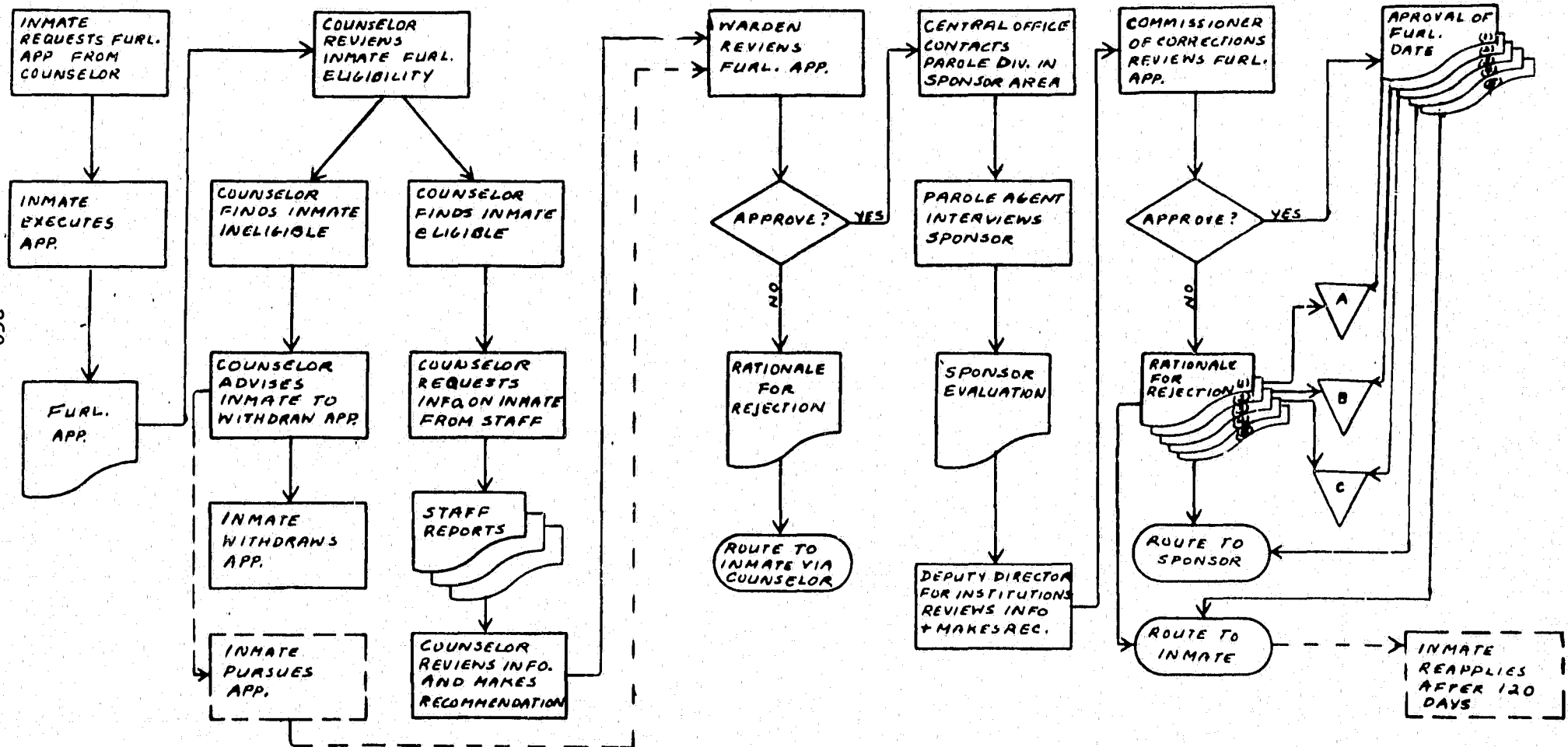
Mechanics: 120 day penalty (may not reapply) attached to formal rejection of application. If the counselor finds the inmate ineligible, will usually advise inmate to withdraw application so as not to incur penalty. The inmate may appeal the counselor's eligibility calculation directly to the Superintendent. The Commissioner of Corrections takes an active part in furlough determinations, reviewing all requests and making all final decisions. Copies of the report of decision are placed in the inmate institutional file (A), the Department of Corrections master file (B), and the Parole Office File (C). The parole agent who conducts the sponsor interview and evaluation will be the reporting authority for the inmate-furloughee when released.

CONTINUED

3 OF 4

ARIZONA FURLOUGH APPLICATION PROCESS

260



COLORADO

Purpose: Emergency
medical
social
family home visit
holiday (Christmas)
pre-release
special training or school
earned or meritorious leave

Eligibility requirements: Within 24 months of projected
(excludes emergency release
and earned/meritorious financial capability
furlough categories) has served four months on present
sentence
medium or minimum custody
suitable sponsor
no major disciplinary reports for
six months prior to request
above average ratings in all
areas and recommendation by
unit team or counselor

Mechanics: I. Colorado State Penitentiary

Determinations are influenced by the following factors: inmate institutional behavior, work record, psychological stability, public safety, ability to travel without escort, home situation (if home is furlough destination), and finances. Usually excludes those involved in crimes against the person, escapes, assaultive behavior, threats, detainers and consecutive sentences.

Type B. Emergency. Counselor solicits reports from block officer, work supervisor and/or educational supervisor. Inmate does not have to be given any reason for denial. If denied, inmate may be escorted by security officer, authorized private detective agent or local law enforcement officer. Inmate must return when purpose of the furlough is accomplished: time allowed depends on nature of the emergency and reasonable travel time.

Type E. Social, Community, Family Home Visit. Inmate must contract to return from furlough during normal working hours. If inmate suffers

emergency or lack of funds, he is required to turn himself in to local police authorities who will contact the control office at the institution. The Unit Classification Committee consists of: Associate Warden (Chairman), counselor and psychologist. Parole supervisor may send notice to parole field officer or to local law enforcement agency. Counselor verifies inmate's arrangements with respect to clothing, funds and transportation. Having completed a furlough, inmate remains on eligible list unless some negative action occurs, either in the institution or on furlough.

II. Colorado State Reformatory

Type A. Emergency. Counselor contacts external source by telephone: physician, hospital or mortuary to verify emergency and similarly contacts sponsor to determine willingness to accept furlougee. Counselor also determines transportation arrangements. Incentive Committee consists of: Associate Superintendent (Chairman appointed permanently by Warden), caseworker and elected representative of the Resident Advisory Council. Two such committees operate continuously. A copy of the furlough authorization is placed in the Security file. Track (1) on chart refers to emergency situations with severe time constraints; track (2) is preferred procedure.

Type B. Earned or Meritorious Leave. Inmate must be resident of East Wing (minimum custody) or have attained East Wing status to participate. Inmate earns leave at the rate of one day per month. Maximum length of this type of furlough is three days. As well as information on inmate's work rating and financial status, the counselor also submits comments on security, family, detainers, with recommendations. On request of any staff member, the counselor will recommend leave up to 24 hours per furlough, subject to review by case manager, if inmate is:

1. following treatment program
2. has above average work and counselor ratings
3. saving incentive pay according to schedule
4. well-adjusted
5. free of disciplinary reports for 30 days.

Special Purpose Furloughs. This category includes pre-release, family crisis and holiday furloughs. Guidelines for the Christmas furlough are issued by the Department of Corrections each

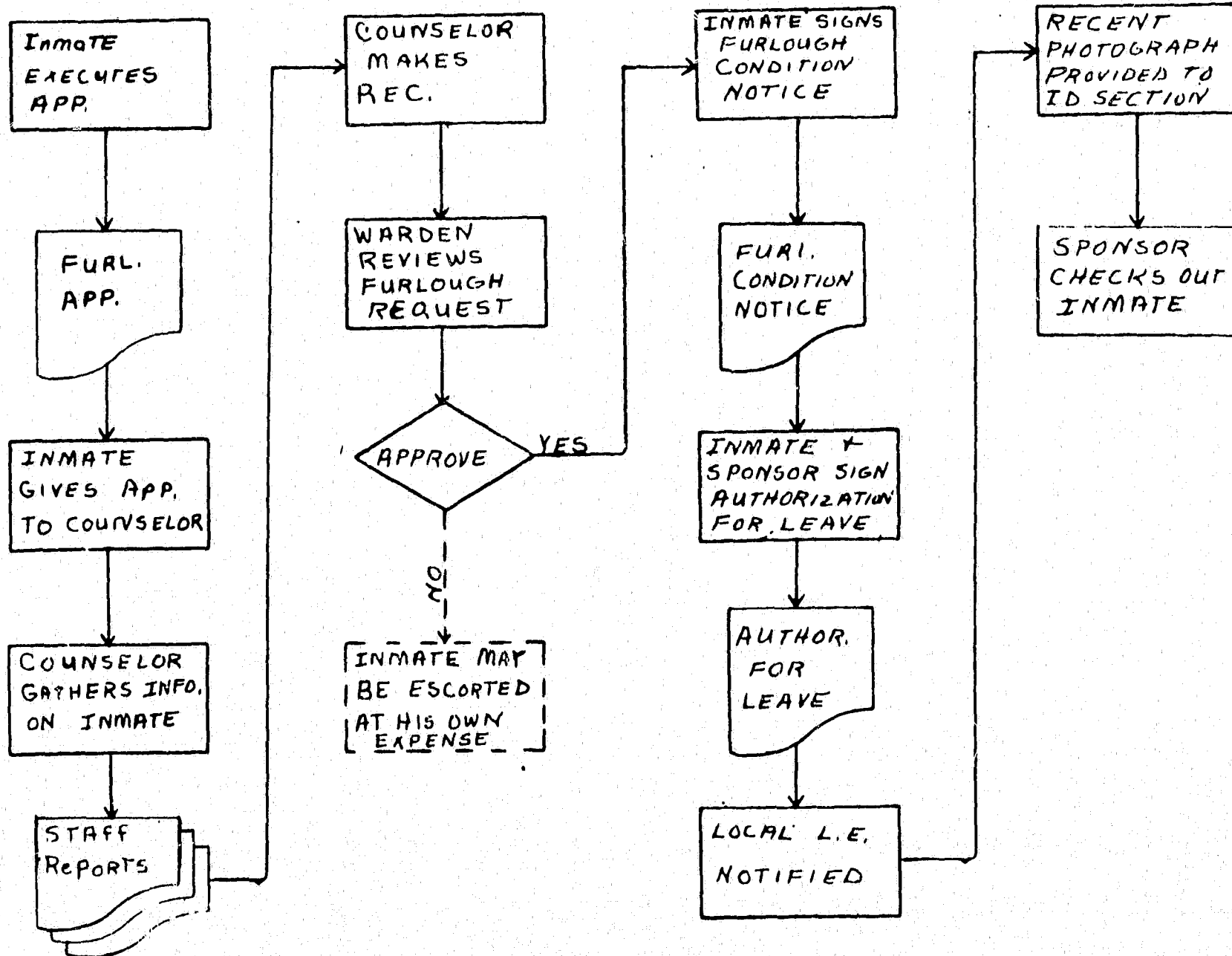
December. Parole Division must endorse parole-planning furloughs as necessary. Warden may require escort at any time. Reformatory Community Placement is given information on inmate: name, FBI number, furlough address and date. Furlough Authorization forms are routed to the Captain's office, unit office, and to inmate.

Inmates are required to keep furlough authorization papers on their persons at all times while on furlough.

COLORADO: COLORADO STATE PENITENTIARY

FURLOUGH APPLICATION PROCESS

TYPE A: EMERGENCY

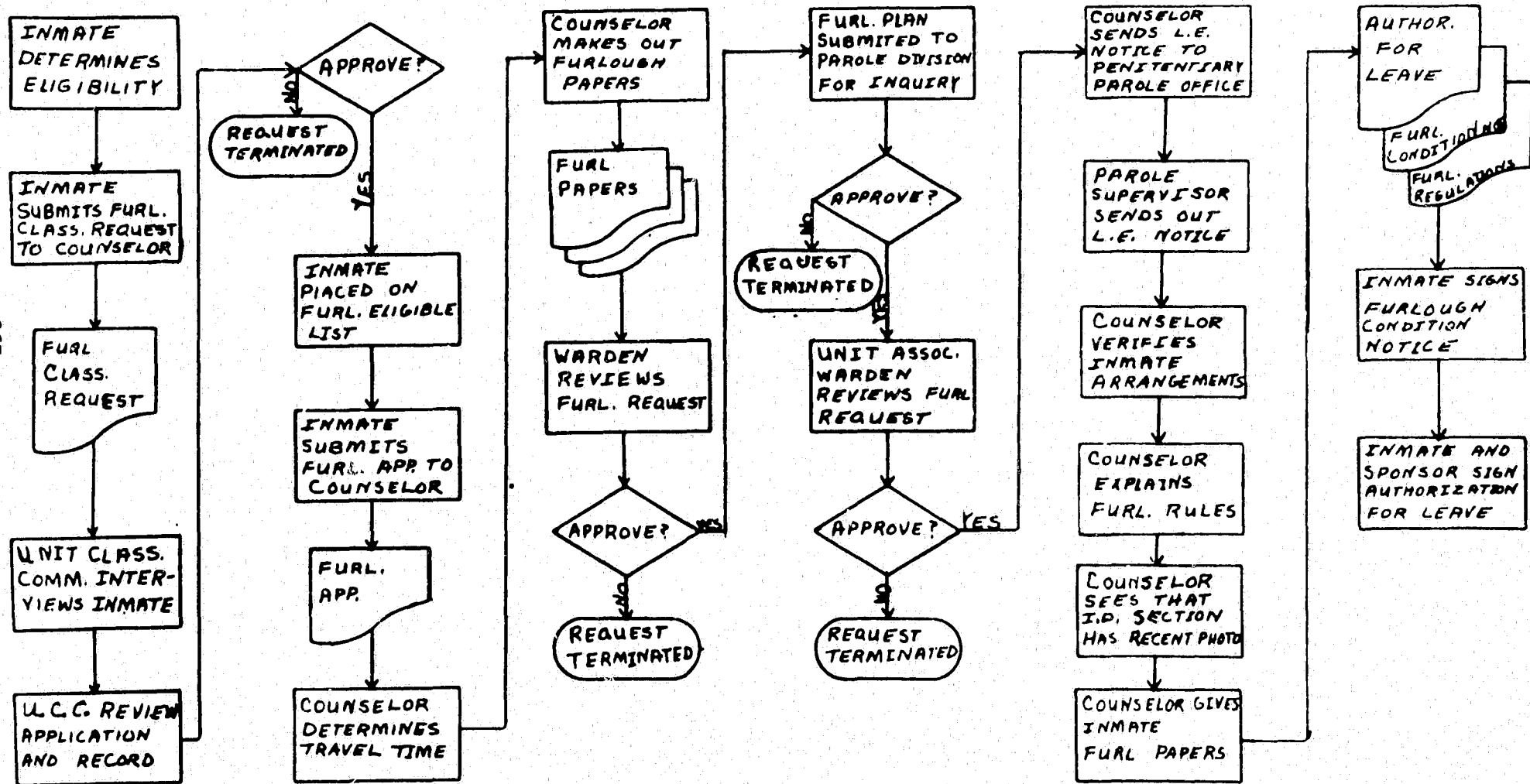


COLORADO: COLORADO STATE PENITENTIARY

FURLOUGH APPLICATION PROCESS

TYPE B: SOCIAL, FAMILY, COMMUNITY

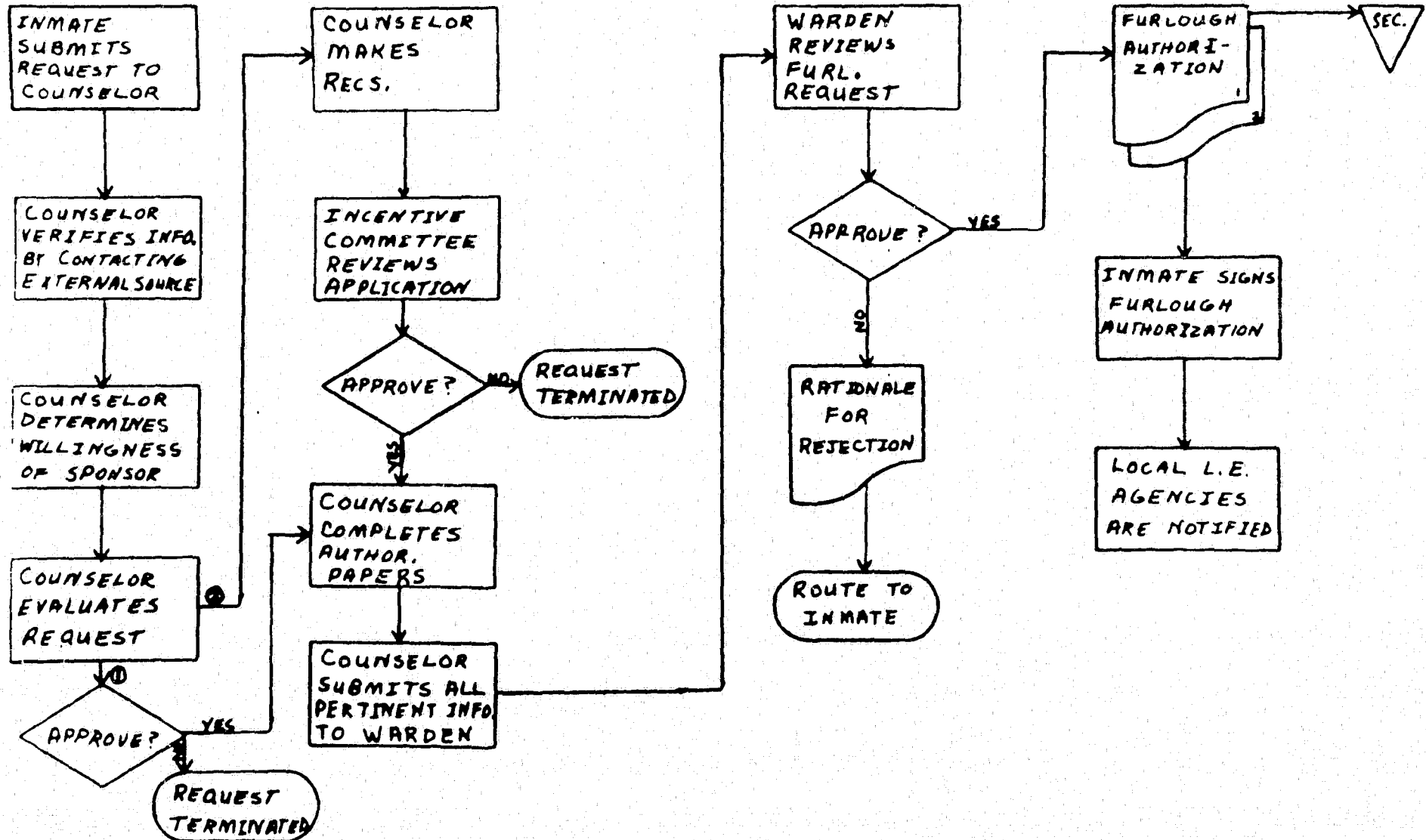
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COLORADO: COLORADO STATE REFORMATORY

FURLOUGH APPLICATION PROCESS

TYPE A: EMERGENCY

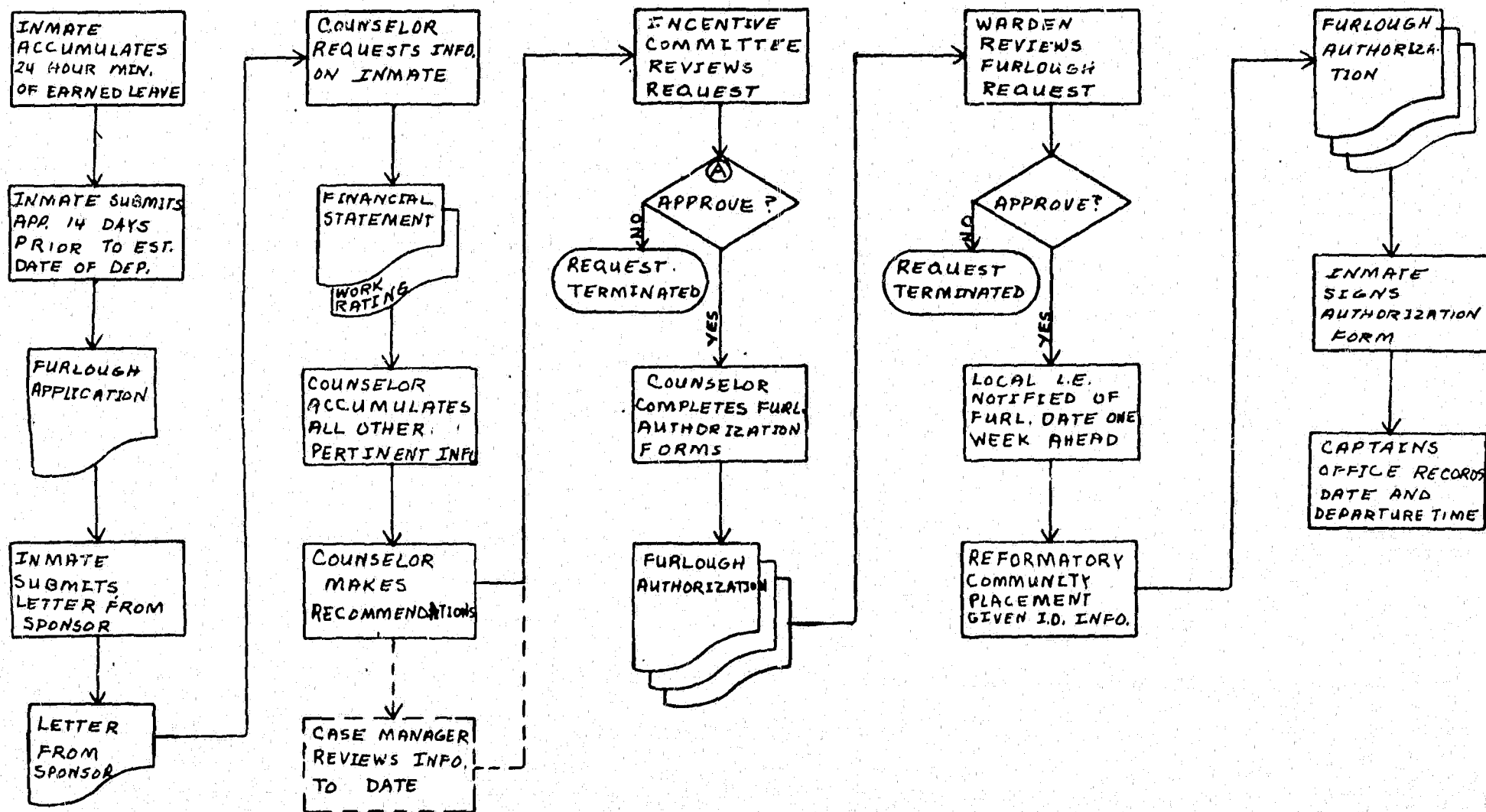


COLORADO: COLORADO STATE REFORMATORY

FURLOUGH APPLICATION PROCESS

EARNED OR MERITORIOUS

267

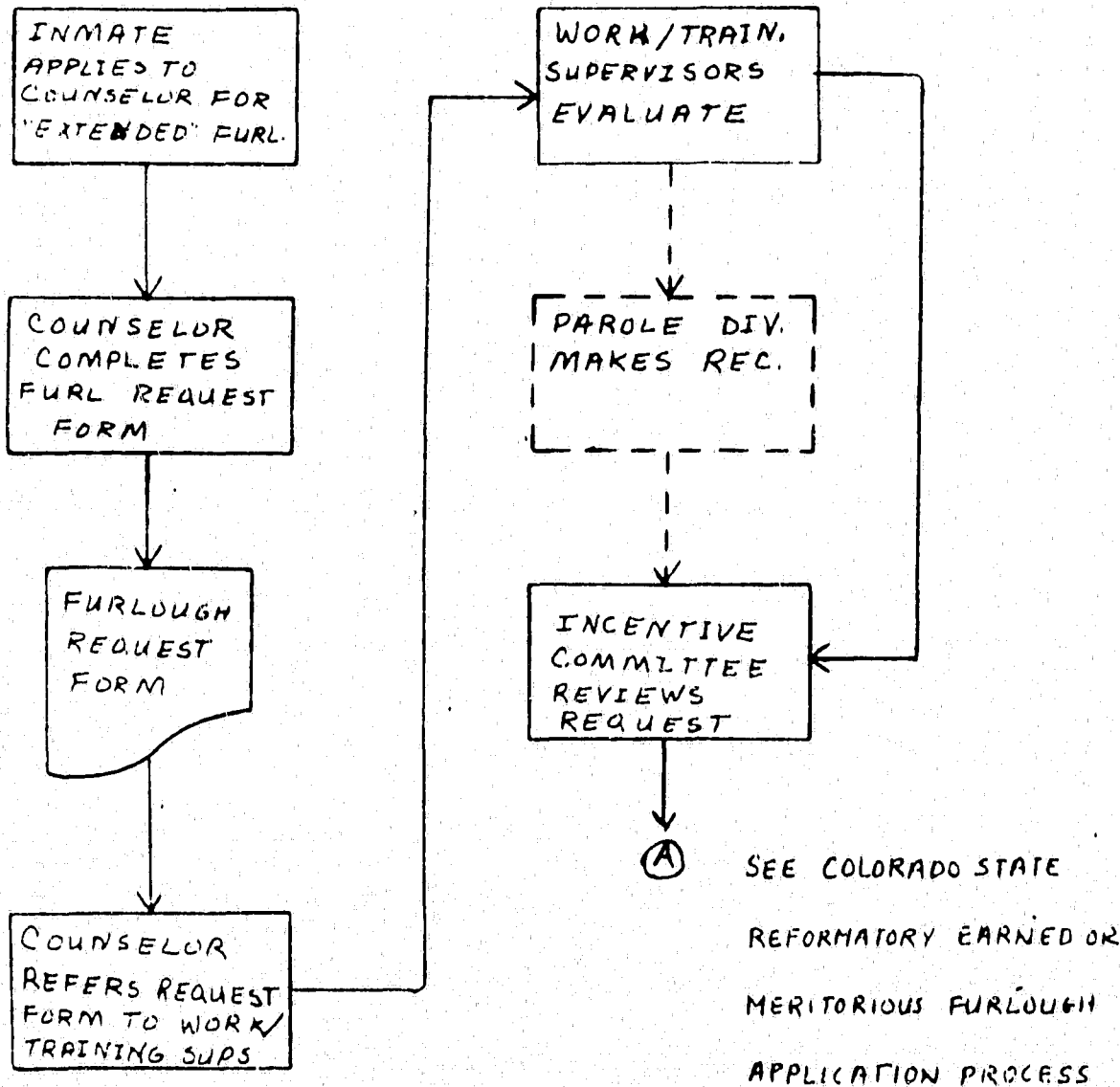


COLORADO: COLORADO STATE REFORMATORY

FURLOUGH APPLICATION PROCESS

SPECIAL PURPOSE

268



DISTRICT OF COLUMBIA

Purpose: Home visit
emergency
job contacts (pre-release)
medical treatment
community programs
holiday
"other compelling reasons"

Eligibility requirements: 80% minimum sentence or work
release status
good institutional behavior
parole eligible:
minimum custody (some medium)
no inmates convicted of violent
crimes except six months or
less before release date

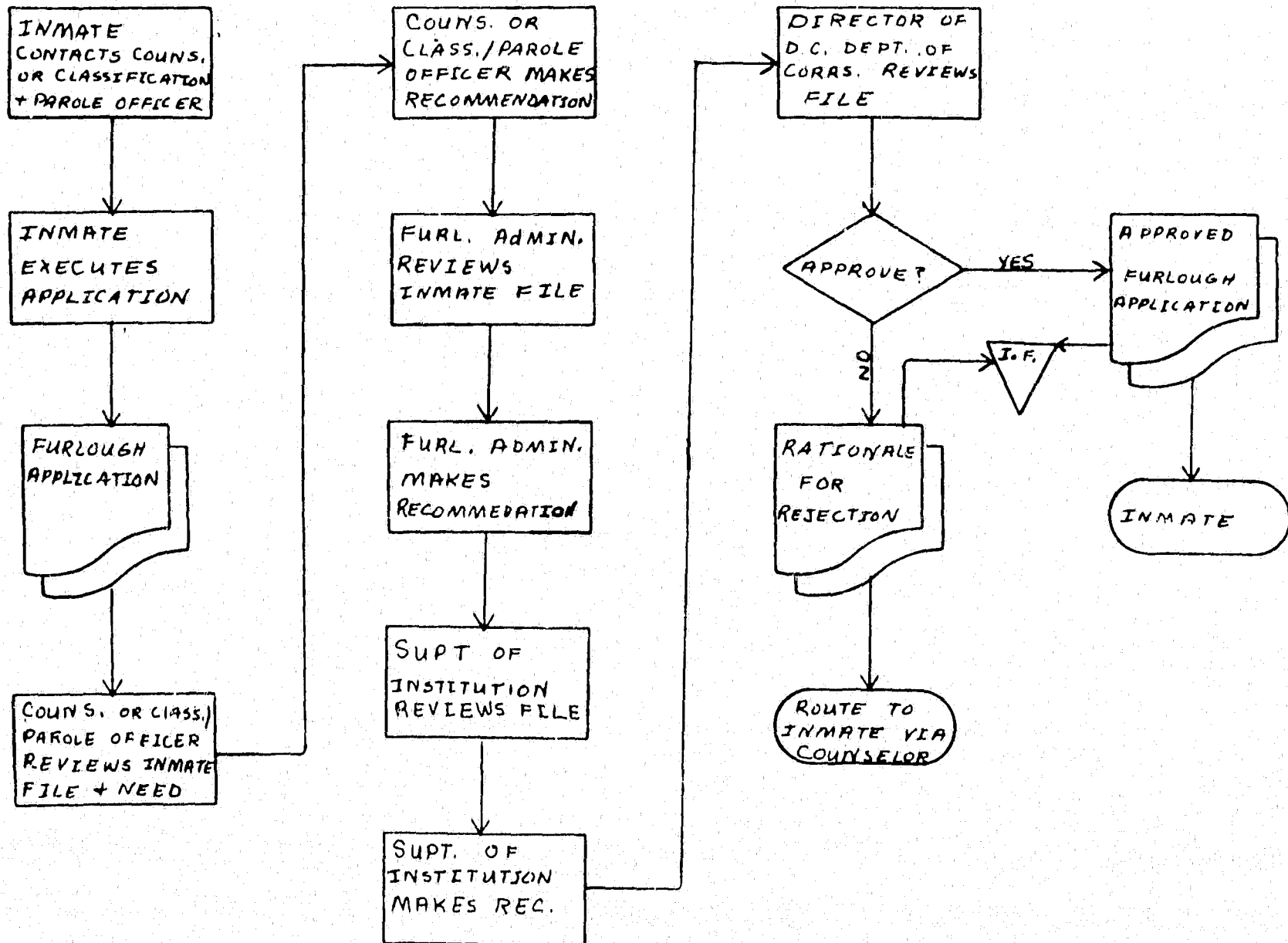
Mechanics: A copy of the furlough decision is placed in the
inmate institutional file.

The District of Columbia suspended its furlough
program in 1974 pending a study for reformation of policy.
Only holiday furloughs are granted at the present time.

DISTRICT OF COLUMBIA: LORTON

FURLOUGH APPLICATION PROCESS

270



FEDERAL BUREAU OF PRISONS

Purpose: specific family crisis/emergencies and/or urgent offender needs
obtain necessary medical-dental treatment not otherwise available
participate in completion of release plans
participate in special courses or training of 30 days or less
participate in family and selected community educational, social, civic and recreational activities
re-establish family and/or community ties
transfer from one institution to another
comply with the legal process of a court of competent jurisdiction

Eligibility requirements: Minimum custody (usually)
physical and mental capacity to complete furlough
demonstrated level of responsibility providing reasonable assurance of compliance with furlough requirements

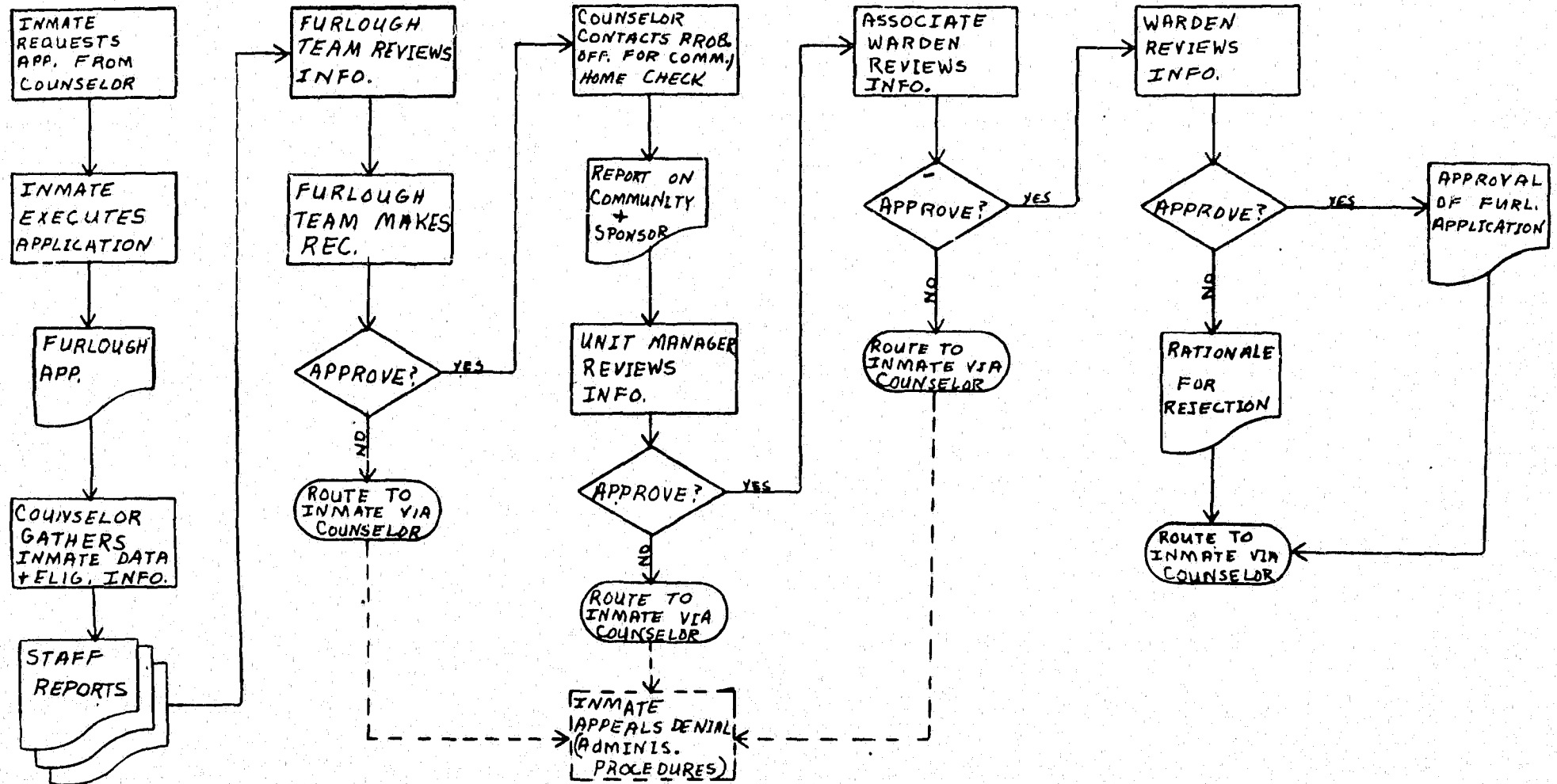
Length: Three-seven days (except in unusual circumstances or for training purposes)

Mechanics: Offenders within six months of a firm release date who meet the eligibility requirements may be considered for one furlough per month. Offenders not within six months of a firm release date may be considered for one furlough every three months. Inmates can appeal negative furlough decisions through established administrative procedures. I. FCI Tallahassee. The counselor requests reports from the inmate's block officer, work and educational representatives. The furlough team consists of the counselor, educational advisor, psychologist and case manager.

FEDERAL BUREAU OF PRISONS: FCI TALLAHASSEE

FURLOUGH APPLICATION PROCESS

272



ILLINOIS

Purpose: emergency
employment interviews
home visit
pre-release planning
extended furlough
medical
work/education day release

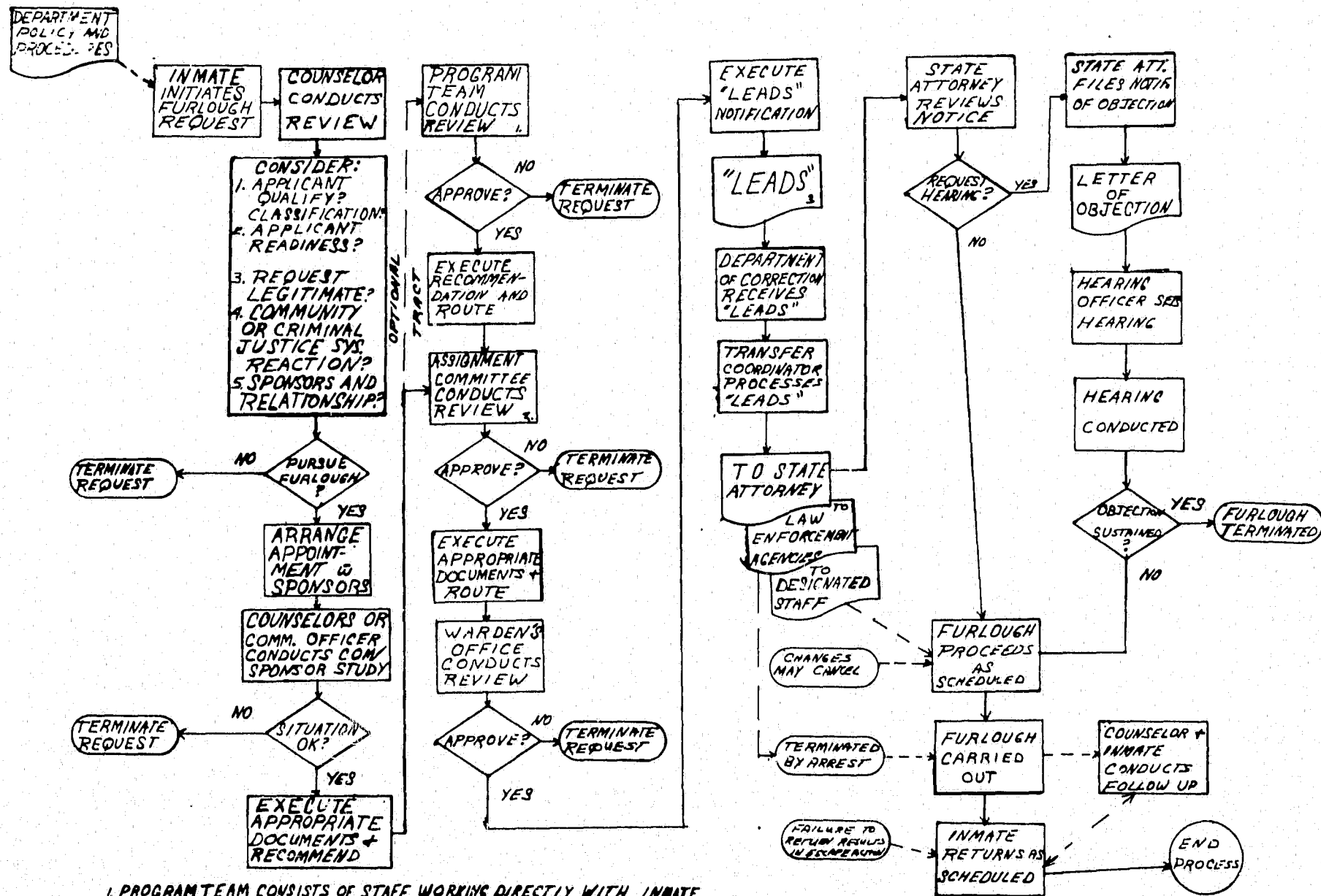
Eligibility requirement: Classified as minimum security
six months prior to parole eligibility
date
not sentenced for murder or a Class I
felony
good institutional record
suitable sponsor (family furlough)

Length: Generally three days for family and employment
furloughs
one day for seeking suitable residence
day release for work, school or to receive approved
treatment

Mechanics: The furlough process is initiated by the
resident discussing the furlough request with
a counselor. The counselor interviews the
resident to ascertain eligibility, readiness
for a furlough, legitimacy of the request,
possible community reactions, and whether
acceptable sponsors are available. If each of
these conditions are met, the counselor would
generally plan an interview with the perspective
sponsors or arrange for the Field Service
Division to conduct such an interview. If the
family interview suggests that the furlough plan
is acceptable, a recommendation would be made
to a program committee and then on to the assign-
ment committee, although the program committee is
not utilized in each of the institutions. If the
staff committees feel that the furlough request
is appropriate, a recommendation would then be
made to the warden for final evaluation and
possible concurrence. If the warden concurs
with the recommendation for a furlough, a
specified staff member would execute a notifica-
tion form, called LEADS, which would be routed
to the State Department of Corrections. Policy
requires that this form be submitted no later
than 25 days prior to the actual recommended
furlough date. A copy of this form is routed

to the appropriate State Attorney and local law enforcement agencies. If the State Attorney feels that the furlough is inappropriate, he may notify the Department and request a hearing to present evidence in opposition to the furlough. Each furlough must be reviewed three days prior to the actual release date, and may be revoked if new information is received which suggests that the furlough is unwise.

FURLOUGH PROCESS : STATE OF ILLINOIS



NOTES: 1. PROGRAM TEAM CONSISTS OF STAFF WORKING DIRECTLY WITH INMATE.
2. ASSIGNMENT COM. CONSISTS OF SENIOR MGT PERSONNEL.
3. "LEADS" = LAW ENFORCEMENT AGENCY DATA SYSTEM.

IOWA

Purpose: Medical
death or serious illness in immediate family
employment interviews (pre-release)
unavailable training and services
weekend home visits
extended family visit (maximum seven days)

Eligibility requirements: Minimum security
no disciplinary reports for 30 days
must demonstrate that furlough is
within scope of furlough law
must serve a positive function
no detainers

Statutory exclusions: Murder
treason
rape
perjury involving capital crime
obstruction of a railroad
train robbery
burglary with aggravation
kidnapping for ransom
entering a bank with intent to rob
bank robbery
carnal knowledge of an imbecile
escape

Exceptions will be made for those approved for employment
and full time work-release programs.

Other exclusions: Inmates with pending transfer hearing
referrals

Mechanics: I. Riverview Release Center. Most furloughs in
Iowa are granted from this institution. The first
furlough (or if any problem has occurred on a
previous furlough or in the institution) must be
approved by the treatment team, which includes
the inmate's counselor, work foreman, and a cor-
rectional officer. Eight days minimum is re-
quired to process a weekend home visit applica-
tion. It is the inmate's responsibility to check
the blackboard in the counseling area to see if
any problem has arisen with his application. In
some cases, the inmate is required to have a
responsible person (sponsor) check him out. A
red stamp stating "Additional Signature Required"
is placed on both sides of the furlough applica-
tion to insure proper check-out procedure. Fur-
loughs are not granted unless the inmate has
sufficient funds for round trip transportation.

The inmate must specify the exact mode of transportation. Furloughs will be denied if approval would result in an inability to fulfill crew work assignments.

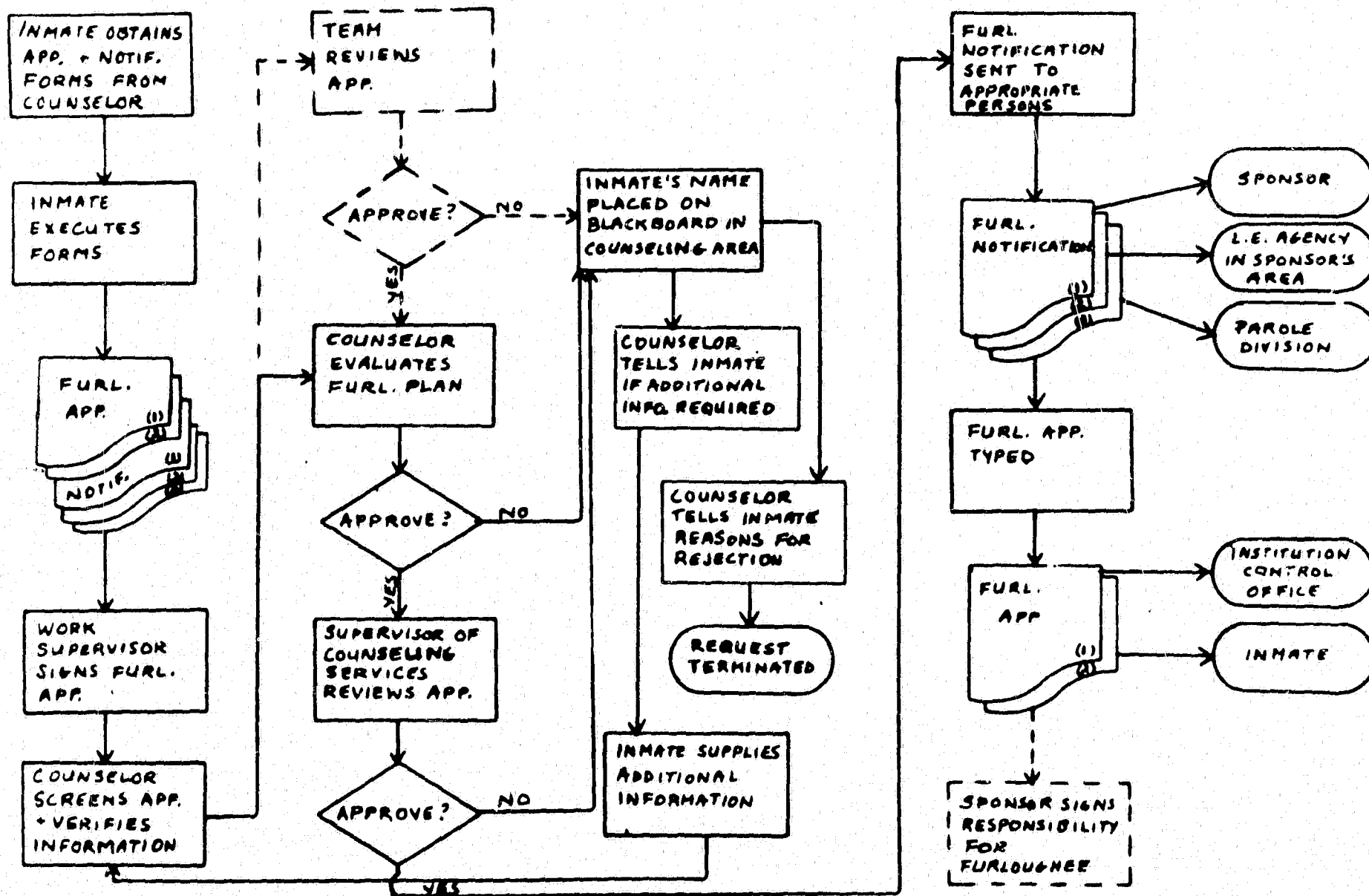
II. Iowa State Reformatory (Anamosa) and Iowa State Penitentiary (Fort Madison). The Classification Committee consists of counselor, team leader, and correctional officer. Critical considerations are nature of the offense and administrative policies with respect to furloughs. The warden at Anamosa (A) and the deputy-warden at Fort Madison (B) make the final decisions. Very few furloughs are given from these institutions; inmates are usually transferred to Riverview Release Center or to the Des Moines Halfway House if classified for minimum custody.

Checks by staff may be made at any time while inmate is on furlough. Phone numbers must be provided for each place or activity where inmate plans to be. The furloughee is required to fill in a check-in sheet at a designated law enforcement agency twice daily at the designated times. Those furloughees at locations without telephones are checked as a matter of routine. Any infraction of the above procedure will result in a disciplinary report.

IOWA: RIVERVIEW RELEASE CENTER

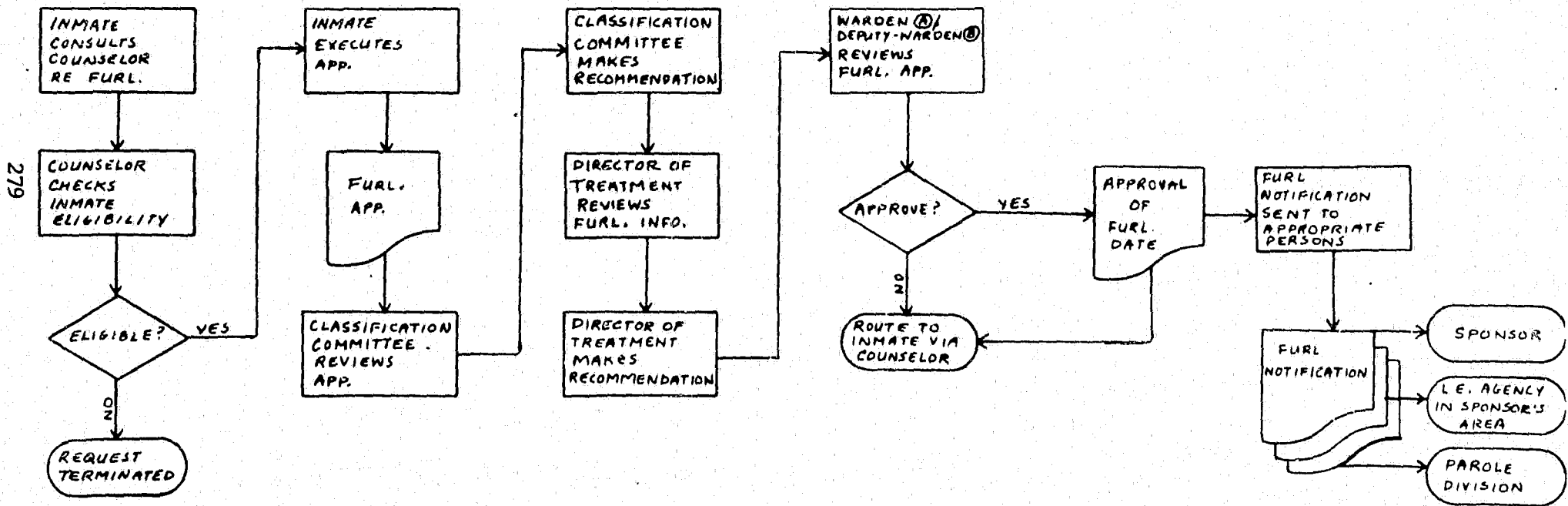
FURLOUGH APPLICATION PROCESS

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IOWA: IOWA STATE REFORMATORY AT ANAMOSA
IOWA STATE PENITENTIARY AT FORT. MADISON

FURLOUGH APPLICATION PROCESS



MASSACHUSETTS

Purpose: Attend funeral of relative
visit critically ill relative
obtain services unavailable in institution
contact prospective employers
secure suitable residence for release on parole or discharge
any other reason consistent with reintegration of committed offender

Eligibility requirements: 20% minimum sentence
minimum (some medium) custody grade
90 days minimum residence in institution
lifers: 1st degree--5 yrs. minimum
2nd degree--3 yrs. minimum
special clearance procedure for sex offenders

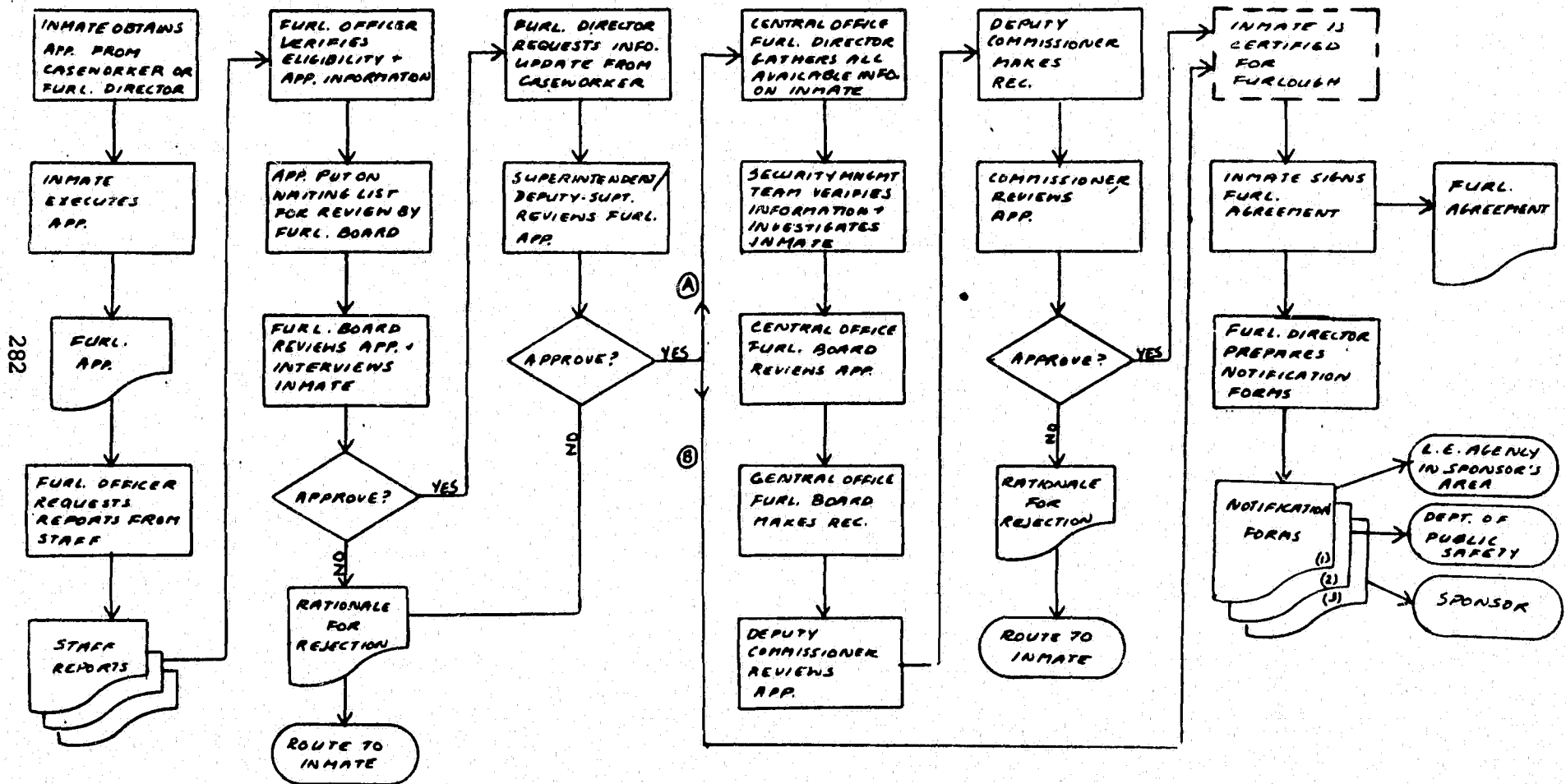
Length: Inmates are eligible for 14 furlough days per year, with no more than seven taken consecutively. No furlough days may be carried from one year to the next.

Mechanics: Massachusetts Department of Corrections is attempting to integrate furlough determinations into the classification system. At MCI Norfolk and MCI Framingham, the furlough board is the Institutional Classification Committee, but at MCI Walpole this is not yet the case. The ICC Board consists of the Unit Team (two correctional officers and the case manager), the Director of Classification, and a fifth person as rotating chairperson. At MCI Walpole, the furlough board consists of the caseworker, a correctional officer, psychologist, deputy superintendent, and the furlough director. At all institutions, three out of five votes are required for approval. Critical considerations include the inmate's disciplinary record, medication history and detainers. Massachusetts offenders are divided into two categories--special offenders are those who have been convicted of crimes against the person or the States and must serve two-thirds of their minimum sentence before being eligible for parole; all other offenders must serve one-third of their sentences before being parole eligible. Special offenders must be processed through the Central Office of the Department of Corrections (A) and their furlough requests must be authorized

by the Commissioner. The full furlough approval process takes between two and six months; as a means of alleviating this situation, the Department of Corrections may "certify" a special offender for one year and all subsequent requests during that time will be processed at the institutional level. The Commissioner may revoke certification at the request of the institutional head or on his/her, own initiative. Furlough approval for one-third offenders is handled at the institutional level (B) unless the Superintendent of the institution requests further evaluation by the Central Office, as in the case of an inmate with known or suspected connections with organized crime. The Security Management Team investigates inmates whose requests are processed through the Central Office. The Superintendent and the ICC Board may "certify" a one-third offender for one year also. Once an inmate is certified, the furlough application process takes 10 days to two weeks, with the institution allowing one week or five working days to notify law enforcement agencies before the inmate leaves the institution. On the Furlough Application Process for certified inmates diagram, (A) refers to MCI Walpole and (B) refers to MCI Norfolk and MCI Framingham.

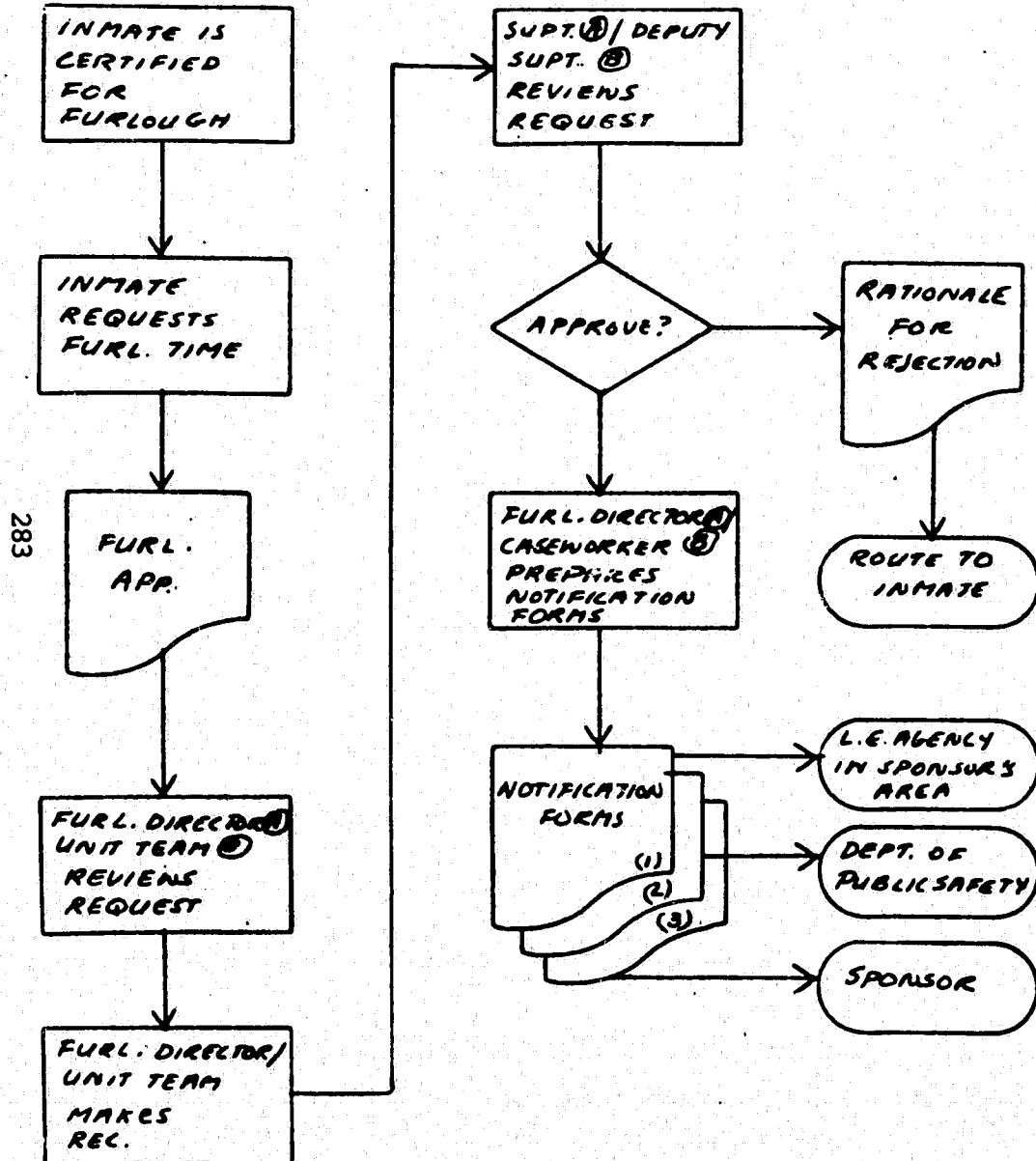
MASSACHUSETTS

FURLOUGH APPLICATION PROCESS



MASSACHUSETTS

FURLOUGH APPLICATION PROCESS FOR "CERTIFIED" INMATES



NORTH CAROLINA

Purpose: Emergency
pre-release
family visit
training and study
services not available at institutions

Eligibility requirements: Minimum custody
minimum honor grade level IV (N.C.
has five levels, level I being
the most secure)

Length: After being approved for furlough status, the length and incidence of furloughs depend on the inmate's status in the unit and his/her involvement in other programs.

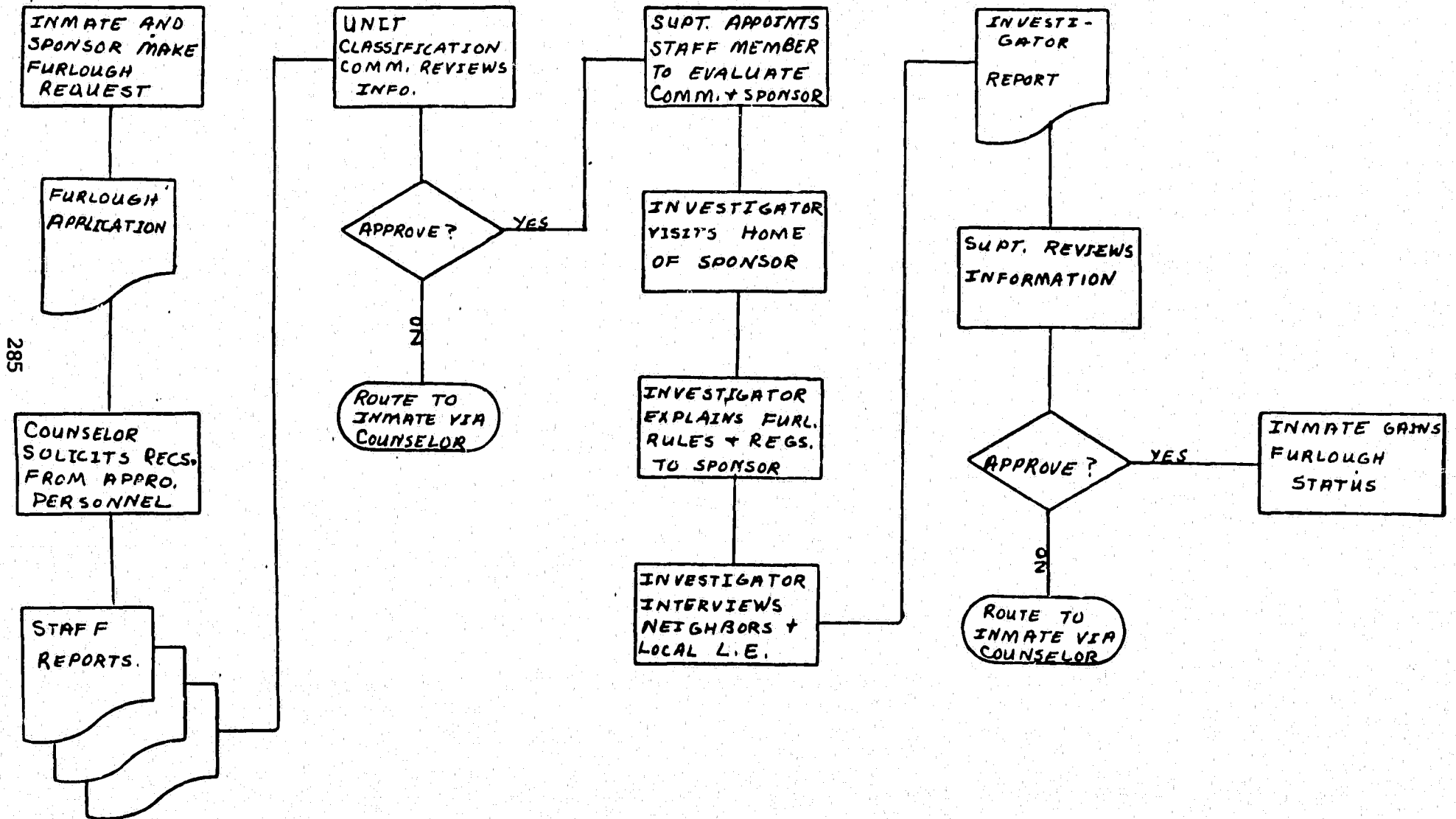
Mechanics: Level IV. All first furloughs require approval of the superintendent, for a maximum period of 24 hours.
A. Non work release inmates: maximum one home leave per month lasting a maximum of 24 hours and a maximum of two short-term home leaves per month lasting a maximum of six hours. Inmates who have participated in the program for six months without infractions may have two 24 hour leaves per month.
B. Work release and non-structured study-release: All first home leaves last 24 hours. Subsequently, maximum of one home leave lasting a maximum of 48 hours including travel time. Within 60 days of release, one home leave per week lasting a maximum of 48 hours including travel. Also two short-term home leaves per month lasting a maximum of six hours. After six months, two 48 hour home leaves per month.
Level V. This level is usually restricted to pre-release inmates only (within six months of release). Maximum of one 48 hour home leave per week and maximum of two six hour home leaves per week. These inmates are usually residents of advancement centers.

Reports on the inmate are solicited from the dormitory officer, work supervisor and a representative of the custody division.

The Unit Classification Committee varies in composition depending on the size of the institution. It includes the Unit Superintendent, the Director of Programs, the inmate's dormitory counselor and the work supervisor. In some institutions, the UCC will include inmate and/or ex-offender representatives.

NORTH CAROLINA

FURLOUGH APPLICATION PROCESS



OREGON

Purpose: Emergency
medical
employment interviews
religious and social
home visit
special training

Eligibility requirements: Suitable sponsor
minimum custody
no major disciplinary reports
immediately prior to leave

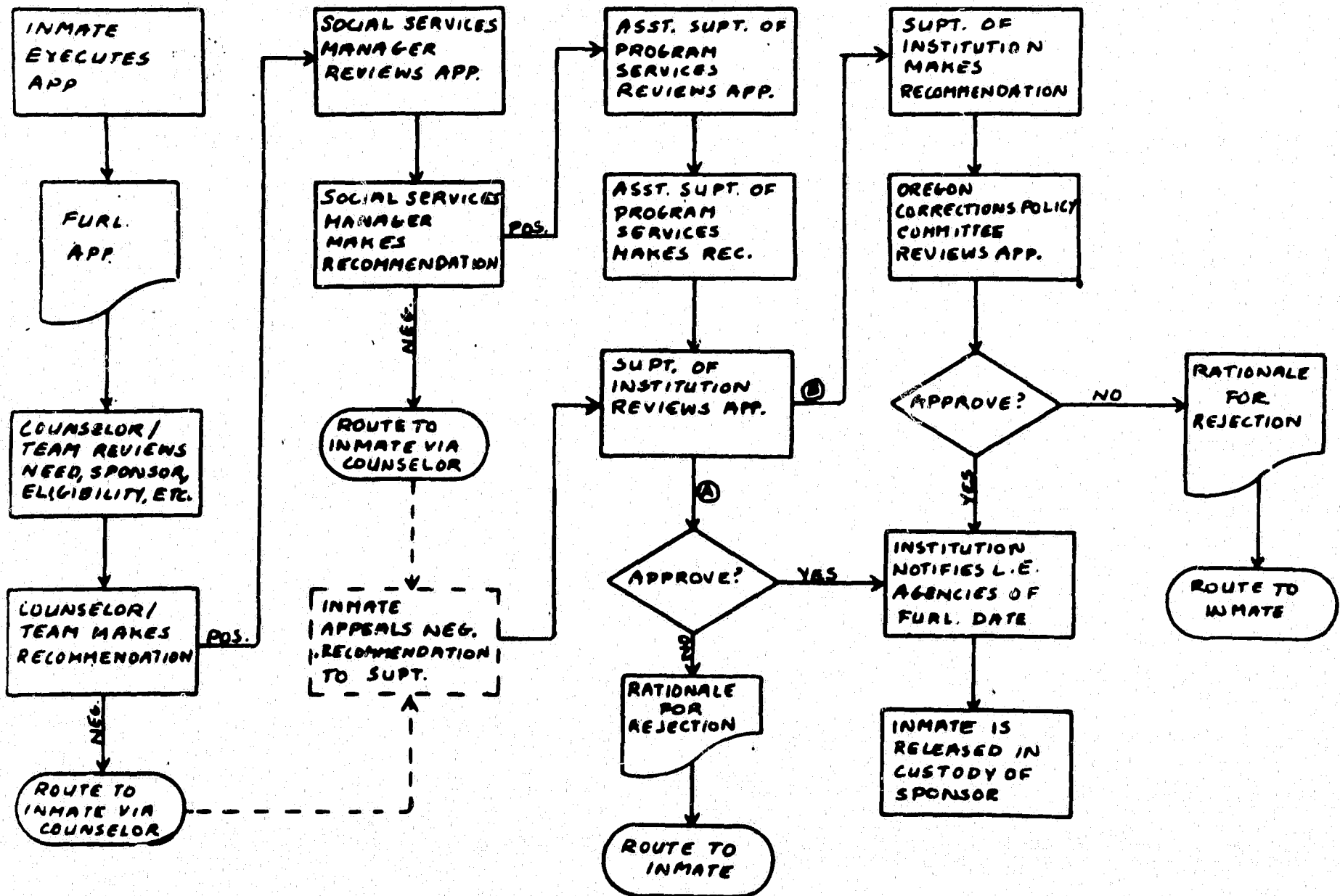
Length: Zero hours to fourteen days; extended leaves of three to five months possible for special training; renewal possible.

Mechanics: Furlough must be requested by the inmate. The request must include his/her reason(s) for the leave, together with names, addresses and telephone numbers of those individuals whom the inmate believes to be willing to provide housing, transportation, funding and other assistance. The inmate's case manager is required to verify the reason presented and the willingness of each of the indicated persons to guarantee the services indicated; at the correctional institution, the case manager is also required to discuss the proposal with the local police authority, to learn of any objections from the community. With this additional information, the request is considered by a Unit Team composed of staff members who normally work closely with the inmate and who have full access to the views of other staff and to the institutional records. At the Oregon Women's Correctional Center, the Unit team is composed of the casework supervisor and his/her assistant and representatives from the Division of Children's Services and the Department of Vocational Rehabilitation. At the Oregon State Penitentiary and Correctional Institution, the casework supervisor and representatives from the security and administrative divisions of the institutions. The Unit Team considers all pertinent factors: sentence, offense history, detainers, parole status, psychological makeup, medical history, self-improvement attempts and background factors. The basic question to be answered is: "Does this leave, as proposed, make sense for this person, at this time, under

these conditions?" At the Correctional Institution and Penitentiary, the Unit Team decision is presented to an Assistant Superintendent and then to the Superintendent. At O.W.C.C., the proposal is discussed jointly by the inmate, her counselor and the Superintendent. The latter is the final authority in all three institutions on furlough decisions concerning inmates convicted of property offenses (A). Inmates convicted of crimes against the person must be reviewed for furlough by the Oregon Corrections Policy Committee (B) which is composed by the heads of institutions and a representative from the Central Office. Once approval has been granted, the case manager is required to notify all persons involved. Copies of the leave authorization are provided to the Oregon State Police and Oregon Parole Department for their reference in responding to inquiries. If the leave granted by the Correctional Institution is to exceed 24 hours, the inmate is required to report to the local authorities on arrival and to provide them with a copy of the authorization form. If the leave granted by the Penitentiary is to exceed three days, courtesy supervision by field Parole staff is requested.

OREGON

FURLOUGH APPLICATION PROCESS



PENNSYLVANIA

Purpose: Family visit
emergency
pre-release
religious
unavailable services
"any purpose consistent with the public interest"

Eligibility requirements: One-half minimum sentence
no detainers
no medication for six months
no major disciplinary report for
nine months

Sentence exclusion: Life

Length: No limit

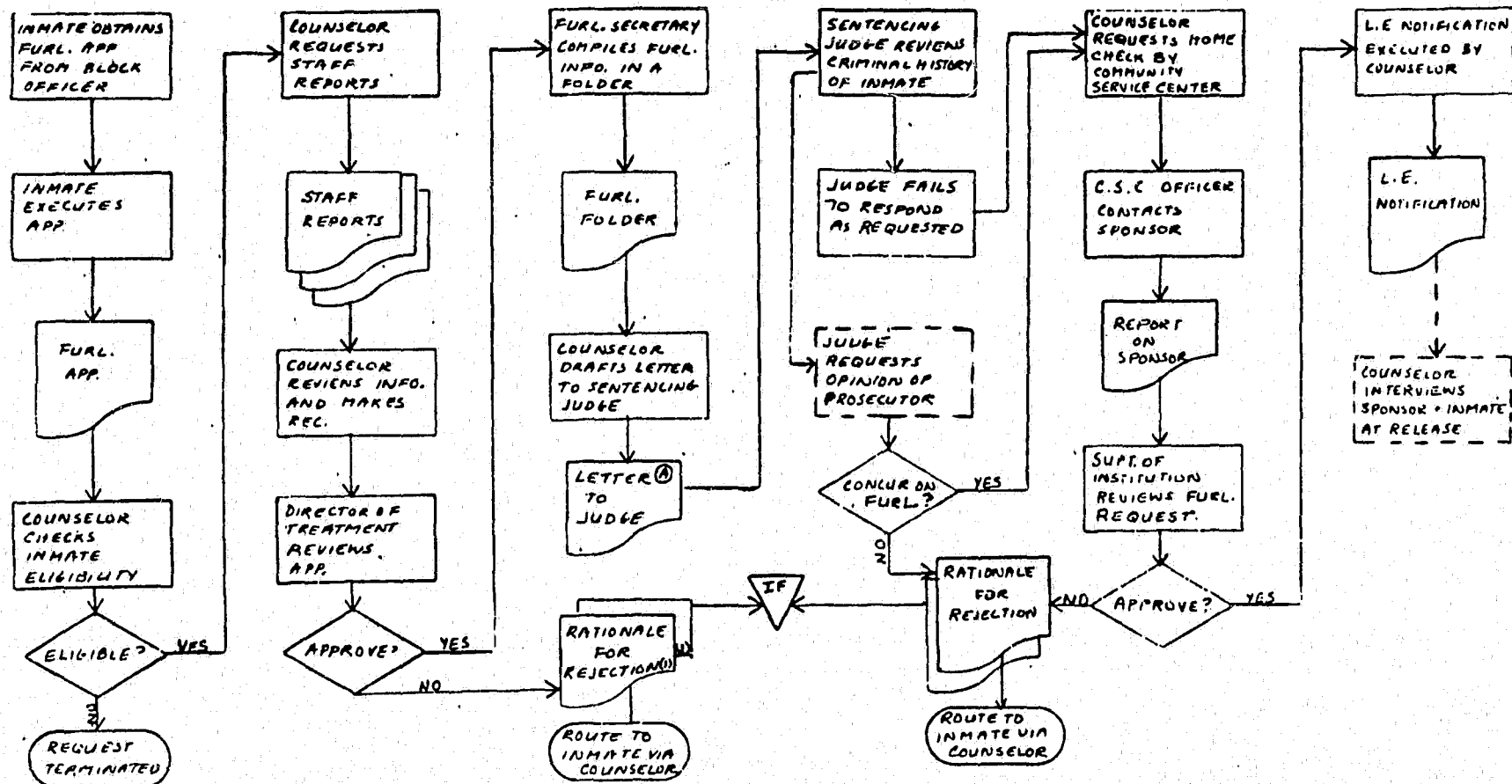
Mechanics: I. Graterford. Staff who are solicited for information include: block officer, education supervisor, work supervisor, psychologist and medical staff. Forms are provided for each type report. Counselor interviews sponsor and inmate at release if it is a first furlough or if some particular aspect of the leave requires discussion. A copy of the furlough decision is placed in the inmate institutional file and a separate list of all furloughs granted is updated each month.

II. Muncy. Staffing consists of: counselor, director of treatment, matron, matron supervisor, vocational director, sometimes chaplain and/or education supervisor.

III. Staffing done by classification board called Community Re-entry Committee, consisting of: Superintendent, captain of security, director of education, correctional officer (inmate's co-counselor), psychologist, counselor, work supervisor or vocational director. Head of Work Release and institutional work assignments conducts home checks. Inmates may receive a maximum of four furloughs per month.

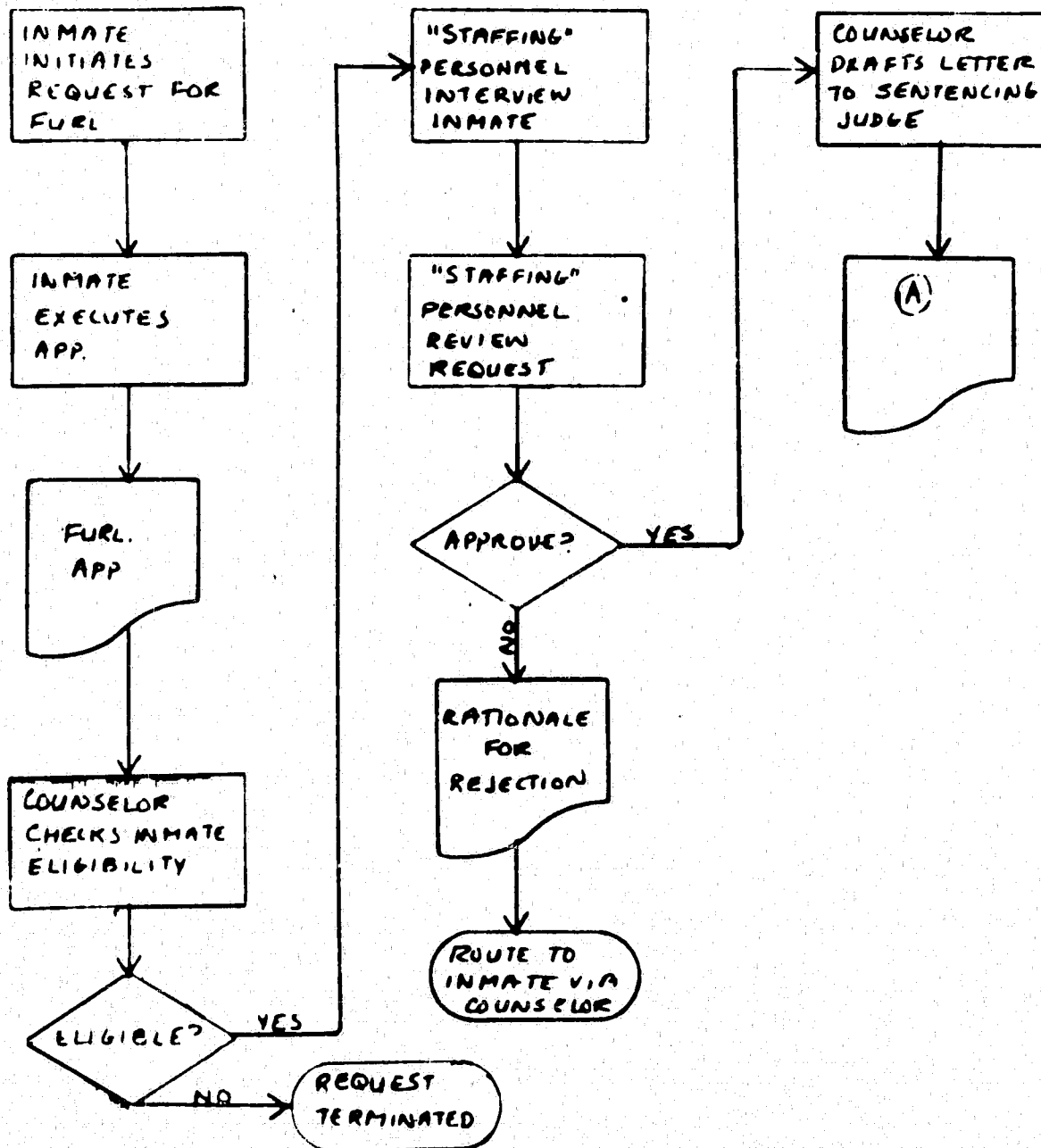
The judicial provision in Pennsylvania is one of its most unique features. Notification of sentencing judges is allowed 20 days to clear: no response is considered concurrence with decision. A negative response from the judge may be overruled by the Superintendent; however, this occurs rarely, if at all.

PENNSYLVANIA: GRATERFORD FURLOUGH APPLICATION PROCESS



PENNSYLVANIA: MUNCY, GREENSBURG

FURLOUGH APPLICATION PROCESS



SEE PENNSYLVANIA:
GRATERFORD FURLOUGH
APPLICATION PROCESS

RHODE ISLAND

Purpose: Family visit
pre-release
emergency
holiday
medical

Eligibility requirements: One-sixth sentence (10 years for
lifer)
no detainers
work release status
no disciplinary reports for 6 months
within 90 days of parole hearing or
release date (pre-release furlough)

Length: Fourteen days maximum furlough time in any six month
period

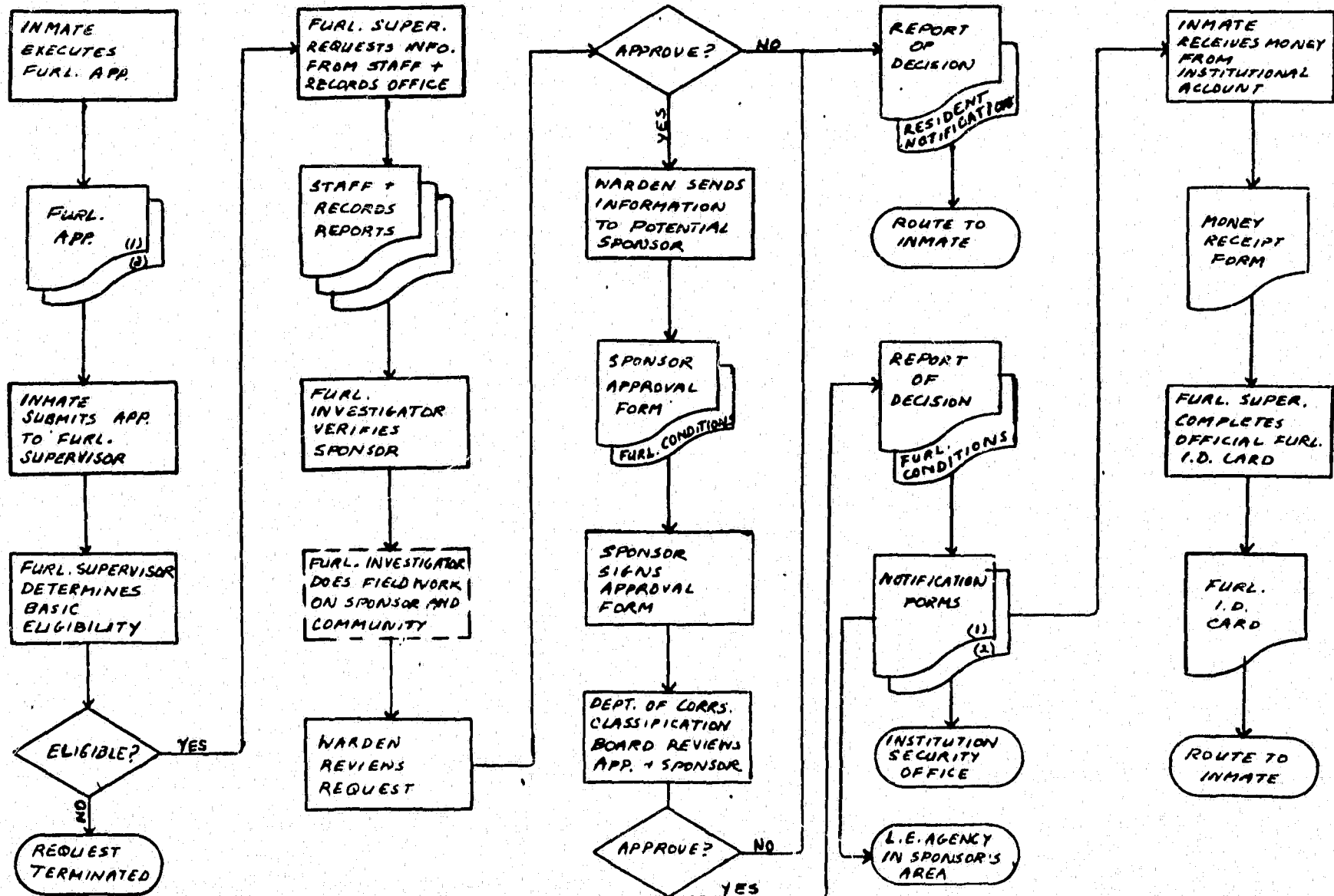
Offense Exclusion: Sex offense involving minor(s)

Mechanics: Furlough supervisor collects information on inmate
institutional record, security status, family or
sponsor, previous furlough experience and available
furlough time. Classification Committee meets
weekly. Requests for furlough must be approved by
six out of seven members. The Classification
Committee usually consists of security representatives
from each institution, the classification officer for
the Division of Corrections, a supervisory-level
treatment services employee and the warden, who is
the chief executive officer for all institutions.
With respect to emergency furloughs, the warden may
approve without consulting the Classification Committee
if time is an important factor. However, at the next
meeting of the Classification Committee, the furlough
is extended or terminated. The furlough application
process takes about two to three weeks to complete.

RHODE ISLAND

FURLOUGH APPLICATION PROCESS

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