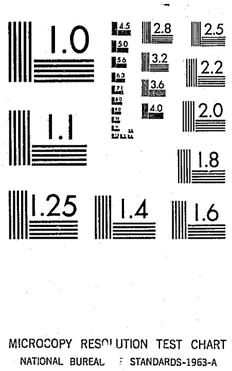

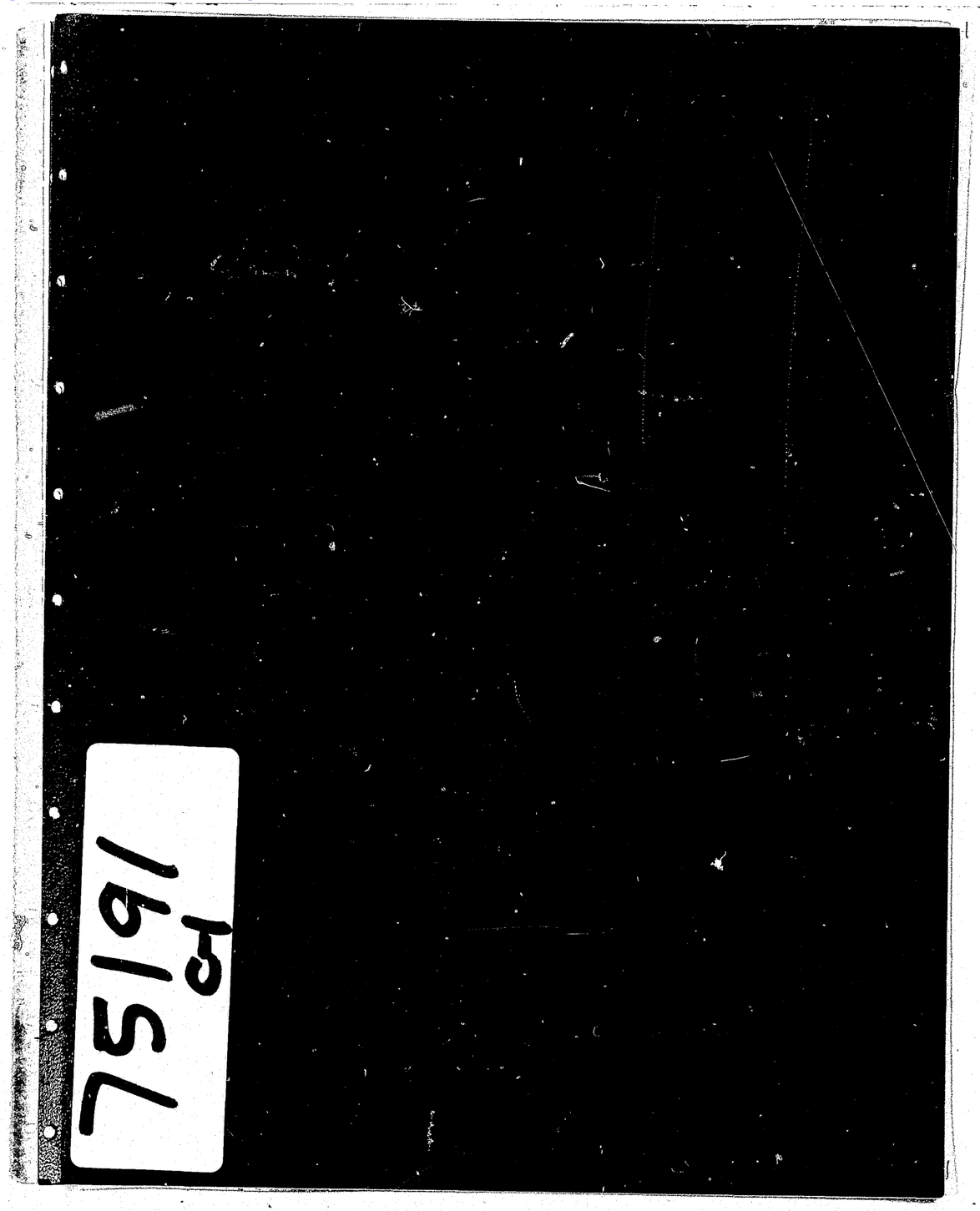

CONTEMPORARY UNITED STATES PAROLE BOARD PRACTICES

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August 1979

Parole in the United States: An Assessment

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INTRODUCTION

This paper is one in a series of Working Papers prepared during the course of the project, "Parole in the United States: An Assessment." Other papers in this series cover such subjects as parole field services, the effectiveness of parole, the international use of parole, and the legal environment of parole. This paper addresses contemporary practices of parole boards in the United States.

A discussion of contemporary practices would be meaningless without an accompanying discussion and analysis of some of the major issues which have had such a profound impact on parole board operations and procedures in the past decade. The issues range from the relatively uncomplicated operational considerations such as the optimal number of parole board members to the overriding policy issues arising from the movement to abolish parole. This paper will address this wide range of issues as they affect current parole board practices, in addition to presenting descriptive data on those practices.

In order to assure that contemporary practices and critical issues were adequately described, two methods of information-gathering were utilized. A review of all published literature dealing with parole boards and related issues was undertaken. In addition to gathering published literature, a preliminary survey was made of all state criminal justice planning agencies, departments of corrections, and parole boards; copies of any research studies, statistical compilations, and annual reports were requested. Information concerning contemporary

practices of parole boards was gathered primarily by means of a questionnaire sent to the paroling authorities in the fifty states, the District of Columbia, and the U.S. Parole Comission. The response rate to this survey was excellent. All paroling authorities responded, with the exception of one state which provided only partial information. (For data tabulation purposes, the information provided by that state was supplemented with information contained in that parole board's Annual Report).

In order to present the available information in a logical, organized fashion, we have selected an arrangement of subject matter and chapters which closely follows the paroling process itself. This arrangement allows us to examine the paroling process on a macro level, as well as to inspect the more narrow points and issues which make up the paroling process.

Chapter 1 is concerned with the organization of parole boards. We will look at the organizational placement of boards, the qualifications and characteristics of board members, staffing patterns in paroling agencies, budgetary responsibility and, finally, the types and importance of tasks which parole boards perform.

In Chapter 2, we consider the wide range of decisions which parole boards may be called upon to make. Not surprisingly, these decisions are not limited to the decisions to grant, deny, or revoke parole; they extend into many other areas as well. We will discuss the implications of requiring such a variety of decisions from one body, and point out some developments which have aided parole boards in

coping with these decisions.

The criteria commonly required for release on parole are discussed in Chapter 3. As we will see, the criteria used are quite consistent among jurisdictions, are relatively limited in number, and have not changed appreciably over time. The criteria include those required by statute, those required by structured decisions guidelines or formal board policy, and those isolated by inference from research into unstructured decision-making practices.

Chapter 4 reviews several of the most widely used strategies for decision-making. Included in this chapter are discussions of the development of parole risk prediction instruments, structured decision-making guidelines, and unstructured, discretionary decision-making.

The activities of parole boards in preparation for parole consideration hearings are considered in Chapter 5. These activities include decisions concerning parole eligibility and first hearing dates, preparation of the case file, review of the case file, and decisions about shock parole, mandatory release, and good-time computation.

The parole hearing itself is the subject of Chapter 6. Because virtually all of the available literature concerning parole hearings is anecdotal, this chapter represents an attempt to describe the way in which parole consideration hearings are conducted. Included in this chapter are discussions of the length of parole hearings, the individuals who participate in hearings, the types of questions generally

asked of parole applicants, the extent of "due process" guarantees routinely allowed, the type of decision made at the hearing, the process by which the inmate is notified of the decision, the appeal process, and the characteristics of revocation hearings.

Finally, Chapter 7 considers the range of influences, external to the parole board, which may have some impact on board decision-making. These external factors may influence only individual parole decisions, or may influence overall board policy. The sources of influences identified include corrections administrators and personnel, judges and prosecuting attorneys, law enforcement personnel, and public and political pressures.

CHAPTER 1

ORGANIZATIONAL ISSUES

Introduction

During the past 10 years the practices of many American paroling authorities have come under increasing scrutiny. This scrutiny and accompanying criticism have been generated by a variety of sources which include parole officials themselves. A great deal of attention has focused on major organizational issues such as the exercise of quasi-judicial authority, capricious and arbitrary decision-making, and the possession of wide discretionary latitude. Underlying these major organizational issues, however, are a set of narrower, but equally important questions, which provide the base of parole board organizational structure. These questions include the nature of personnel appointments to the boards, qualifications of board members, the range of decisions open to the board, and the degree of autonomy which the board possesses. Coloring all of these issues is the authority under which various practices and structures are imposed on the board. Some jurisdictions have chosen to specify parole board structure and practice in detail by statute, while others leave the specification of particular activities to administrative rule and regulation.

Organizational Placement of Parole Boards*

During the preceding twenty years, major changes in the correctional field have given impetus to the movement of parole boards from autonomy to subordination. The number of parole boards existing as

autonomous entities decreased between 1966 and 1972. During this period, a number of boards were incorporated into larger state agencies, particularly departments of corrections. Current evidence indicates that this movement may have reversed itself. This reversal has been prompted by several events. In 1967, the President's Task Force advanced new concepts and sounded the need for changes in the correctional environment. The following year, when the Omnibus Crime Control and Safe Streets Act was enacted, the generous funding available for crime control programs allowed many of the new concepts to be put into practice. Lastly, the completion of the "Standards for Adult Paroling Authorities" (1977) by the Commission on Accreditation for Corrections offered a means to evaluate the structure and practice of paroling authorities within a frame work of nationally accepted standards.**

In order to adequately survey parole board organizational structure, and interpret the effect of changes in current practice, a review of structural models is useful. Historically, commentators have focused on three distinct models of parole board organization:

> The institutional model most common in the juvenile field, places the parole process in the hands of the staff of correctional facilities. Parole becomes one of a series of decisions concerning the inmate and is closely tied to institutional programs. The benefits of the institutional model are that the release decision is made by the individuals who are most familiar with the inmate, and that the setting lends itself to the development of a consistent decision-making policy with respect to at least the individual offender. The liabilities of the institutional model include reduced visibility of the parole decision and therefore increased possibility of disparate decision-making, the the possibility that release decisions reflect institutional concerns such as overcrowding and discipline rather than the needs of the particular inmate.
>
> The autonomous model of parole removed the parole decision from the institution and placed it with an independent agency. It was believed that this location would eliminate the disadvantages of institutional parole, and increase the objectivity of the parole decision. Critics of the autonomous parole board suggest that this location fosters non-responsiveness to the needs and programs of the institution and undue sensitivity to the public sector. It has also been charged that autonomous boards are too far removed from the institution to appreciate the subtleties of cases and thus are unable to reach adequate decisions. A final criticism is that this model has led to the appointment of individuals with little knowledge, experience and competence in the correctional processes.
>
> The final model, the consolidation model, seeks to combine the best features of its two predecessors. This model emerged during the drive toward centralized administration, and attempts to subsume all elements of the correctional process under one department. Typically, the parole board is an independent decision-making body within the larger department, sensitive to the needs of the institution but independent of the control of those facilities. This model is particularly suited to the current correctional era, characterized by a plethora of programs and graduated release mechanisms, since it is responsive to needs of both integration and objectivity (O'Leary and Hanrahan, 1976:7-8).

The institutional model is characteristically identified with juvenile corrections, while the autonomous and consolidated models are characteristic of adult corrections. Recently, there has been a trend among many state governments to place previously established autonomous parole boards into corrections departments or other larger state

*Paroling authorities are known by a wide variety of names in the United States. Among them are: Adult Authority Board of Pardons, Board of Parole, Board of Prison Terms, Corrections Board, Parole Board, Parole Commission, Probation and Parole Board, or some combination of these terms. In this document the names "board" or "parole board" will be used to describe any or all of the above names. When reference to a specific board is intended, citation or contextual reference will be made.

**In 1978, New Jersey was the first jurisdiction to be granted accreditation under the new Standards for Adult Paroling Authorities.

agencies. In 1966, forty parole boards were autonomous while ten were part of another state agency. By 1972, the number of autonomous boards was reduced to twenty. During 1976, the trend resulted in an evenly divided distribution of responses (O'Leary and Hanrahan, 1976:9). By 1979, the trend of organizational placement of parole boards showed a dramatic return toward autonomy; thirty-nine states reported that their parole boards were independent state agencies or departments while only thirteen reported that their parole boards were consolidated into other state units. Table 1.1 summarizes these data and Table 1.2 identifies additional information regarding those jurisdictions which are consolidated.

The organizational shift of parole boards from autonomy to entities in larger agencies prompted a variety of critical viewpoints. First, critics of autonomous parole boards claimed that, by virtue of its separation from institutional programs, a parole board was:

> ...insensitive to institutional programs and that its work tends to be cursory so that frequently persons who should be paroled are released. Arguments are also made that too often persons who have little experience or training in correction are appointed to parole boards and that their familiarity, combined with the distance of the boards from the realities of institutional programs, has built unnecessary conflicts into the system (O'Leary and Nuffield, 1973).

Second, some observers considered the consolidated model of parole boards to be an advantage. They viewed centralized services within larger state agencies to be congruent with American Correction Association Standards and the recommendations of the 1973 National Advisory Commission on Criminal Justice Standards and Goals. This centralized arrangement was thought to encourage the sensitivity of board members to

TABLE 1.1*

ORGANIZATIONAL SETTING OF STATE PAROLING AUTHORITIES

	Number of Jurisdictions			
Organizational Setting	1966	1972	1976	1979
Autonomous Agency	40	20	25	39
Larger State Agency or Department of Correction	10	30	25	13
Total	50	50	50	52

*Sources: O'Leary and Hanrahan for 1966-72-76; Current survey.

TABLE 1.2*

PAROLE BOARDS PLACED WITHIN LARGER STATE AGENCIES

1979

	Number of Jurisdictions
Autonomous	36*
Rehabilitation/Correction	11
Public Safety	1
Social/Human Services	4
Total	52

*The number of jurisdictions reporting an autonomous board is inconsistent from Table 1.1 to Table 1.2, due to the fact that three jurisdictions (Hawaii, Maryland, and Missouri) reported both that their boards were independent agencies and that their boards were located within a larger agency or department.

institutional concerns while retaining independent parole decision-making authority. Thus, parole decisions were made within the parole board's independent authority even though it was organizationally placed within a larger state agency. A combined corrections department typically included parole boards, institutional facilities, and field/community services. It was assumed that these three components all function in an administratively parallel fashion. O'Leary and Hanrahan observe that in 1976 no parole board was administratively tied to corrections institutions. Data collected in 1979 confirm this observation.

A third point of view focused on the importance of parole supervision. The traditional organizational separation of field services (responsible for supervising parolees) and parole boards magnified inconsistencies of parole policy as it related to individual offenders. The need for coordinated efforts between parole boards and field services personnel was identified. By placing both entities within the same administrative structure, better coordination was believed to occur. Contrary to this view was the concern that parole boards might become responsible for supervising field services personnel. It was felt that if administrative duties were placed on parole boards, undue constraints would be placed upon their release and policy-making functions. Perhaps for this reason the field services function was placed under the supervision of the larger agency. This arrangement allowed for coordination and cooperation of parole boards and field services staff within the framework of the same parent department,

while not burdening the parole board with additional administrative responsibilities. Recent survey data and the work by O'Leary and Hanrahan (1976:10) substantiate this trend (See Table 1.3).

TABLE 1.3*

ADMINISTRATION OF PAROLE FIELD SERVICES
ADULT PAROLING AUTHORITIES

Administrative Parole Field Services	Number of Jurisdictions			
	1966	1972	1976	1979
Paroling Authority	31	18	13	12
Other Agency	21	34	39	40
Total	52	52	52	52

*Sources: O'Leary and Hanrahan for 1966-72-76; Current survey.

The trend toward increasing parole boards to full-time status has stabilized (see Table 1.4) and concurrently there has been a gradual growth in the overall number of parole board members (Table 1.5). There has been a gradual increase of full-time boards from 24 in 1966 to 30 in 1979. This trend seems to be in response to the views of some commentators that parole board members on a part-time basis cannot handle the increasingly complex parole processes nor can they realistically respond to "... the need for the development of a clear and rational policy for decision-making" (O'Leary and Hanrahan, 1976:11). In states that have a mixture of full-time and part-time board members, the chairman in nearly

TABLE 1.4*

ADULT PAROLING AUTHORITIES:
FULL-TIME -- PART-TIME

	Number of Jurisdictions			
Service	1966	1972	1976	1979
Full-Time	24	28	30	30
Part-Time	25	18	18	14
Mixed	3[a]	6[b]	4[c]	8[d]
Total	52	52	52	52

[a] No information is available on those boards.

[b] Connecticut, Delaware, Minnesota, Mississippi, Nebraska, New Jersey: the chairperson serves full-time, members serve part-time.

[c] Connecticut, Delaware, Mississippi: the chairperson serves full-time, members serve part-time; Nebraska: chairperson and two members serve full-time, two members serve part-time.

[d] Connecticut, Delaware, Hawaii, Idaho, Mississippi: chairperson serves full-time, members serve part-time. Nebraska: chairperson and two members serve full-time, two members serve part-time. Texas: three members serve full-time, six members serve part-time, no information on chairperson; and Wisconsin: nine members serve full-time, chairperson serves part-time and is ex-officio.

*Source: O'Leary and Hanrahan for 1966, 1972, 1976; Current survey.

TABLE 1.5*

SIZE OF STATE PAROLING AUTHORITIES

	Number of Jurisdictions			
Board Size	1966	1972	1976	1979
3	24	21	15	12
4	1	0	1	1
5	16	18	23	25
6	1	1	0	0
7	7	6	6	7
8	0	0	0	0
9 and over	1	4	5	7
Total	50	50	50	52
Total Number of Board Members	221	240	259	278

*Sources: O'Leary and Hanrahan for 1966-72-76; Current survey.

every jurisdiction is full-time. Wisconsin is an exception to this case. Connecticut, Delaware, Hawaii, Idaho, and Mississippi all have a full-time chairman and the other members are part-time. In Nebraska the chairman and two members are full-time while two other members are part-time.

An increase has been experienced in the total number of parole board members. In 1966, there were 221 members in 50 jurisdictions and, in 1979, the number increased to 278 in 52 jurisdictions. The growth in size appears to be reflected by the decrease in number of three member boards and an increase in the number of five member boards. Boards with other membership compositions have remained relatively

unchanged.

Table 1.6 presents a 1979 summary of membership data of parole boards. Every jurisdiction is represented by at least one white male and in most instances there are three. The sixty-three female members are slightly outnumbered by sixty-nine Blacks; however, it is not known how many of these Blacks are female. Only two states (Idaho and Maine) have neither females nor minorities on their boards. Nine states have no Blacks on their boards and seven states no females. Hawaii has the only Asian-American. Five states have native-Americans and nine states have Mexican-Americans. In eight jurisdictions, the majority of board membership is represented by minorities. No jurisdiction can claim it has more female than male members.

How parole board members are appointed and by what criteria, if any, are major issues of parole board organizations. In thirty-nine jurisdictions, the governor is the appointing authority. These appointments are frequently subject to state legislative confirmation. In the remaining jurisdictions, board members are appointed by other authorities, selected through the Civil Service system, or appointed through the Governor's office by means of statutory regulations that permit citizen participation (See Table 1.7).

Political appointments* to parole boards tend to increase the autonomy of paroling jurisdictions, especially if the boards are organizationally placed within the framework of a corrections department. This autonomy is reinforced for two reasons. First, the board is

*In this context political appointments refer to the actions made by governors or other elected officials.

TABLE 1.6

SUMMARY OF PAROLE BOARD MEMBERSHIP DATA

	Full-Time	Part-Time	Chair	Male	Female	Asian-American	Black	Mexican-American	Native-American	White	Other	Vacancies
Alabama	3	0	FT	2	1	0	1	0	0	2	0	0
Alaska	0	5	PT	4	1	0	1	0	1	3	0	0
Arizona	5	0	FT	4	1	0	1	1	0	3	0	0
Arkansas	0	5	PT	4	1	0	1	0	0	4	0	0
California	9	0	FT	7	2	0	2	3	0	4	0	0
Colorado	5	0	FT	4	1	0	1	2	0	2	0	0
Connecticut	1	10	FT	7	4	0	2	0	0	8	1	0
Delaware	1	4	FT	3	2	0	2	0	0	3	0	0
Florida	7	0	FT	5	2	0	3	0	0	4	0	0
Georgia	5	0	FT	4	1	0	1	0	0	4	0	0
Hawaii	1	2	FT	3	0	1	0	0	0	1	1	0
Idaho	1	4	FT	5	0	0	0	0	0	5	0	0
Illinois	10	0	FT	7	2	0	3	0	0	5	1	1
Indiana	5	0	FT	4	1	0	1	0	0	4	0	0
Iowa	0	5	PT	3	2	0	2	0	0	3	0	0
Kansas	5	0	FT	4	1	0	1	1	0	3	0	0
Kentucky	5	0	FT	5	0	0	1	0	0	4	0	0
Louisiana	5	0	FT	3	1	0	2	0	0	2	0	1
Maine	0	5	PT	5	0	0	0	0	0	5	0	0

(Table 1.6 continued)

	Full-Time	Part-Time	Chair	Male	Female	Asian-American	Black	Mexican-American	Native-American	White	Other	Vacancies
Maryland	7	0	FT	6	0	0	2	0	0	4	0	1
Massachusetts	7	0	FT	5	2	0	2	0	0	4	1	0
Michigan	7	0	FT	6	1	0	3	0	0	3	1	0
Minnesota	5	0	FT	4	1	0	1	0	1	3	0	0
Mississippi	1	4	FT	4	1	0	1	0	0	4	0	0
Missouri	3	0	FT	2	1	0	1	0	0	2	0	0
Montana	0	4	PT	3	1	0	0	0	1	3	0	0
Nebraska	3	2	FT	3	2	0	1	0	0	4	0	0
Nevada	3	0	FT	2	1	0	1	0	0	2	0	0
New Hampshire	0	3	PT	3	0	0	0	0	0	3	0	0
New Jersey	3	0	FT	2	1	0	1	0	0	1	1	0
New Mexico	3	0	FT	2	1	0	1	1	0	1	0	0
New York	12	0	FT	8	2	0	4	0	0	4	2	2
North Carolina	5	0	FT	3	2	0	1	0	1	3	0	0
North Dakota	0	3	PT	2	1	0	0	0	1	2	0	0
Ohio	7	0	FT	6	1	0	4	0	0	3	0	0
Oklahoma	0	5	PT	4	1	0	1	0	0	4	0	0
Oregon	5	0	FT	3	2	0	2	0	0	3	0	0
Pennsylvania	5	0	FT	4	1	0	3	0	0	2	0	0
Rhode Island	0	5	PT	4	1	0	1	0	0	4	0	0
South Carolina	0	7	PT	6	1	0	1	0	0	6	0	0

(Table 1.6 continued)

	Full-Time	Part-Time	Chair	Male	Female	Asian-American	Black	Mexican-American	Native-American	White	Other	Vacancies
South Dakota	0	3	PT	3	0	0	0	0	0	3	0	0
Tennessee	5	0	*	3	2	0	*	0	0	*	0	0
Texas	3	0	*	2	1	0	1	1	0	1	0	0
Utah	0	5	PT	3	2	0	1	1	0	3	0	0
Vermont	0	5	PT	3	2	0	0	0	0	5	0	0
Virginia	5	0	FT	4	1	0	2	0	0	3	0	0
Washington	7	0	*	5	1	0	2	0	0	4	0	1
West Virginia	3	0	FT	1	1	0	1	0	0	1	0	1
Wisconsin	9	1	PT	9	1	0	2	1	0	7	0	0
Wyoming	0	3	PT	1	2	0	0	0	0	3	0	0
District of Columbia	3	0	FT	2	1	0	3	0	0	0	0	0
Federal	9	0	FT	7	2	0	1	1	0	7	0	0

*Information not reported. Also, Connecticut, Illinois, Massachusetts, New Jersey and New York all report one Puerto Rican each. Hawaii reports one Hawaiian. Michigan reports one Jewish. New York also has one Cuban. Tennessee indicated a Black and White membership but no breakdown was given.

TABLE 1.7

APPOINTMENT OF BOARD MEMBERS

1979

Appointing Authority	Number of Jurisdictions
Governor	39
Other Appointment*	2
Civil Service	2
Other**	9
Total	52

*Parole board members in the District of Columbia are appointed by the mayor, while in Ohio board members are appointed by the Chief of the Adult Parole Authority, subject to the approval of the Director of the Department of Corrections.

**In Idaho, board members are appointed by the Director of the Department of Corrections, subject to senate confirmation.
Kentucky's Governor chooses from a three-person slate, for each vacancy, proposed by a cicizen's advisory counsel.
Minnesota's board chairperson serves at the pleasure of the Commissioner of the Department of Corrections and other four members are appointed by the Governor.
The Social Service Director is the appointing authority in Missouri and approval must be obtained from the Governor and confirmation from the senate.
In Oklahoma three members are appointed by the Governor, one by the Chief Justice of the Supreme Court and one by the Presiding Judge of the Court of Criminal Appeals.
In South Dakota the Governor makes one appointment, another is made by the Attorney General and a third by the Supreme Court.
In Texas the Governor makes one appointment, another is made by the Presiding Judge of the Court of Criminal Appeals.
In Utah board members are appointed by the Board of Corrections, who in turn, are appointed by the Governor.
The President appoints members of the U.S. Board of Parole and then appointments are subject to confirmation by the Senate.

in the position of reporting directly to the governor and, second, it may, at times, be required to be responsive to the public, particularly in sensitive periods during the aftermath of a major criminal event. From a different perspective, political appointments of parole boards lead to "... a lack of coordination with the corrections system, [and] undue sensitivity to the public and appointment of the unqualified due to political pressures" (O'Leary and Hanrahan, 1976:16).

In 1972, O'Leary and Hanrahan found that 28 boards had statutory requirements for appointment, and in 1976 the number increased to 35. In 1979, survey data reveal that only 24 jurisdictions of the 52 surveyed reported statutory requirements for appointment. This reversing trend of fewer jurisdictions that require statutory qualifications probably reflects different data collection methods. For those jurisdictions which do require statutory qualifications, examples include: graduate degree in social sciences; degree in law, criminal justice, psychology, sociology, penology, social work, or education; experience in corrections; a demonstrated interest in corrections; good character; judicious temperment; and an interest in the community. A few states prohibit all of its board members from holding membership in the same political party and others exclude elected officials or employees of state government.

Occasionally, directors of corrections departments can make appointments to the parole board. O'Leary and Hanrahan observed that this method of appointment has resulted in "... more qualified individuals and shielding of the board from political influence and

oversensitivity to the public. Opponents of this method suggest that it fosters a lack of independence from corrections and the possibility of more 'rubber stamp' decision-making" (1976:16). There is no uniformly accepted method of appointing parole board members. The dilemma is well stated by O'Leary and Nuffield:

> 1. How can the selection method guarantee expertise among appointees, especially where no professional accreditation body exists,* and at the same time reduce the chances that the decision-makers may become so willing to preserve the existing system that they will not challenge its assumptions and actions when such confrontation is needed?
>
> 2. How can the selection method provide for a system whereby policy makers are responsive to the mandates of the community, as expressed through elected officials, and yet avoid the consequent possibility that political consideration may become the major criterion for appointment? (1973)

In recent years, the staff position of professional hearing examiner has been developed within parole board authorities. In addition to parole grant hearings, hearing examiners are often responsible for conducting revocation hearings. According to survey data, 21 states reported the use of hearing examiners in 1979. Twelve jurisdictions report the use of case analysts. These positions could be perceived as one rung down from hearing officers. The analyst prepares the case and possibly a recommendation, although he usually does not conduct a hearing. Additionally, 32 jurisdictions report that someone conducts a case review although the individual person varied including case analysts, parole board members, field officers, and institutional staff.

*The American Correctional Association completed its Standards for Accreditation in 1975 and one state, New Jersey has been accredited. Until more states have been accredited or find other alternative means for the guarantee of expertise among appointees, this statement is still valid.

The most that can be said about case reviewers is that there is no definite pattern and that the case review function is taken seriously in thirty-two states. An in-depth discussion regarding the specific responsibilities of case reviewers is in Chapter 5 and Table 1.8 provides a summary, by state, of this activity.

Throughout the literature, four typical functions are commonly attributed to parole boards:

1. Selection and placement of prisoners to be paroled.
2. Aid, supervise and provide continuing control of parolees in the community according to previously established standards.
3. Discharge parolee from status when supervision is no longer necessary or when the sentence is completed.
4. If conditions of parole are violated by the parolee, the parole board determines whether revocation and return to the institution are necessary.

Parole boards typically exercise complete authority within these functions. Forty-four jurisdictions in 1979 reported that they have sole authority in the decision for parole. Three jurisdictions (Oklahoma, South Dakota, and Texas) reported that the final authority rested with the state governor. Four jurisdictions reported no authority at all in granting parole. Oklahoma, South Dakota, Texas and Wisconsin function only as sources of recommendations, with no authority for granting parole. What is not known is the degree to which recommendations from these boards are accepted.

Forty-five jurisdictions reported that they have authority to hire

TABLE 1.8

CASE REVIEWS - 1979

Jurisdiction	Case Analyst	Single Board Member	Full Board	Field Supervisor	Institutional Parole Officer	Other
Alabama					X	
Alaska					X	
Arizona	X					
Arkansas					X	Hearing examiner
California					X	Corrections Counselor from Department of Corrections
Colorado					X	
Connecticut			X			
Delaware	X		X			Institutional Counselors prepare pre-parole reports
Florida						Hearing examiner
Georgia						
Hawaii						Parole officer
Idaho		X				
Illinois		X				
Indiana			X			
Iowa	X					
Kansas			X			
Kentucky		X				
Louisiana						Committee from classifications, treatment and security forces.

(Table 1.8 continued)

Jurisdiction	Case Analyst	Single Board Member	Full Board	Field Supervisor	Institutional Parole Officer	Other
Maine			X		X	Administrative Assistant to the parole board
Maryland						Division of Corrections, classification officer; for local incarceration cases, local probation/ parole officer hears cases in jail.
Massachusetts		X				
Michigan			X			
Minnesota						Institutional case worker
Mississippi			X		X	
Missouri					X	
Montana						Executive Secretary and hearing officer
Nebraska			X			
Nevada		X				
New Hampshire				X	X	
New Jersey		X				
New Mexico						Institutional caseworker
New York					X	
North Carolina	X					
North Dakota						Executive Secretary

(Table 1.8 continued)

Jurisdiction	Case Analyst	Single Board Member	Full Board	Field Supervisor	Institutional Parole Officer	Other
Ohio		X				Also use hearing officers
Oklahoma	X					Department of Corrections staff
Oregon	X					
Pennsylvania	X				X	
Rhode Island			X			
South Carolina			X			
South Dakota					X	
Tennessee						
Texas	X	X			X	
Utah	X		X			
Vermont				X	X	
Virginia						Staff within the Department of Corrections
Washington	X					
West Virginia			X		X	
Wisconsin	X					
Wyoming						Institutional Staff
District of Columbia	X					
Federal						Hearing examiners

their own staffs. Only seven jurisdictions (Arkansas, Kentucky, Mississippi, North Dakota, Rhode Island, Vermont, and Wyoming) reported they did not. Table 1.9 provides additional specific information on parole board personnel responsibilities.

Parole boards are staffed in a variety of patterns. In addition to staff included in Table 1.9, jurisdictions also reported the unique staff positions described below:

Alabama (3)	- Executive Director, Administrative Assistant, and an Administrator of Interstate Compact
Alaska (3)	- reports that three full-time employees responsible for all functions listed on Table 1.8
California (6)	- six legal staff
Connecticut (2)	- Hearing Coordinator and an Administrative Assistant
Delaware (1)	- Parole Investigator
Florida (5)	- four Revocation Officers and a general counsel
Idaho (1)	- Executive Secretary
Illinois (2)	- Executive Assistant/Researcher and an Executive Assistant
Indiana (1)	- Administrative Assistant
Iowa (1)	- Executive Secretary
Kansas (2)	- Director and an Assistant Director (Case Analyst)
Kentucky (1)	- Executive Director (budgeting, case analysis, personnel, public relations, institutional liaison and research)
Maine (1)	- Administrative Assistant

TABLE 1.9

PERSONNEL RESPONSIBILITIES OF PAROLE BOARDS

Jurisdiction	Staff Budgeting	Staff Case Analysts	Staff Hearing Officers	Staff Personnel	Staff Public Relations	Staff Institutional Liaison	Staff Records	Staff Research	Staff Paraprofessionals	Staff Training	Staff Clerical
Alabama	4	0	0	1	0	3	3	0	0	0	18
Alaska	0	0	0	0	0	0	0	0	0	0	0
Arizona	0	3	0	0	0	0	0	0	0	0	4
Arkansas	1	0	1	0	0	2	0	0	0	0	20
California	1	0	30	1	0	0	20	7	0	0	25
Colorado	1	0	0	0	0	0	0	0	0	0	4
Connecticut	0	0	0	0	0	0	1	0	0	0	3
Delaware	1	1	0	0	0	0	0	0	0	0	2
Florida	3	10	34	2	0	0	0	1	0	0	68
Georgia	0	0	6	1	0	0	40	0	0	0	0
Hawaii	1	0	0	1	0	1	3	0	0	0	5
Idaho	0	0	0	0	0	0	0	0	0	0	0
Illinois	2	6	1	0	0	0	0	1	0	0	14
Indiana	0	0	0	0	0	0	0	0	0	0	2
Iowa	1	0	1	0	0	3	0	0	0	0	5
Kansas	0	0	0	0	0	0	0	0	0	0	4
Kentucky	0	0	2	0	0	0	0	0	0	0	0
Louisiana	DATA NOT AVAILABLE										

(Table 1.9 continued)

Jurisdiction	Staff Budgeting	Staff Case Analysts	Staff Hearing Officers	Staff Personnel	Staff Public Relations	Staff Institutional Liaison	Staff Records	Staff Research	Staff Paraprofessionals	Staff Training	Staff Clerical
Maine	0	0	0	0	0	0	0	0	0	0	1
Maryland	0	0	5	0	0	0	14	0	0	0	12
Massachusetts	5	0	0	0	0	20	0	0	0	0	0
Michigan	0	0	0	0	0	0	0	0	0	0	7
Minnesota	0	0	0	0	0	0	0	0	0	0	3
Mississippi	0	0	0	0	0	0	0	0	0	0	1
Missouri	1	2	2	1	0	16	1	2	19	1	5
Montana	0	0	1	0	0	0	0	0	0	0	2
Nebraska	1	0	2	0	0	0	3	0	0	0	7
Nevada	1	0	0	0	0	0	0	0	0	0	1
New Hampshire	0	0	0	0	0	1	0	0	0	0	3
New Jersey	1	0	7	1	0	1	0	0	4	0	10
New Mexico	2	6	0	0	0	0	0	0	0	0	4
New York	0	0	8	0	0	87	0	0	0	4	6
North Carolina	0	12	0	0	0	0	0	0	0	0	18
North Dakota	0	0	0	0	0	0	0	0	0	0	0
Ohio	0	0	5	0	0	0	0	0	0	0	7
Oklahoma	0	0	4	0	0	0	0	0	0	0	3
Oregon	1	7	2	0	0	1	12	3	0	0	4

(Table 1.9 continued)

Jurisdiction	Staff Budgeting	Staff Case Analysts	Staff Hearing Officers	Staff Personnel	Staff Public Relations	Staff Institutional Liaison	Staff Records	Staff Research	Staff Paraprofessionals	Staff Training	Staff Clerical
Pennsylvania	5	20	8	10	0	12	8	10	20	6	150
Rhode Island	0	0	0	1	0	0	0	0	0	0	2
South Carolina	3	5	1	3	0	1	8	1	0	1	1
South Dakota	0	1	0	0	0	0	0	0	0	0	3
Tennessee	0	0	4	0	0	1	0	0	0	0	18
Texas	1	34	21	3	1	37	22	1	12	1	137
Utah	1	1	1	0	0	0	0	0	0	0	2
Vermont	0	0	0	0	0	0	0	0	0	0	0
Virginia	0	0	0	0	0	0	0	0	0	0	10
Washington	0	1	3	0	0	0	0	2	0	0	14
West Virginia	0	0	0	0	0	0	0	0	0	0	3
Wisconsin	0	0	0	0	0	0	0	0	0	0	4
Wyoming	0	0	0	0	0	0	0	0	0	0	1
District of Columbia	1	6	1	1	1	1	1	1	0	0	5
Federal	3	13	35	0	0	0	0	4	0	0	NA

Maryland (4) - Executive Secretary, Case Assignment Officer, Administrator and a Supervisor of Records

Minnesota (1) - reported as: Administrator (part-time and voting member of board when a board member absent)

Mississippi (8) - Executive Secretary and seven Institutional Administrative Assistants

Montana (1) - Executive Secretary

Nebraska (1) - Administrative Assistant

Nevada - Hearing Officers under contract (number not specified)

New Hampshire (6) - Chief Parole officer and five field parole officers

New Jersey (9) - Executive Director, Deputy Director, Administrative Assistant, Community Counselor, Clemency Investigator and four Parole Counselors

North Dakota (1) - Executive Secretary

Pennsylvania (300) - Parole Officers and Supervisors (includes all state field supervision staff)

Tennessee (47) - Thirty-six Parole Officers, four Parole Supervisors, Director of Parole, Accountant, Lawyer and four other administrative staff

Texas (11) - Parole Supervisors

Vermont (1) - Executive Secretary

Virginia (2) - Executive Secretary and a Docket Clerk

Washington (1) - Administrator

Wisconsin (5) - employees responsible for budgeting, case analyses, personnel and institutional liaison

District of Columbia (1) - Assistant to Budget/Finance

Federal (7) - Lawyers

Parole board functions are described in Table 1.10.

The American Correctional Association's Standards for Accreditation are currently having an impact on most, if not all, of the paroling jurisdictions. The development of accreditation standards was motivated by the concerns of corrections professions, the courts, funding agencies, politicians, parole board members and citizens. The aim of accreditation standards, according to its proponents, was to establish minimum levels of performance, qualifications, goals and objectives, physical facilities, administration, level of funding, and basic criteria for decision-making. The minimal levels established for each standard was believed to be a first important step in the upgrading of corrections and the entire criminal justice system.

As mentioned earlier in this chapter, New Jersey is thus far the only board which has been granted accreditation by the American Correctional Association. From the 1979 survey data, there is evidence of a substantial awareness among other jurisdictions of the significance of accreditation. Thirty-seven jurisdictions reported that efforts were being directed toward meeting nationally recognized standards. Of these thirty-seven, thirty-six jurisdictions identified the American Correctional Association standards as those for which work was progressing. Table 1.11 provides an indication of how much progress jurisdictions have made toward meeting a nationally recognized set of standards. Since fifteen jurisdictions reported no progress being made toward meeting standards, it is assumed that these jurisdictions are

TABLE 1.10

PAROLE BOARD FUNCTIONS

Jurisdiction	FUNCTION													
	Parole				Supervision							Clemency		
	Adult Felons	Adult Misdemeanants	Youthful Offenders	Juveniles	Adult Felons/ Parolees	Adult Misd. Parolees	Youthfl.Offndr. Parolees	Juvenile Parolees	Adult Felony Probationers	Adult Misd. Probationers	Field Services	Pardons	Clemency	Early Dischrg.
Alabama	X		X		X		X		X	X	X	X		X
Alaska	X	X												X
Arizona	X		X									X	X	X
*Arkansas	X				X				X		X	X	X	
California	X											X	X	X
Colcrado	X	X												X
Connecticut	X		X											X
Delaware	X	X	X											X
Florida	X	X	X									X	X	X
Georgia	X	X	X		X	X	X		X	X	X	X	X	X
Hawaii	X				X						X	X	X	X
Idaho	X											X	X	X
Illinois	X		X	X								X	X	X
Indiana	X		X									X	X	X
Iowa	X											X	X	X
Kansas	X											X	X	X
Kentucky	X											X	X	X

(Table 1.10 continued)

Jurisdiction	FUNCTION													
	Parole				Supervision							Clemency		
	Adult Felons	Adult Misdemeanants	Youthful Offenders	Juveniles	Adult Felons/ Parolees	Adult Misd. Parolees	Youthfl.Offndr. Parolees	Juvenile Parolees	Adult Felony Probationers	Adult Misd. Probationers	Field Services	Pardons	Clemency	Early Discharge
Louisiana	X		X										X	
Maine	X	X	X											X
Maryland	X	X										X	X	
Massachusetts	X	X			X	X					X	X	X	X
Michigan	X											X	X	X
Minnesota	X		X		X		X							X
Mississippi	X													
Missouri	X		X		X	X	X		X	X	X			
Montana	X											X	X	X
Nebraska	X													X
Nevada	X													X
New Hampshire	X				X						X			X
New Jersey	X	X	X									X	X	X
New Mexico	X	X			X	X						X	X	X
New York	X	X	X	X	X	X	X	X			X	X	X	X
North Carolina	X	X	X											X

(Table 1.10 continued)

Jurisdiction	FUNCTION													
	Parole				Supervision							Clemency		
	Adult Felons	Adult Misdemeanants	Youthful Offenders	Juveniles	Adult Felons/ Parolees	Adult Misd. Parolees	Youthfl.Offndr. Parolees	Juvenile Parolees	Adult Felony Probationers	Adult Misd. Probationers	Field Services	Pardons	Clemency	Early Discharge
North Dakota	X	X			X	X			X	X				X
Ohio	X	X										X	X	X
Oklahoma	X											X	X	
Oregon	X		X		X		X							X
Pennsylvania	X	X			X	X	X		X		X			
Rhode Island	X	X										X		
South Carolina	X	X			X	X			X	X	X	X		X
South Dakota	X											X	X	
Tennessee	X		X		X		X				X			
Texas	X				X						X	X	X	
Utah	X	X										X	X	X
Vermont	X	X	X											X
Virginia	X	X	X											X
Washington	X													X
*West Virginia	X										X	X	X	
Wisconsin	X		X									X	X	

(Table 1.10 continued)

Jurisdiction	FUNCTION: Parole: Adult Felons	Parole: Adult Misdemeanants	Parole: Youthful Offenders	Parole: Juveniles	Supervision: Adult Felons/ Parolees	Supervision: Adult Misd. Parolees	Supervision: Youthfl.Offndr. Parolees	Supervision: Juvenile Parolees	Supervision: Adult Felony Probationers	Supervision: Adult Misd. Probationers	Supervision: Field Services	Clemency: Pardons	Clemency: Clemency	Clemency: Early Discharge
Wyoming	X													X
District of Columbia	X	X	X											
Federal	X		X	X	X		X	X						X

*NOTE: On Field Services, Arkansas and West Virginia gave inconsistent answers. Arkansas said they were responsible for the provision of field services, but said that they didn't supervise field service agents. West Virginia, on the other hand, supervised agents but was not responsible for the provision of field services.

either not interested in working toward standards, have planned to begin to work toward them in the near future, or are concerned that meeting standards may be counter productive for them.

The literature provides very little information concerning the financial and budgeting responsibilities of parole boards. Since the majority of parole board jurisdictions are not located within larger state agencies, separate budget appropriations are generally provided. Tables 1.12, 1.13 and 1.14 provide comparative data among the jurisdictions. Our survey data indicated that forty-four jurisdictions

TABLE 1.11

EXTENT OF PROGRESS TOWARD MEETING STANDARDS
(IN HOUSE EVALUATION)

Category	Number of Jurisdictions
Surpassed Standards	7
Met Standards	6
Substantial Progress	16
Some Progress	7
Not Applicable	15
Total	51

TABLE 1.12

PAROLE BOARD FINANCE - TRENDS 1979

	Number of Jurisdictions		
	Yes	No	Total
Parole board has its own separate appropriation	38	14	52
Parole board has identifiable budget in other agency	12	2	
Parole board and/or staff prepare budget requests	44	8	52
Parole board used guidelines for fixed dollar amount per hearing	1	51	52

TABLE 1.13

TRENDS IN BUDGETARY STATUS

	Number of Jurisdictions
Growth	24
Static	22
Reduction	4
Not available	2
Total	52

reported responsibilities for preparing budget requests. Of those forty-four jurisdictions, twenty-four reported a growth pattern in their budgets, sixteen reported a static condition, and three states experienced a reduction in level of budgeting. One state, Louisiana, did not report its budgetary trend over the past five years (see Table 1.13).

Eight states reported no participation in the process of preparation of their budget requests. Connecticut, Maine, Michigan, Minnesota, Mississippi, and South Dakota reported that parole boards still did not prepare budget requests, and all six jurisdictions also reported a static budgetary condition over the past five years. Arkansas reported that its staff did not participate in budget preparation but did not report its budgetary condition. West Virginia reported no participation

TABLE 1.14

SUMMARY OF PAROLE BOARD BUDGET
APPROPRIATIONS, PREPARATION AND TRENDS

Jurisdiction	1978-1979 Budget Appropri-ation*	Parole Board Prepares Own Budget	Budget Trend Over Last 5 Years	Board Autono-mous
Alabama	4,000,000	Yes	Static**	Yes
Alaska	157,900	Yes	Static	No
Arizona	300,000	Yes	Growth***	Yes
Arkansas	N.A.	No	N.A.	Nc
California	5,000,000	No	Static	Yes
Colorado	242,555	Yes	Growth	Yes
Connecticut	160,000	No	Static	Yes
Delaware	103,240	Yes	Growth	Yes
Florida	2,601,520	Yes	Static	Yes
Georgia	3,089,305	Yes	Growth	Yes
Hawaii	358,285	Yes	Growth	Yes
Idaho	62,000	Yes	Growth	No
Illinois	1,016,000	Yes	Growth	Yes
Indiana	207,210	Yes	Growth	No
Iowa	259,849	Yes	Static	Yes
Kansas	219,800	Yes	Static	Yes
Kentucky	343,908	Yes	Growth	Yes
Louisiana	N.A.	Yes	N.A.	No
Maine	42,000	No	Static	Yes
Maryland	493,670	Yes	Growth	Yes
Massachusetts	2,500,000	Yes	Growth	Yes
Michigan	N.A.	No	Static	No
Minnesota	250,000	No	Static	Yes
Mississippi	N.A.	No	Static	No
Missouri	8,000,000	Yes	Growth	Yes
Montana	75,000	Yes	Static	Yes

(Table 1.14 continued)

Jurisdiction	1978-1979 Budget Appropri-ation*	Parole Board Prepares Own Budget	Budget Trend Over Last 5 Years	Board Autono-mous
Nebraska	203,794	Yes	Growth	Yes
Nevada	138,350	Yes	Static	Yes
New Hampshire	186,000	Yes	Growth	Yes
New Jersey	552,026	Yes	Growth	No
New Mexico	142,400	Yes	Growth	Yes
New York	2,425,700	Yes	Static	Yes
North Carolina	215,148	Yes	Growth	Yes
North Dakota	11,000	Yes	Growth	Yes
Ohio	1,100,000	Yes	Reduction****	No
Oklahoma	154,157	Yes	Static	Yes
Oregon	500,000	Yes	Growth	Yes
Pennsylvania	11,000,000	Yes	Reduction	Yes
Rhode Island	81,000	Yes	Static	Yes
South Carolina	4,103,000	Yes	Growth	Yes
South Dakota	63,676	No	Static	No
Tennessee	1,283,000	Yes	Static	Yes
Texas	7,899,801	Yes	Growth	Yes
Utah	173,000	Yes	Reduction	Yes
Vermont	44,200	Yes	Static	Yes
Virginia	740,780	Yes	Static	No
Washington	1,600,000	Yes	Growth	Yes
West Virginia	92,391	No	Reduction	No
Wisconsin	405,681	Yes	Growth	No
Wyoming	32,000	Yes	Static	Yes
District of Columbia	507,000	Yes	Static	Yes
Federal	5,111,000	Yes	Growth	Yes

(Table 1.14 continued)

*In reviewing specific budget appropriations, the reader is to be cautious by understanding that some jurisdictions are reporting appropriations for parole boards only, while others are reporting a combination of parole board activities and field services.

**"Static" means that jurisdictions reported that parole board budgets were relatively static with inflationary increase only.

***"Growth" means that jurisdictions reported that parole board budgets experienced a steady growth.

****"Reduction" means that jurisdictions reported that parole board budgets were reduced.

in budgetary preparation and reported a reduction in budgetary support. Three states, Ohio, Pennsylvania, and Utah, reported budget preparation as a responsibility of their parole boards staff but all three experienced a reduction in funding levels.

It would be easy to reach the conclusion, based on available data, that parole boards which prepare their own budget requests are more likely to experience budgetary growth than those boards which do not prepare budget requests. Likewise, one may be easily lead to conclude that boards which do not prepare budget requests are more likely to experience static or reduced budgetary conditions. Table 1.15 suggests that boards which prepare budget requests are autonomous. There are thirty-six boards of the thirty-nine autonomous boards which prepare budget requests. The three exceptions are Connecticut, Maine, and Minnesota. The eight boards which prepare budget requests but which are not autonomous are Alaska, Idaho, Indiana, Louisiana, New Jersey, Ohio, Virginia, and Wisconsin.

TABLE 1.15

RELATIONSHIP OF BOARD AUTONOMY
TO BUDGET PREPARATION RESPONSIBILITIES

	Autonomous	Non-Autonomous
Parole Boards which prepare own budget requests	36	8
Parole Boards which do not prepare own budget requests	3	5

An effort was made to differentiate how important certain tasks were perceived to be by parole boards. The data in Table 1.16 provide the results of this effort.

Each jurisdiction was requested to rank five of the eight tasks from Table 1.16. By comparing the total first and second rankings with the total of fourth and fifth rankings, the most important perceived tasks of parole boards are clear. Protection of the public from crime and criminals, release of inmates at the most opportune time for success on parole, and determination that a specific inmate has been rehabilitated are the three highest ranking tasks. Only one jurisdiction responded to the highest ranking task, protection of the public from crime and criminals, as not applicable. Likewise, the second highest ranked task, release of inmates at the most opportune time for success on parole, received only three responses from parole boards which indicated that the task was not applicable. The third highest ranking

TABLE 1.16

RANKING OF IMPORTANCE OF PAROLE BOARD TASKS

Board Tasks	Number of Jurisdictions							
	First	Second	Third	Fourth	Fifth	Unable to Rank	Missing	Not Applicable
Determination that a specific inmate has been rehabilitated	4	10	10	3	2	1	6	18
Control of institutional behavior	0	1	1	5	9	0	6	30
Assurance that each inmate receives his/her just desserts	2	3	1	9	8	1	6	22
Assurance that all inmates serve a just and equitable amount of time	3	6	5	7	6	1	6	18
Release of inmates at the most opportune time for success on parole	13	9	14	1	4	2	6	3
Protection of the public from crime and criminals	21	10	5	5	2	2	6	1
Control of institutional populations	0	1	0	0	2	1	6	42
Reduction of sentencing disparity	1	4	6	10	3	0	6	22
Other	1	0	1	2	1	0	5	42

task of determination that a specific inmate has been rehabilitated, is somewhat less convincing, because the not applicable responses increased to eighteen. It is evident from the data that parole boards show broad agreement on at least three of their most important tasks.

CHAPTER 1

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CHAPTER 2

PAROLE BOARD DECISIONS

Introduction

Paralleling the diversity of parole board organization, the types of decisions that boards must make reflect an even greater amount of complexity and diversity. Called upon to monitor an offender from the time he or she enters prison until the time the person finally completes the period of supervision, parole boards perform such functions as setting minimum sentences, collecting information to be used in initial parole hearings, establishing criteria for release and conditions that parolees must meet while under supervision, revoking the parole privilege, and providing an early discharge for those parolees who have presented sufficient indications of having adopted a more conventional and stable life-style.

To Parole or Not to Parole

Although all parole boards are concerned with the behavior of inmates from the moment they begin serving time, with some boards having specific functions which affect the offender even before entering prison, (such as supervising personnel who prepare pre-sentence investigations), the first major problem that faces all boards centers on the decision as to whether an inmate has met sufficient requirements to warrant release into the community.

The Complexity of Decision Making: Factors Examined by the Parole Board

Guidelines for paroling individuals are as complex as they are

fluid. In making a decision as to whether an individual will be paroled, boards generally take into consideration a list of variables which includes previous crimes, the conditions under which the most current crime was committed, how long a prisoner has served, and the effect that paroling an individual might have on prison morale and public opinion. For most decisions, the primary consideration is whether it is "safe" to release a particular individual. Information is processed with a view toward predicting success or failure in the community. Among the variables used in this evaluation of potential success, items such as whether the inmate has a history of drug and/or alcohol problems, whether the inmate is a first offender or a repeater, the inmate's previous employment history and prospects for future employment, I.Q., emotional status, and the nature of family contacts usually appear as items of prime consideration (Stanley, 1976:48-50).

The Complexity of Decision Making: Various Types of Offenders

Further complications in the decision-making process occur when a parole board must evaluate different classes of offenders. While convicted adult felons, a rather hetergeneous classification itself, represent the major concern of all boards, with a number of jurisdictions paroling only this category of offender, other jurisdictions must consider misdemeanants and youthful offenders. Of the 52 jurisdictions surveyed during this study, all grant adult felony parole, while 21 grant adult misdemeant parole and 22 grant youthful offender parole. In most jurisdictions, juvenile offenders are considered separately, with only 3 boards handling this particular category.

Denying Parole

Although most states eventually release almost all of their inmates on parole, this release will frequently not occur on the parolee's first hearing. Any number of inmates thus are rejected, at least temporarily, in their efforts to be paroled. Reasons for this rejection usually include the inmates' behavior at the hearing, the probable effect of the release on prison morale, whether the inmate has sold narcotics, and the amount of time served. Parole boards often formally recognize a particular hierarchy of criteria, even though they may actually base their decision on a rather different evaluative format (Stanley, 1976:61).

Having been denied parole, the inmate may or may not receive a response stating the reasons for denial. This response may be given immediately. On the other hand, it may take several weeks for the inmate to receive notification.

In most jurisdictions, the inmate may appeal the denial of parole but, as mentioned previously, the board almost always acts as its own appealing agency.

If the inmate chooses not to appeal, a number of jurisdictions require a periodic re-evaluation of the case. Other boards have no specific guidelines and establish re-hearing dates on an individual basis. There is even one state (Kentucky) which requires that an inmate serve out the rest of the sentence if parole was originally denied. While a decision may be deferred and re-heard at the end of the deferment, any decision the board makes is apparently final (O'Leary and

Hanrahan, 1976:169).

Mandatory Release

For those inmates who have not been paroled, some states have a mandatory release with supervision program, also known as conditional release. Actual implementation may vary, but the usual process is to keep an inmate under supervision between the time an early release is granted because of good-time credits and the time the maximum sentence terminates. The U.S. Parole Commission further reduces this time by 180 days (O'Leary and Hanrahan, 1976:305). Vermont, in contrast, can extend supervision beyond the maximum sentence if the board so desires (O'Leary and Hanrahan, 1976:316). In most states, however, a released inmate is subject to no supervision.*

Supervision

Although all parole boards make release decisions for one or more categories of offenders, significantly fewer boards provide supervisory services. Where all 52 jurisdictions grant adult felony parole, only 17 provide supervision for these parolees. In the case of adult misdemeanant parolees, the respective figures are 21 and 8, and for youthful offenders they are 22 and 9. Some jurisdictions do, however,

*Georgia's program represents something of a hybrid. They have no regular mandatory release program, but select inmates may be placed under what they call supervised reprieve. In Georgia, inmates normally will be released outright when they serve the maximum less good-time. Some inmates are, however, selected for Georgia's Parole-Reprieve program. Those selected get out 90 days before they would have otherwise, but they are subject to supervision for these 90 days (O'Leary and Hanrahan, 1976:134).

North Carolina also has an unusual program in that it has "conditional" release programs for inmates sentenced from 30 days to six months as habitual drunks (O'Leary and Hanrahan, 1976:250).

also supervise felony and misdemeant probationers.

TABLE 2.1

PAROLE GRANTING AND PAROLE SUPERVISION:
TYPES OF OFFENDERS

	Number of Jurisdictions	
Offender Category	Boards Grant Parole	Boards Supervise
Adult Felons	52	17
Adult Misdemeanants	21	8
Youthful Offenders	22	9
Juveniles	3	2
Felony Probationers	N/A	7
Adult Misdemeanant Probationers	N/A	5

Naturally, those boards responsible for supervision must confront a vast array of additional decisions and responsibilities. Some effort must be made to insure that the parolee has a meaningful chance to re-integrate, hopefully with more success than previously, into a community situation quite different from ordinary institutional life. The emphasis is usually on keeping the released inmate out of trouble, regardless of whether re-integration is accomplished by stable employment, acquiring more marketable job skills, or developing a more well-adjusted outlook on life.

Types of Offenders on Supervision

As in the case of granting parole, the supervisory functions that boards must implement are complicated by the different types of individuals they must monitor. In addition to supervising the different types of parolees for which each board is responsible, some jurisdictions require that their boards also monitor felony and misdemeanor probationers, with the emphasis naturally on the former. Boards that supervise probationers are confronted with an additional set of concerns because probationers are also under the jurisdiction of the courts. Probationers also receive first priority from supervising probational parole officers (Stanley, 1976:125).*

As mentioned previously, some boards are also responsible for the supervision of those inmates who received mandatory release. Since this latter group includes prisoners who were not previously paroled, as well as those who may have had at least one parole revocation, these "parolees" can provide the board with some special problems of supervision. Although comparisons between parolees and mandatory releasees are sketchy, the data currently available do suggest higher recidivism rates for mandatory releases (Stanley, 1976:178-179).

Conditions for Release

When and if an inmate receives permission to leave an institution in order to commence supervised integration into community life (probably over 90% of institutionalized offenders are paroled at one time or

*For further details on probation duties see Carlson and Parks, Technical Issue Paper on Issues in Probation Management, The Ohio State University, 1978.

another), parole boards require that inmates pledge to obey some basic regulations that will, in theory at least, help the inmates stay out of trouble and that will aid the board in keeping track of the activities of their numerous parolees. According to survey responses regarding special requirements for released inmates, 37 can require half-way house residence, 46 can require special treatment programs, and 41 can impose special supervision programs.* Ideally, these sets of conditions are designed with some degree of individual appropriateness to meet each inmate's special needs and situations, but this is usually not the case. Some rules are arbitrary, some irrelevant to many parolees, and some are, in practice, virtually unenforceable.

In discussing programs for release, Stanley mentions two basic types of conditions: reform conditions and control conditions. The former, designed to make a more responsible citizen out of the former inmate, includes such items as complying with laws, maintaining employment, supporting dependents, avoiding undesirable associations, refraining from the use of drugs, and either abstaining from or moderating the use of alcohol. South Dakota even has what they call a "one drink rule." Some jurisdictions also require the inmate to refrain from gambling, while some even suggest, or require, that the inmate attend church. Control conditions, on the other hand, aid the board in keeping track of their parolees. These include such items as reporting to the board, refraining from contact with the victim

*These figures represent the number of positive responses from the 51 jurisdictions who answered the appropriate questions. Louisiana did not provide the necessary data.

(Connecticut), obtaining permission to use an automobile, obtaining permission for out-of-state or out-of-area travel, restricting the inmate from a particular geographic area (Kansas), and notifying the board of any changes in residence or job (Stanley, 1976:83; current survey).

As the preceeding list suggests, parolees must conform to an extensive list of "do's and don't" that frequently have little relationship with successful re-integration into society. Part of the problem, naturally, develops out of the difficulty of the assignment and part of it can be attributed to the inadequate amount of resources available for supervising parolees. The various regulations, however, complicate matters extensively, since they may force parole officers to work at cross-purposes with re-integration of the parolee into community life. For example, preventing the parolee from having a car might make it easier for supervision purposes, but it can also prove to be a logistical hindrance for the parolee in seeking, obtaining, and retaining employment.

Another condition which is at least occasionally imposed by approximately half of the parole boards surveyed (27 out of 51 responding) is the payment of restitution, usually to the victim of the offense, if appropriate. Only one of these jurisdictions, however, (Massachusetts) reported using symbolic restitution.

Monitoring the Parolee

In attempting to determine whether parolees are abiding by their release agreements, parole boards employ various procedures for checking

the behavior of their charges, including office visits, phone calls, and home surveillance.

Requiring parolees to visit their parole officer represents the most commonly used checking procedure. How frequently parolees must perform this duty depends upon whether the board considers them to require heavy, moderate, or light supervision. When reporting to the officer, the parolee must provide an updated progress report. Conversations during these visits are relatively informal and superficial unless the parolee specifically refers to, or gives evidence of, having a particular problem. During these visits, parolees may also have to give their parole officer various documents, such as a payroll check stub, which substantiate their employment status. Some jurisdictions allow their parolees to report by phone, but this procedure is considered to be far less reliable than an office visit. Contact by phone is thus usually reserved for emergencies, with the parolee expected to initiate the contact (Stanley, 1976:95-98).

When parole officers wish to obtain further information and verification regarding a parolee's status, they will often conduct a visit to the parolee's residence. Most officers announce these visits in advance, but some consider the surprise visit to be of special use in monitoring a parolee's activities. New York even directs officers to make surprise late night visits if they believe that the parolee is in violation of the parole agreement. These visits, however, usually result in the same innocuous conversations which occur when the parolee visits the office. There may be more hostility present

during the home visit, with the parolee wondering whether the officer is suspicious of anything. These visits are also a definite intrusion on a parolee's privacy, and may cause concern about the reaction of neighbors, especially if the parolee has made his status a matter of secrecy. On the other hand, the officer may catch the parolee at home during working hours, may obtain some valuable information from the parolee's relatives or roommates and, in some states, may even conduct a search of the premises if there is reason to suspect the presence of contraband. These searches naturally do little to endear parole officers to their parolees, but they also can provide evidence of behavior that probably would be available in no other way (Stanley, 1976:98-101).

Field Services

Although monitoring parolees takes top priority among supervisory functions, some positive impetus in halping the released inmate achieve successful community integration should also be provided. Former inmates often have educational, psychological, and employment handicaps that markedly interfere with this process. These problems affect a parolee's potential for staying out of trouble, and even supervising officers primarily concerned with that aspect of the process ignore these other problems at their own risk.

Efforts to deal with these occasionally insurmountable problems, at least insofar as they relate to parolees, are classified under the heading of field services, and they represent a very complex issue for boards who administer these programs. Most parole officers can provide

only limited assistance, such as suggesting personally known job contacts or referring the inmate to appropriate private agencies that might provide needed services. In most instances, a parole officer's knowledge of such services will be imperfect at best, which is only natural considering the many other duties that the officer must perform. Because of these difficulties, current policies urge that parole boards no longer administer field services, but rather provide policy guidelines relating to these programs. Figures tabulated by O'Leary and Hanrahan show a marked reduction in the number of boards that administer such programs, with only thirteen jurisdictions administering them in 1976, as compared to thirty-one in 1966 (O'Leary and Hanrahan, 1976: 10). Only twelve boards currently provide field services, as opposed to 33 that set policy guidelines for these programs. Still, despite this decrease, some boards continue to administer field services, thus further complicating their supervisory function.

Time Factors

Given the above discussion of supervision, one might reasonably expect parole officers to spend a considerable amount of time supervising each parolee. Unfortunately, however, parole boards, like other community services, suffer from insufficient staffing and funding. According to a time study of federal parole officers, each officer could spend approximately 6.4 hours per year, or seven minutes per week, with each case. Additional funding, authorized at the time of that analysis, would raise these figures to 7.7 hours and nine minutes respectively. Of this time, approximately three minutes per week were

available for face-to-face contact. A similar study for Georgia concluded that a parole officer in that state had 7.2 hours per year or eight minutes per week available for each case (Stanley, 1976:125-26).

With this amount of supervision, a parolee is generally under few real behavior constraints, and there is no way that an officer can effectively prevent recidivism. Under the best of circumstances, the relationship between parolee and officer is inadequate, and these time limitations merely reinforce the tendency to substitute form for substance. Even if the parolee wishes to cooperate, supervision is difficult; when uncooperative, about all the officer can do is decide whether the parolee warrants revocation.

Revocation

In determining whether a parolee should be revoked, the type of offense an individual has committed is often of primary importance. A parolee may violate parole by committing a new felony or misdemeanor, abscond, or commit a technical violation, and boards treat each type of violation differently. Some jurisdictions require revocation for certain offenses, while others prefer to leave themselves a certain amount of leeway. Boards naturally tend to revoke more often for a felony than a misdemeanor, but 9 jurisdictions will automatically revoke for the latter offense.* This contrasts with the 31 jurisdictions that automatically revoke for a new felony. If a parolee absconds, he or she may face revocation proceedings, but first priority centers around finding the person. Usually a month or two must elapse before the

*51 jurisdictions, with Louisiana being the exception, provided information on automatic revocation for misdemeanors.

individual can even be officially considered an absconder, and chances of apprehension are rather slight unless another crime has been committed (Stanley, 1976:108-109). Technical violators present an even more difficult problem because these infractions require the parole officer to evaluate the seriousness of the offense. Since most of these violations are not crimes in the usual sense, a parolee who does violate them rarely presents an immediate threat to self or to the community. Under these circumstances, most parole officers will not press revocation unless there has been a series of such incidents or the officer is convinced that the parolee has no intention of cooperating in the parole process.

While the cooperation of the parolee and the potential danger posed to society represent key elements in the evaluation that the parole officer must make regarding revocation proceedings, other factors also play an important role in the decision. One recent study, for example, argued that parole officers also consider their obligation to protect and rehabilitate the parolee, the attitude of their superiors to the entire parole process, and whether their personal revocation rates were approaching an unacceptably high figure when they made decisions on pressing revocation against a particular individual (Prus and Stratton, 1976:49-53).

Warrants

Assuming the parole officer or the board wishes to initiate revocation proceedings, the first step is to apprehend the parolee. In order to do this, some jurisdictions, including the U.S. Parole

Commission, require a warrant. In other jurisdictions, an officer may temporarily detain a parolee, but a warrant must be obtained in order to place the parolee under more permanent custody. The majority of jurisdictions, however, require no warrant. Figures presented by O'Leary and Hanrahan (1976:49) show that 22 jurisdictions require warrants, while 30 do not. For those jurisdictions that require a warrant, the parole officer, in a few jurisdictions, has the authority to issue the warrant. In most instances, however, the board must decide, usually on the evidence presented by a parole officer, whether the warrant is justified. This can be a time consuming practice, and one study of the warrant policy of the U.S. Parole Commission criticized the unnecessary delays involved in the process (Comptroller General, 1976:18-20). This report also noted the difference between regional guidelines in issuing policy and the slowness with which violations were reported (Comptroller General, 1976:17-18).

The Revocation Hearings

After the board has made a decision to investigate a parolee's behavior and has managed to apprehend the offender, the formal revocation process begins. Due to the recent Supreme Court decisions of Morrissey v. Brewer (408 U.S. 471, 1978) and Gagnon v. Scarpelli (411 U.S. 778, 1978) the procedure is now a two-step process guarded by at least some requirements of due process.

According to Morrissey, a parolee must receive a preliminary hearing before a "neutral" body in order to establish the criteria of reasonable grounds. A parolee must receive notice of this hearing and

be permitted to appear at it. The person must also have the right to present favorable witnesses and evidence. Questioning of adverse witnesses must also be permitted (Stanley, 1976:112-113).

If the board makes a decision to pursue the revocation further, they must then hold a full revocation hearing. During this final hearing, the Morrissey decision requires the expansion of the due process guidelines used in the preliminary hearing to include written notice of the alleged violations, disclosure of evidence against the parolee, and a written statement which explains the reasons for revoking parole, as well as the evidence on which the board based its judgment (Stanley, 1976:113).

Within a year after the Morrissey decision, the Supreme Court, in the case of Gagnon v. Scarpelli, addressed the matter of attorney representation at revocation hearings. In this decision, the court established a case by case method for determining whether the parolee warranted receiving representation. In both the preliminary and final hearings attorneys should be provided if the parolee requests Counsel and presents either a "timely and colorable claim" suggesting non-violation or, assuming the violation is a matter of public record, substantial reasons which justify or mitigate the offense. The court also suggested that, in deciding this question of attorney representation, parole boards also consider the parolee's ability to defend himself or herself (411 U.S. at 790-791).

Since these decisions, parole boards have made significant changes in the way they conduct revocation hearings. O'Leary and Hanrahan

suggest that "huge changes" have occurred, and that the changes even go so far as to exceed the Supreme Court rulings (1976:80-81). This is true, at least in part, since almost all parole boards routinely permit attorneys at both preliminary and final hearings.

In comparing the parole release decision to revocation, parolees are also much more likely to get an immediate notification and explanation of the revocation (O'Leary and Hanrahan, 1976:81). On the other hand, merely allowing the presence of an attorney provides small consolation for any parolees who can not afford one, a situation which, given the rather tenuous financial condition of most parolees, undoubtedly occurs quite frequently. Using this criterion, board response to Gagnon v. Scarpelli is far less positive than first appears. Only 25, or less than half of the boards, appointed attorneys at preliminary hearings, and only 29 did so at final hearings, figures which do not compare well with the respective figures of 47 and 50 for permitting attorneys (O'Leary and Hanrahan, 1976:55 and 58). Furthermore, according to 1976 figures, six jurisdictions still refused to provide a written explanation of the revocation decision, even though such an explanation was expressly required under the Morrissey guidelines (O'Leary and Hanrahan, 1976:59).

While Morrissey and Gagnon forced parole boards to change the procedural guidelines of revocation, these cases did little to alter the rationale boards use to determine whether revocation should occur. Boards still rather arbitrarily consider whether the parolee needs further punishment, whether the person is a threat to society, whether

more incraceration will have a positive influence on the parolee, and the possible effect revocation or release will have on the correctional system (Stanley, 1976:115). Some parole officers argued that the Supreme Court cases did influence boards in their decisions to revoke by discouraging revocations for technical violations, but no study has yet sought to verify or refute the theorized decline. If such a drop has occurred, has it been accompanied by a corresponding drop in the number of all revocations? If not, then the figures might suggest that if a parole board wants to revoke, due process guidelines do not present much of an impediment. On the other hand, the figures might indicate that technical violations presented fairly reliable indicators of where a parolee was heading.

Short-Term Return

Once the board revokes parole, most parolees must spend a substantial amount of additional time in a correctional institution. Stanley gives this figure as being between fifteen and eighteen months (1976:110). As an alternative to this fairly long period of reincarceration, California adopted a plan which allows boards to place selected parolees in a "short-term return" program. For a period of approximately four-and-a-half months, these parolees would serve their time in special housing units within the state correctional institutions. While so incarcerated, these people could take advantage of special programs in "education, counselling, group activity, and work assignments" (Stanley, 1976:110).

Reparole

Although California has experimented with a short-term return program, other jurisdictions routinely require revoked parolees to return to prison until such time as they are eligible for reparole. Almost all jurisdictions allow revoked parolees to obtain parole release again. Stanley listed Nebraska as the only state without reparole (1976:118-119), but O'Leary and Hanrahan's more recent data suggest that Nebraska has since modified its statutes (1976:222). West Virginia, however, does deny reparole if the felon has had parole revoked for committing one or more of a select number of crimes (O'Leary and Hanrahan, 1976:335).

Of course, having the right to obtain reparole and actually getting it may constitute two entirely different matters. While almost all jurisdictions allow reparole, a number of them leave possible reconsideration dates entirely up to their parole boards, which then decide each case individually. Under these regulations, a parolee might be considered within a month, or the matter might be considered as much as a few years later. As for those boards that have a required schedule of reconsideration, annually is the most popular format. Having a required annual consideration does not preclude the board from considering particular cases in between the required evaluations. On the other hand, required reconsiderations do not guarantee reparole; they just make it more likely.

A revoked parolee's chances for a quick reparole date, somewhat diminished by the regulations regarding mandatory reconsideration,

receive a further setback from the regulations concerning the amount of time a revoked parolee must spend in jail. Most jurisdictions have no minimum time for a reparole hearing. This could be an advantage for the inmate but, because these hearings rarely deviate from the pattern established within the paroling jurisdiction, the advantage is more academic than real. Washington represents an exception to this rule in that it does require that the board set a new minimum term for returned inmates (O'Leary and Hanrahan, 1976:329). West Virginia, continuing its distinctive reparole practices, also represents a major exception. In that state, the earliest possible reparole dates are established according to the seriousness of the parole violation. Revocation for a technical violation results in serving one year. Committing a felony increases this minimum to two years and, if the parolee is convicted and receives a sentence for the felony, two years are added to the minimum time required for that offense (O'Leary and Hanrahan, 1976:335).

Release from Supervision

Some revoked parolees undoubtedly never make it back from the institution until their maximum sentence has been completed, but most of them eventually obtain reparole. Here they continue serving time until finally released from supervision. Parolees receive this release either by serving their maximum sentence, by receiving an early discharge, by obtaining a pardon or some other form of clemency, or by death. In a number of instances, state statutes are more important than inmate behavior in determining the actual form of release, and informal board practices are frequently more important than either of the above.

How Long on Parole

Before obtaining release, most parolees must serve a minimum time on parole. While some jurisdictions have no formal requirements concerning the amount of time that must be served on parole, parolees are seldom released before spending at least a year under supervision. Where regulations do exist regarding specific times that must be spent on parole, they vary from state to state and according to the type of offense. Several states, for example, have special requirements for inmates serving life sentences or for those released with more than five years remaining on their terms. For most parolees, typical regulations require one or two years of mandatory parole (See O'Leary and Hanrahan, 1976:75-78).

In some jurisdictions, parolees must serve out their maximum sentence before release, and two jurisdictions even have the power to extend these limits. Vermont allows its board to extend supervision beyond the maximum sentence if necessary, and the Virginia board can extend parole supervision to the maximum sentence allowed by statute for the offense in question (O'Leary and Hanrahan, 1976:316 and 320).

Early Discharge

Most parole boards, however, do have some form of early discharge available. This usually entails releasing the inmate from his parole status, but some jurisdictions can only release the parolee from active supervision. In the latter case, the offender is still legally on parole and is subject to revocation should the board consider such action appropriate. According to data collected from our survey, 38

boards can place a parolee under some form of early discharge.* This represents a slight increase from the 36 listed in O'Leary and Hanrahan, but the figures should be compared with caution, as O'Leary and Hanrahan used slightly different categorizations (1976:74). Board responses may lack consistency as well. Alabama, for example, responded positively to our question regarding early discharge, even though their explanatory comments suggested that they really only have the power to commute or pardon.

Those states that require the board to make the early discharge decision, usually allow the board, or at least part of it, to conduct the early discharge hearing. Of those surveyed, 12 required the full board to conduct the hearing, and 16 required that a majority of the board be present. Only three jurisdictions had one member conduct the hearing (U.S. Parole Commission, Washington, and Colorado), and only California allowed a hearing examiner to conduct the procedure. Six boards listed other means of conducting the hearing, but five of these apparently use some other configuration of board members to conduct the hearing, while Ohio indicated that the procedure had never been

*Of the 14 jurisdictions that said the board had no power to discharge early, eight listed the function as not applicable, three listed the Governor as the granting authority, and three listed other granting authorities. Of the latter three, Wisconsin vested early discharge authority in the Department of Health and Social Services, West Virginia in the Department of Corrections, and Oklahoma's response made it questionable as to whether they did or did not have early discharge. It should be noted that Florida and Washington also listed "other" as an explanation for who has authority for early discharge, but Florida's own comments listed the board as being jointly responsible with the Governor. Although Washington provided no explanation of its "other" category, O'Leary and Hanrahan (1976) did list Washington as one of the boards which had early discharge; they did the same for Florida.

instituted.

Consideration for early discharge is, at least in theory, fairly easy to obtain. Most jurisdictions require only one year of satisfactory parole supervision. Nevada and South Carolina, on the other hand, require five years of successful parole, and Tennessee generally expects five to ten years of successful performance. While Maine will consider most offenders after a year of successful parole, the state insists that murderers spend at least ten years under supervision. These more severe regulations are, however, exceptions.

Once the parolee has satisfied these minimum requirements, he becomes eligible for early discharge. In most jurisdictions, the supervising parole officer must then recommend the parolee for this early release. Connecticut, New York, Vermont, and the U.S. Parole Commission also allow the parolee to petition for consideration, while Georgia apparently requires both an appeal from the parolee and a recommendation from the supervising parole officer. Only California has designed a system where early discharge is automatic unless specifically countered.

When the parolee meets the minimum requirements and has received a recommendation for early discharge from his parole officer, the board or other appropriate authority takes the case under consideration. Ideally, a parolee receives an early discharge simply because his parole record warrants such action, but release decisions are seldom that simple. Stanley, for example, cites a California study which indicates "... great variation in rates of recommendation for discharge and of

actual discharge at different times, organizational levels, and parole districts" (1976:21). This same study also suggests that as the consideration to discharge moves through the procedural hierarchy, it tends to meet more resistance, and that external factors, such as reports of prison violence and of crimes committed by released felons, also affect the decision (Stanley, 1976:121). Parole boards thus tend to use their power to discharge less frequently than they could and, as a result, many parolees who could be safely discharged from supervision never get the consideration they deserve.

This conclusion is further substantiated by data collected on the percentage of parolees released on early discharge in the various jurisdictions. Of the 38 boards that provided some form of early discharge, 17 released 10% or fewer of their parolees in this fashion, and four of these listed the percentage as zero (Alaska, Indiana, Ohio, and Washington). Four jurisdictions released 11-50% of their parolees and seven released 51-97%. Nine jurisdictions listed this information as unknown.

Bleak as these figures are, they are still better than the comparable figures for those jurisdictions which invest the early discharge power in the Governor or some other Body. Of these six jurisdictions, three listed the percentage as zero (Missouri, Pennsylvania, and Wisconsin), one listed it as 1% (Tennessee), and the other two said the information was not available (West Virginia and Oklahoma).

Clemency and Pardons

In jurisdictions where parolees cannot receive an early discharge,

their only chance of early release rests in the possibility of receiving a pardon or other act of clemency. The probability of this occurring is minimal because issuing pardons implies a certain amount of forgiveness on the part of the granting authority. Good behavior or successful rehabilitation, unless coupled with some extraordinary occurrence, receives even less consideration here than it does in determining early discharge.

Pardons have, of course, a much wider application than their relevance to parolees, being awarded to inmates still serving time, political or military exiles, and even individuals who have long since served their full sentences. Pardoning can involve a reduction in sentence length, and one type of pardon, the commutation of sentence, changes a life sentence to a specific number of years. In some jurisdictions, this changing of the type of sentence allows the parole board to consider the inmate for possible parole (Louisiana Governor's Pardon, Parole and Rehabilitation Commission, 1977:I-5). Pardons are issued in cases of finding supplemental evidence which casts doubt on the original question of guilt, but perhaps even larger numbers are issued because of political considerations, as the instances of amnesty for war resisters and the case of a recent president amply demonstrate. Because of the additional issues involved in the pardoning process, most jurisdictions invest this power with the executive authority.

According to figures tabulated from our survey, 29 jurisdictions play some role in the granting of pardons and 27 are involved in the granting of clemency. These figures contrast sharply with those

presented in O'Leary and Hanrahan, since in their survey 45 jurisdictions participated in executive clemency (1976:26).* On the other hand, O'Leary and Hanrahan's figures indicate that only five jurisdictions gave parole boards final authority in clemency proceedings (1976:26). Our own survey did not specificially request that information.

Despite this lack of final authority and the unexplained difference between O'Leary and Hanrahan's data and ours, both surveys indicate that a substantial number of boards play some role in the pardoning process, and these boards undoubtedly have a strong voice in the decision. Two jurisdictions even require the governor to receive a positive recommendation from the board before being able to grant clemency (O'Leary and Hanrahan, 1976:26).

Other Formal Decisions

While the issues of parole granting, supervision, revocation, and discharge represent the major concerns of parole boards, the boards also administer a number of related functions and duties. Some of these, such as mandatory release, extending parole, warrants, and short-term return, have been discussed previously. Other important functions include: setting the sentence (or, more commonly, setting the minimum sentence), restoration of civil rights, work release, MAP

*This discrepancy cannot be explained by the splitting of the two concepts. Most states either gave both or gave neither. The four exceptions were Alabama, Louisiana, Rhode Island, and South Carolina.

contracts, and establishing "good-time" policies.*

Each of these additional functions, with issuance of warrants and restoration of civil rights being two exceptions, are administered by only a handful of boards, and no single jurisdiction handles all of these extra duties. Still, these extra decisions represent an important segment of parole board work, and they further demonstrate how some parole boards play a pervasive rule in the corrections process.

Sentencing

A prime example of this pervasiveness occurs in the matter of sentencing. While many jurisdictions have established statutory maximums for offenses, with the minimum sentence allowable being fixed as a percentage of the maximum, some jurisdictions still allow boards to determine at least part of the sentence, usually by setting the minimum term. Actual grants of authority vary, and they range from one jurisdiction that assigns the board an advisory capacity (District of Columbia), to others that require the board to set minimum terms of imprisonment except in the few cases where crimes have a minimum term

*A more complete listing would also include supervision of personnel who prepare pre-sentence investigations (Pennsylvania); issuing or revoking certificates of relief which are designed to remove disabilities from first time offenders who are under the supervision of the board, and certificates of good conduct for those persons who are either no longer under board jurisdiction or who are ineligible for certificates of relief as first offenders (New York); shock parole (Ohio); providing recommendations regarding state correctional policies and programs (Kentucky: the chairman of the parole board sits on the Commission on Correction and Community Service); and having the responsibility for granting or denying applications regarding exemptions from both the Employees Retirement Income Act and the Labor Management Reporting and Disclosure Act (U.S. Parole Commission) (O'Leary and Hanrahan, 1976:26-27, 82-334; current survey).

set by law, as in Washington (O'Leary and Hanrahan, 1976:119 and 325). Delaware allows its board to reduce the minimum sentence upon the recommendation of the sentencing court or the Bureau of Adult Corrections, while New York allows the board to set the minimum, subject to statutory regulations, if the court fails to do so (O'Leary and Hanrahan, 1976:119 and 224). Other examples of the diversity regarding setting sentences include Florida, which has a general authority to fix sentences under the indeterminate sentencing laws, and Utah, which considers the minimum set by the court as a non-binding limit (O'Leary and Hanrahan, 1976:128 and 311).

Restoring Civil Rights

The issue of civil rights represents another rather difficult issue for parole boards, and a number of jurisidctions simply side-step the issue by automatically restoring any civil rights lost by conviction at the time of discharge or, more commonly, at the expiration of the sentence. In some states, such as Hawaii, Massachusetts, and Michigan, a convicted felon loses no civil rights, while in Vermont an offender loses only the right to own or possess a firearm (O'Leary and Hanrahan, 1976:142, 192, 197, and 319). In other jurisdictions, restoration of civil rights represents a separate procedure, with the parole board usually having some input into the decision. In Mississippi and Texas, the board acts as an advisor to the Governor, while in Alabama the parole board has the final authority in the matter of restoring civil rights (O'Leary and Hanrahan, 1976:82, 207, and 303). The South Carolina board also has the power to restore civil rights, but this is

only a secondary aspect of the board's pardoning power, a pardon being necessary for the restoration of these rights (O'Leary and Hanrahan, 1976:285 and 288).

Despite the perogative of states to restore civil rights to a convicted felon, no state has the final authority to restore the constitutional right to possess and bear arms. According to the federal Firearms Control Act of 1968 (P.L. 90-618, Sec. 1201, 1201a), the ex-inmate must receive a full pardon from the appropriate state agency, and the pardon must contain a specific statement that the person is allowed to bear arms. A document is then submitted to the Bureau of Alcohol, Tobacco, and Firearms, and that agency makes a final decision on whether to grant or deny the petition.

Work Release

Although 51 jurisdictions have work release programs, work release represents more of a correctional system problem than an issue for parole board decision-making. Some jurisdictions, however, require their boards to participate in the process of selecting inmates for inclusion in the program. The District of Columbia board, for example, acts as an advisory body to the Department of Corrections. Its recommendations, while not binding, are usually followed (Stanley, 1976:141). Boards in Louisiana and North Carolina make final decisions in determining eligibility for work release programs, but their authority is limited to specific groups of inmates. Louisiana's regulations require the board to approve work release if the inmate is to receive parole supervision upon completion of the assignment, while North Carolina's

board has jurisdiction in work release programs when the inmates involved are serving sentences of more than five years (O'Leary and Hanrahan, 1976:172 and 251). Of the states which provided information for O'Leary and Hanrahan, Florida provides its parole board with the most complete authority regarding work release. Assignment is left completely to the board's discretion, the only limiting requirement being that inmates must serve at least one year in prison in order to be eligible (O'Leary and Hanrahan, 1976:128).

Other Forms of Release

While work release represents the most common form of pre-parole prison release, many jurisdictions have other types of release available. As in the case of work release, these furloughs are primarily associated with corrections system decisions, but occasionally boards will be involved in the release decision. According to our survey information, 37 jurisdictions have educational release, pre-release centers are used in 31 cases, 37 have half-way houses available, and 38 provide home furloughs. In addition, Mississippi has developed what they call restitution centers, and North Dakota provides treatment furloughs.

MAP Contracts

MAP contracts, or contract parole, represent another aspect of parole that occurs before the inmate leaves prison. More directly related to parole than the previously discussed prison release, this program represents an attempt to synthesize institutional programs with parole release. Under the MAP (mutual agreement programing) plan,

the inmate, along with the parole board and representatives from the correctional institution, develops a specific contract in which he or she agrees to achieve a certain set of goals. In return, the parole board sets a parole date (Stanley, 1976:66). If the inmate fulfills program directives, a definite parole date is already guaranteed.

Originally an experimental program, MAP contracts were first established in California, Arizona, and Wisconsin. As in most programs of this nature, implementation proved difficult and results were ambivalent. Both California and Arizona later discontinued the practice, while Wisconsin expanded its program into a state-wide procedure (Stanley, 1976:66-68).

Despite being dropped by two of the three states that initiated the practice, the program has shown some potential for success, and it should be noted that the state which had the most thoroughly comprehensive experimental procedures is also the state that maintained and expanded the program. Apparently some states viewed the results similarly, as a number of states, including Maryland and Minnesota, have added the program (Daiger, Gottfredson, Stebbins, and Lipstein, 1978:14, Gottfredson et al, 1978:350). According to figures reported in an Arizona parole study, 10 states had MAP in 1977, and Connecticut added the program within the last year (Arizona Governor's Commission on Corrections Planning, 1977:36; current survey).

Good-Time Policies

Like MAP contracts, the setting of good-time policies represents an anomaly in parole board decision-making. Virtually every jurisdiction

that allows institutions to subtract good-time from the maximum (and in some cases the minimum) sentence has established statutory regulations regarding the awarding of this bonus. Wyoming stands as the lone exception to this rule, although the Nevada board does hold good-time hearings. In Wyoming, "good-time credits are established by the board and awarded at a rate determined by the Board of Parole" (O'Leary and Hanrahan, 1976:342). In addition, the board can restore good-time lost by disciplinary action of the state penitentiary, award special good-time for exceptional services and actions on the part of an inmate, and award good-time of up to 120 days in order to accelerate an inmate's release date, should such acceleration be desired for administrative purposes (Wyoming Board of Parole, 1978:1-2).

Informal Decisions

Although the above discussion provides a rather thorough summary of the various decisions parole boards must make, any analysis would be incomplete without some mention of another, somewhat nebulous, aspect of the process referred to here as "informal decisions." Partly dealing with the effect of formal decisions and partly reflecting some of the tangential factors board members consider when making their judgments regarding parole release, revocation, and discharge, this category forms a sub-aspect of what boards do, or perhaps more accurately, what boards think they do. In many instances, these informal decisions are considered as justifications for continuing the parole process, and some knowledge of these decisions is essential for evaluating parole board performance.

A listing of these informal functions presented in a study of the New York parole system clearly shows the various types of issues involved and the difficulty of precisely categorizing them. According to this study, parole boards often consider reducing sentence disparities, mitigating the harshness of criminal sentences, and maintaining institutional discipline as part of their general mandate (Citizen's Inquire on Parole and Criminal Justice, 1975:175-176). In the actual process of parole board decision-making, these concepts represent subsidiary considerations, as well as valid objectives in and of themselves. This ambivalency leads to a further difficulty when the researcher attempts to evaluate parole board effectiveness, because it requires a determination as to how well parole board decisions actually affect sentencing and institutional discipline, in addition to making necessary an assessment of the importance of these concepts as factors in the formal decision-making process.

Conclusion

As can readily be seen from the preceding discussion of the large number of complex decisions in which parole boards in the United States play at least some part, parole boards currently are asked to form judgments and opinions and render decisions which are of paramount importance to the operation of the correctional system. It might be argued that, realistically, parole boards are not capable of handling all of these functions with any degree of expertise, since both boards and parole field service agencies are hampered by the contradictions between the different goals they are intended to achieve, prevented by time

considerations from devoting more than a minimal amount of attention to each offender, and are faced with the unenviable task of predicting human behavior.

Against this argument, however, can be marshalled a number of trends in parole board operations which would suggest that a number of changes in parole board operation have occurred which would serve to lessen the demands on individual board members in their efforts to fulfill their many functions. The first of these changes is the increase in size of many parole boards. O'Leary and Hanrahan (1976: 12) reported that, in 1966, there were 221 parole board members; in 1972, 240 members; and in 1976, 259 members. The model board size in both 1966 and 1972 was 3 members; by 1976, the modal size was 5 members! Our survey confirms this trend in size increase; there are now 278 parole board members in the United States, with the model size remaining at 5 members. The increased number of parole board members may provide additional expertise and numbers to assist parole boards in coping with their diverse functions.

A second major change is the increase in staff resources available to parole boards. In 1966, only 24 boards were full-time (O'Leary and Hanrahan, 1976:11); by 1979, this number had grown to 31 boards. In addition, the services of institutional parole officers and counselors, case analysis, and hearing examiners are being utilized. This use of other staff members to assist in pre-parole planning, to prepare summaries and analyses of case materials and, in some instances, actually to conduct parole hearings and make decision recommendations, quite

obviously reduces the work burden of board members.

Finally, the development and growing use of structured guidelines for parole decision-making has helped to routinize the decision-making process, freeing board members from the large time commitment which is required if all information on every case must be considered in a non-systematic fashion. The development and use of these guidelines will be discussed in greater detail in a later chapter; it will simply be noted here that decision guidelines are an important factor in assisting parole board members in coping with the large numbers and wide variety of decisions they are required to make.

CHAPTER 2

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CHAPTER 3

CRITERIA FOR PAROLE DECISIONS

Introduction

The most common criterion in parole decision-making is eligibility for parole release, which is generally set forth in the statutes of each individual state. It is a unique criterion, however, in that its sole function is to trigger consideration of other criteria. There are two considerations which exemplify the philosophy of the parole board and which are usually included in the preamble to the governing document of the paroling authority. First is the probability that the prisoner will, if released, live in accordance with the law and, second, that release of the prisoner would not jeopardize the safety and welfare of the general public. These basic tenets are almost always expressed in broad terms similar to those included in the United States Parole Commission Rules:

> The granting of parole to an eligible prisoner rests in the discretion of the U.S. Parole Commission. As prerequisites to a grant of parole, the Commission must determine that... release would not depreciate the seriousness of his offense or promote disrespect for the law, and that release would not jeopardize the public welfare.

In an attempt to make such general requirements workable, many different variables are reviewed by parole boards and the emphasis placed on each is not a constant. Such variables, usually referred to as "criteria," are not statutorily defined and, when published, are found in the rules or guidelines of the paroling jurisdiction and are

indicative of administrative policy. The following delineation, while not exhaustive, represents the broad categories of areas to which attention is given.

Probability of Success if Paroled

This consideration is always uppermost in the minds of any parole board. When an inmate is paroled and then commits another criminal act, particularly if it is a serious crime, public reaction is immediate. No parole board expects to have a perfect record, but there are large variances in the amount of risk parole boards are willing to assume (Dawson, 1966:249). And, as Tappan pointed out, many parole boards tend to believe that their primary responsibility is to show a low failure rate (Tappan, 1960).

Although the principal consideration of any parole board should be to protect the public by not releasing dangerous persons into the community (Arthur and Karsh, 1976:55), there may, in reality, be more emphasis placed on the possibility of adverse community reaction to a decision to release. This occurs because in the eyes of the public, many persons released from prison are "viewed as particularly likely perpetrators of crime" (Kastenmeier and Eglit, 1973:479). As an example, Dawson (1966:283) notes that embezzlers may appear to be good parole risks but may be denied parole in some cases because of negative community attitudes. Another instance is cited in which the Director of the State Department of Welfare, who has to approve paroles in that state, vetoed one parole application "on the grounds that a parole would result in great criticism of the parole system because of an

extensive publicity surrounding the original offense and the relatively short time the inmate had been in prison" (Dawson, 1966:248).

Basic Criteria for Parole Decision-Making

The severity/risk criterion is very important for parole consideration. It is based on a combination of the prior criminal history of the inmate and the type and nature of the present offense(s). Since prisoners generally have at least one prior conviction before being committed to an institution (Dawson, 1966:258), the totality of such information may indicate a trend toward increasing seriousness of offenses or a pattern of violent behavior. Another frequent consideration in this category is whether the conviction was the result of plea bargaining, which may result in a conviction which represents a different offense from the one originally charged. Research indicates that boards are rightfully sensitive to this problem. In a pilot study of 500 offenders who had entered into a plea argrement, the majority of them admitted guilt for the original charge (Barbara et al., 1976:61).

In making a release decision, most, if not all, paroling authorities consider the nature and seriousness of the offense for which the inmate was committed. According to the rehabilitation philosophy, the inmate should be paroled as soon as the parole board considers that he has reached the "peak" or "readiness" point at which maximum benefit has been derived from incarceration. According to current, more punitive philosophy, the release point would occur when the maximum benefit has been derived from an adequate amount of punishment. Both philosophies, however, are to some extent compromised by the weight given to

the amount of time that is considered appropriate for the crime committed. The actual emphasis is on the type and seriousness of the crime, not the need for punishment or rehabilitation of the individual.

In those jurisdictions in which there are no fixed minimum sentences prescribed for different offenses, greater weight is given to the seriousness of the offense. The parole board has the responsibility of setting the length of the sentence according to what that board considers appropriate in any specific case. Where a definite sentencing policy is used, parole boards tend to give greater weight to criteria other than the nature or seriousness of the offense since this was taken into account during the judicial process and is reflected in the sentence (Carroll and Mondrick, 1976:98).

Concern with the nature and seriousness of the offense is reflected in the attempt by parole boards to predict the seriousness of a future offense should the parolee violate parole. The factor used by parole boards in measuring the seriousness of possible future offenses is past behavior and, as Giardini (1959) points out, minor offenses will not orginarily result in a parole being denied unless they have been frequent. Convictions for major crimes, however, will tend to reduce the chances for parole. One should be aware of the fact that although success after release is a major concern of parole boards, that consideration has, in fact, a negative connotation. Boards are concerned primarily with failure, not with success, because time to be served appears to be determined by seriousness and type of offense to a greater degree than "predictors indicating potential for parole success"

(Schmidt, 1977:126). In a national study of parole board members, 92.8 percent consider to be one of their five leading considerations the possibility of an offender's commiting a serious offense if paroled (Parker, 1975:196).

A study of criteria used in parole decision-making, conducted by the National Council on Crime and Delinquency Research Center, indicated that "severity of offense was one of the three primary concerns." It should be noted that, in the U.S. Parole Commission Rules referring to determination of the severity of offense rating, the decision-maker is instructed that: "If an offense can be classified in more than one category, the most serious applicable category is to be used. If an offense involved two or more separate offenses, the severity level may be increased." In another study by Heinz et al. (1976), it was found that the persons committing more serious crimes received longer sentences and served a greater portion of their sentences than those who had committed less serious offenses. This was particularly true of those who had committed violent crimes or were sex offenders. These prisoners were least likely to be granted an early parole.

The rationale for emphasis on seriousness of offense is protection of the public by selecting for release only those who are unlikely to commit a serious offense when returned to the community. Parole boards continue to rely on past behavior to determine the degree of possible future harm (Warner, 1923). This is contrary to prediction study results which show that high offense severity is not indicative of either parole failure or the commission of a similar offense in the

future (Stanley, 1976). Such emphasis may, in fact, reduce the efficiency of parole prediction. The result of a Massachusetts research project indicated no relationship between crimes of a serious nature (i.e. sex offenses; murder, manslaughter, assault) and predictability of future violent behavior. Further, a California research project "failed to yield a practicable prediction instrument that would warrant implementation in...correctional practice" (Stanley, 1976:53).

Attention to severity of offense may also reduce any social protection benefits which may accrue due to incapacitation effects, because "the longer the time served, the poorer the chances of succeeding on parole" (Thomas, 1963:179).

A great deal of research has been done concerning the prediction of dangerousness and the ability of parole board members to determine, in an individual case, whether an individual will, in fact, violate parole by the commission of an equally serious, or more serious, offense. The results of these studies: "...strongly suggest that parole board members who think they can identify which prisoners will be dangerous persons in the future are mistaken" (Stanley, 1976:53). Serrill (1977:11) points out that "agencies charged with predicting dangerousness always tend to overpredict." Not only is there a tendency to "overpredict," Rubin paraphrased Karl Menninger as follows: "Even psychiatrists cannot predict the possible dangerousness of offenders" (Rubin, 1965:79). Regardless, the fact that parole boards usually consider the seriousness of commitment offense is supported by Moule and Hanft's study in Oregon (1976) and by Heinz et al. (1976).

Although not the determining factor, most parole boards still consider the ability of a prisoner to abide by the rules of the institution and to live harmoniously with staff and other inmates as an indicator of their ability to function adequately if released (Dawson, 1966:256-257). It has been frequently demonstrated that the ability to behave in the artificial environment of a prison does not imply an ability to function in the relatively non-structured everyday world. Indeed, the "con-wise" prisoner is more apt to abide by the rules of the institution and, in many cases, through manipulation of the less sophisticated inmate, have an exemplary institutional record while the younger and more impressionable person is charged with rule-breaking actions which may be, in many cases, instigated by the experienced inmate.

In response to a question in our current survey concerning readiness for parole, 48 of the 52 reporting jurisdictions indicated that "No Prison Misbehavior" was an important area of consideration (See Table 3.1 below, for complete information). And, as Kastenmeier and Eglit (1973:519) point out, "utilization of parole for control purposes means that prisoner conduct must be an element in the decision-making process," even though there is probably little relationship between behavior while institutionalized and behavior after being released into the community.

Although it is commonly believed that an approved parole plan which includes a place to live and a commitment for employment or financially supported job training (or education) is almost a basic

requirement (Cole and Talarico, 1977:974), only 75 percent of the respondents in this study indicated that a parole plan was required. All of the states requiring a parole plan did include residence as a condition of release. Only 57.7 percent of the states require a commitment for employment.

Previously, much emphasis had been placed on continuing participation in on-going community treatment programs, such as Alcoholics Anonymous, as a necessary ingredient of the parole plan. Currently, only one-third of the reporting states that require a parole plan include this type of provision.

Three states indicated "other" in their response to the parole plan requirements. North Carolina, while omitting employment, requires restitution in some cases; Wisconsin, whose only specific requirement is employment, stated that a plan which may result in success is a requisite. In addition to employment and residence, education and geographic limitations are included in Wyoming's response.

Historically, criteria for release on parole have changed very little. The apparent inability or unwillingness to use any kind of objectivity in utilizing the criteria that have been established has led to serious criticisms of parole boards as well as criticisms of the concept of parole itself. Recently, much attention has been paid to the internal structure of parole boards. Much of this attention has been directed toward the federal system whose visibility is more pronounced than is that of any one state paroling authority (Kastenmeier and Eglit, 1973:483-484).

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Gottfredson et al. (1975), developed a system using parole guidelines which identify criteria used in making decisions. It is pointed out that not only must the "primary" criteria be explicit, they must also be measureable. In order to obtain a measurement, weighted values for each criterion are necessary. For example, it is stated that "providing reasons for parole denial identified the criteria used but not the weights given to them" (Gottfredson et al., 1975:36). They list the American Law Institute's Model Penal Code's four primary reasons for denying parole:

(a) There is a substantial risk that he will not conform to the conditions of parole; or

(b) his release at that time would depreciate the seriousness of his crime or promote disrespect for law; or

(c) his release would have a substantial adverse effect on institutional discipline; or

(d) his continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law abiding life when released at a later date.

In developing their model, the authors describe the method used by the National Council on Crime and Delinquency Research Center (NCCD) to construct "an explicit indicant of parole selection policy." The research suggested that variables such as "offense seriousness, institution of confinement, occupational standing, and predictions of future behavior, among others, tend to be related to parole decisions." From this, there was developed an "explicit" parole policy, which served as a pattern for the construction of the Salient Factor Score and Severity Rating which is used by the U.S. Parole Commission.

The U.S. Parole Commission Examiners apply the relevant information from the various sources to a Salient Factor score sheet. The score sheet covers nine subject areas, seven of which follow: (1) prior adult convictions and delinquency adjudications; (2) prior incarcerations; (3) age at first commitment; (4) involvement of auto theft or forgery/larceny in commission of offense; (5) prior parole revocation; (6) heroin or opiate dependency; and (7) employment history. These items are weighted according to a fixed scale which is included in each item. The weight given in the individual case depends upon how the examiner interprets the information concerning the prisoner. The highest possible total score is 11 and the lowest is 0. From this score, a parole prognosis is determined. A score of 9-11 constitutes the highest rating (Very Good). Scores below this rating are 6-8 (Good), 4-5 (Fair), and 0-3 (Poor).

The remaining two subject areas concern "positive supervision history" and "negative supervision history." These are given a "customary time to be served before release" value: 0-8 months for "positive supervision history" category and 8-16 months for the "negative supervision history" category.

The total length of sentence to be served is fixed within increments according to the severity of the offense and is rated from "Low" to "Greatest II". If a specific offense is not included, "the proper category may be obtained by comparing the severity of the offense with those offenses which are listed in any given level" (U.S. Parole Commission Rules). The exact time increment is determined by finding

the "Parole Prognosis Rating" applicable in each individual case. Accordingly, a prisoner with a salient factor score of 6-8 (Good) and having an offense severity level of "Low" would be expected to serve a sentence of 8 to 12 months plus the amount of time deemed appropriate by the examiner and taken from the scores contained in the "supervision history" category.

These guidelines structure and somewhat limit the discretion of the parole board but they are not designed to totally eliminate discretion. Their primary purpose is to promote equity in granting or denying parole release and to treat similar cases in a similar manner.

This Salient Factor/Severity Rating method of attempting to enhance the objectivity of the parole criteria is not without its critics. A study in the Yale Law Journal (1975:834-835), for example, makes the point that the Salient Factor scores may not be based on accurate information. All of the information included in that score is taken from the pre-sentence investigation report which is not reviewed even if it is not in agreement with statements made by the inmate at the parole hearing. Further, the study points out, the Severity Rating may call for discretion in determining the seriousness of the present offense.

Few state parole authorities are provided with guidelines as explicit as those provided for in the U.S. Parole Commission. In most states, parole boards must formulate their own policies concerning the criteria to be used for parole decision-making. Consequently, policies and procedures vary greatly from state to state and even within a

state, when the composition of the parole board changes.

Oregon is an example of a state which has formulated guidelines to be used in parole decision-making. Its guidelines closely approximate those of the U.S. Parole Commission in that an offense severity rating component is used in conjunction with a criminal history/risk assessment component (Salient Factor Score). Deleted from those items comprising the history/risk assessment, however, is the subject area covering the specific offense of auto theft and forgery/larceny involvement in the commission of the offense. Another variation from the federal system is the omission of the federal "verified employment" and the substitution of "verified period of 5 years conviction free in the community, prior to instant crime."

Oregon also includes in its guidelines special consideration for the youthful offender, indicating that in some cases a youthful offender may serve 4 months less than adult offenders. This applies only in certain categories of offenses. The time increments of expected time to be served before release vary only to a small degree from those included in the U.S. Parole Commission Guidelines. The determination of amount of time to be served is based on the criminal history/risk score of the prisoner rather than seriousness of offense.

The State of Florida has implemented an adaptation of the federal guidelines, but there are some important differences between the two. For example, the Florida guidelines worksheet consists of number of prior convictions, total time served in years, escapes, parole revocations, age at first commitment, and burglary as present offense. The

worksheet also includes a section for mitigating/aggravating circumstances (descriptive) and space for the inmate or examiner to contest the scoring. There are also some differences in the severity of offense categories, most of which are modification for state crimes as opposed to federal crimes. One additional category of "Greatest (Most Serious III) Murder I" makes this an eight-category scale as opposed to the seven-category federal scale. Institutional behavior and release plan acceptability are included in the section headed "Decisions Outside the Guidelines and Salient Factor Scoring."

The Georgia State Board of Pardons and Paroles has published plans for implementing parole rating guidelines to begin during the latter half of 1979. The state philosophy of the board is that "the more serious an inmate's offense, the longer he should be confined, and...the greater the probability he may violate parole, the less likely he will be paroled." The forthcoming guidelines are to include ratings of offense severity. In addition, another list will contain other factors similar to generally prescribed criteria, e.g., prior criminal record. Also included will be a scale to determine risk level, or probability of failure on parole, as well as the length of the inmate's sentence. This scale, too, appears to be an adaptation of the federal Salient Factors/Severity of Offense guidelines.

Generally following the pattern of criteria for parole consideration, Michigan has developed two objective "Risk Screening" devices. One, the Assaultive Risk Screening Sheet, channels present and prior criminal history into five assaultive risk categories ranging from

"Very Low" to "Very High". The second addresses property risk which includes serious institutional misconduct, drug use problems, reported juvenile felonies, and first arrest before age 15. This information is divided into "High", "Middle", and "Low Property" risk categories. The two instruments require a "yes" or "no" response to the broad categorical statements arranged in a decision free format.

Not all states agree that explicating parole criteria so that they can be measured objectively is either necessary or desirable. For example, in Wyoming's "General Provisions," the Board of Paroles states that:

> ...each inmate shall be considered in light of his own separate personality, problems, ability, character, family background, age, education, employment history, training, criminal and delinquency record, the offense itself, the purpose of the sentence, institutional history, behavior, conduct and attitude, and other individual factors. The Board shall recognize the individuality of each inmate and the inapplicability of any 'standard' criteria or 'set' philosophy for these purposes.

Although most parole boards still adhere to some combination of the numerous and generally agreed upon criteria for parole release determination, there are a few that include considerations not found in other lists of criteria. New Mexico, for example, listed four criteria not usually found in such lists: (1) the availability of community resources to assist the inmate if paroled; (2) the inmate's culture, language, values, mores, judgements, communicative ability and other unique qualities; and (3) the inmate's positive efforts on behalf of others; and (4) one standard is not, will not, be applied to all inmates regardless of race or culture.

Virginia is another state that takes into consideration the availability of community resources to meet the special needs of parolees. These are listed as being drug programs in the community, assistance from the Division of Vocational Rehabilitation, and Alcoholics Anonymous.

The Parole Board of the State of Alabama has a checklist of nine reasons for granting parole. Only one of the nine is distinctly different from the general trend in criteria discussed above. Acceptance for parole supervision by another state is considered to be one of the important reasons for granting parole. Conversely, their reasons for not granting parole are in conformity with the rest of the country.

In California, only those inmates who were sentenced under the previous indeterminate sentencing law are considered for a parole hearing. For those who are eligible for parole consideration, four broad categories of information are discussed with the inmate: (1) the commitment offense; (2) pre-conviction factors such as prior criminal history; (3) post-conviction factors (in-prison behavior) and (4) parole plans. California seems to make a determined effort to inform the inmate of everything that is being considered while at the same time giving the inmate an adequate opportunity to present his version of the material being reviewed. California also appears to be the only state where the total board-inmate interaction is tape recorded.

Accurate information is a prerequisite for making an objective, logical judgement. It is not sufficient, however, for making equitable decisions if applied arbitrarily. In addition to quantifiable criteria,

there is the informal process wherein each board member reflects a personal judgement about the value of what is contained in the case files, feelings about the individual inmate, and his or her own past experience. These personal values often assume paramount importance and negate attempts to objectively assess what the inmate has really done or what capabilities for future success he or she may really possess (Oswald, 1970:31). It has been suggested that inmates having "certain characteristics are not being equally granted or denied parole" (New Jersey State Legislature, 1975:36). This indicates that patterns develop in decision-making which are unique to a particular parole board and which can be neither produced nor controlled by the use of standards. In at least one instance, a new board "came into being at a time when there was a large increase in violent crimes and sex crimes. The new board inaugurated the policy of paroling gunmen and sex offenders only under exceptional circumstances" (Warner, 1923:176). This may be a reflection of the influence of noncognitive elements such as attitudes, biases, or personal values held by parole board members. Non-explicated factors which are considered are always related to the board member's own values, experiences, and beliefs (Kastenmeier and Eglit, 1973). Oswald (1970:28) refers to one member of the New York parole board who stated, "rarely can one read a case folder...without developing some predisposition not to release."

Despite attempts to standardize decision-making procedures through the use of guidelines and reliable measuring devices, "there is one consideration which...influences decisions made by all parole boards...

which is described as a 'hunch'" (Finsley, 1958:247). This may be the essence of what the board member "feels" about the prisoner under examination. Use of intuition may be a necessary component of the present parole decision-making process, but it falls short as an objective decision-making tool. The more frequently intuition is present in a decision, the greater the suspicion on the part of parole board critics that boards make arbitrary decisions.

There are accounts of instances where "every indication appeared to point to the...conclusion that...(the inmate) would fail on parole... (but) contrary to all logic, in spite of other criteria," parole was granted. In a number of cases, the parole was successful (Finsley, 1958:247). Such success may support the idea that hunches may indeed be of value. On the other hand, those cases are rarely documented where hunches resulted in parole denial in spite of indications of parole success. None of this is meant to imply that noncognitive elements play a part in all cases; however, there is little question that hunches can be an important part of the decision-making process.

Prior to reaching a final parole decision, the parole board members consider a number of factors in an effort to determine whether there is a reasonable chance that the person will be a law-abiding member of society and not pose a threat to the community (Stanley, 1976). The focus of the decision-making process is on predicting the behavior of the inmate if released, in addition to determining the potential of seriousness, or dangerousness, of possible future criminal activity. No parole board requires the certainty of non-recidivism, but all expect

some evidence that the parolee may be successful. The interactions among criteria, considerations, and informal influences are difficult to identify. There are so many different configurations of variables that consensus concerning criteria which are predictive of parole success has yet to be achieved.

It would be difficult, if not impossible, to determine the degree to which an ultimate parole decision is affected by subjective elements, particularly in any individual case. In an effort to do so, Gottfredson and Ballard (1966) conducted an investigation of 2,053 parole decisions made by a six-member parole board. The study addressed the question of whether the various decisions that were reached were associated with offender characteristics or were determined by the preconceptions of those making the decisions. The research hypothesis "that differences in parole decision outcomes may be partly attributed to the decision-makers rather than to the offenders" was not supported. This conclusion was based on the fact that groups of parole board members tended to make consistent decisions in cases of offenders with similar characteristics. The study looked only at decision outcomes of the total offender group, not at any evaluations of specific types of offenders. However, it is not unreasonable to expect that the same conclusion would have been reached had specific types of offenders been analyzed. Variations of sentences among specific types of offenders could, again, be attributed to offender characteristics and not to capricious decision-makers.

While group decisions as opposed to individual decisions may

mitigate against the influence of such elements as personal bias, differential experience, etc., there is no conclusive evidence that these elements do not contribute to the development of a pattern of group decision-making.

Most of the criteria used for making parole decisions are not defined by statute. Other than eligibility for parole, which is normally defined by statute, other criteria found in parole statutes are described in rather general terms. For example, the Arizona Revised Statutes of 1978 (Sec. 31.411: Criterion for Release on Parole) reads:

> If a prisoner is certified as eligible for parole...the board of pardons and paroles shall authorize the release of the applicant upon parole, unless it appears to the board, in their sole discretion, that there is a substantial probability that the applicant will not remain at liberty without violating the law...

When specific criteria are written, they are usually found in the administrative rules and regulations which determine formal policy for the jurisdiction. Two examples are found in the Rules and Regulations of the State of Hawaii Paroling Authority, and the Nebraska Board of Parolees 1978 Annual Report. These lists are typical of the large number of variables, many of which are impossible to accurately assess, with which most parole boards struggle to render an equitable parole decision.

> Rules and Regulations Governing the Practices and Procedures of the Hawaii Paroling Authority, Department of Social Services and Housing
>
> Rules 6 and 7, Part D...
>
> Sec. 1.3 Material, Information, Factors Considered by the

Authority in its Decision-Making Process

a) General

1. Judiciary pre-sentence diagnosis and report.
2. Nature of the crime(s) committed.
3. Any relevant mental health reports.
4. Skills and aptitudes.
5. Prisoner's adjustment while confined.
6. Length of time the prisoner has been confined.
7. Prisoner's motivation to participate in available appropriate programs.
8. Potential danger the prisoner poses to himself or others.
9. Prisoner's overall efforts to better himself.
10. Length of time the prisoner remained trouble-free.
11. Resources available to assist the prisoner in overcoming his problems.
12. Prisoner's actual, as opposed to demonstrated, problem.

b) Mitigating Circumstances

1. The prisoner has no significant history of prior
2. The prisoner has no prior incarceration.
3. Age of first criminal offense and/or incarceration and present age.
4. The crime was committed while the prisoner was under the influence of extreme mental or emotional disturbance.
5. The victim was a participant in the defendant's criminal conduct or consented to the criminal act.
6. The prisoner was an accomplice in a crime committed by another person and his participation in the criminal act was relatively minor.
7. The crime was committed under circumstances which the prisoner believed to provide moral justification or extenuation of his conduct.
8. A weapon was not used in the committal of the crime.
9. There was no injury to the victim(s).
10. The prisoner never had parole revoked or was committed for a new offense while on parole.
11. The prisoner has completed 12th grade or received his G.E.D.
12. The prisoner has been steadily employed (school) and/or has verified employment.
13. The prisoner's satisfactory adjustment while confined.

c) Aggravating Circumstances

1. The crime was committed by a convict under sentence of imprisonment.
2. The prisoner has a significant history of prior criminal activity.
3. The prisoner has prior incarcerations.
4. The prisoner was previously convicted of another crime or a felony involving the use or threat of violence.
5. At the time of the crime the prisoner also committed another crime.
6. The prisoner has demonstrated aggressive and violent behavior.
7. The crime was committed while the prisoner was engaged or was an accomplice in the commission of, or an attempt to commit, or flight after committing robbery, rape, or deviant sexual intercourse by force or threat of force, arson, burglary, or kidnapping.
8. The crime was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from lawful custody.
9. The crime was committed for pecuniary gain.
10. The crime was especially heinous, atrocious or cruel, manifesting exceptional depravity.
11. The prisoner shows no remorse for what he did.

The following is copied, with some deletions in the interest of reasonable brevity, from the Annual Report of the Nebraska Board of Parole, June 30, 1978:

Criteria:

1. Past record
2. Assessment of total personality
3. Achievements during incarceration
4. Assess parole plan

Rates probability of success on parole:

1. Reviews presentence investigation report and all official reports of prior criminal history, with emphasis on the nature and circumstances, recency and frequency of previous offenses, and the offender's past use of narcotics/alcohol, employment history, occupational skills, stability of past employment as well as any recommendations made at the time of sentencing by the sentencing judge.

2. Assessment of total personality includes offender's maturity and stability, his ability and readiness to assume obligations and undertake responsibilities.

Also, any apparent development in his personality and mental and physical make-up which might affect his conformity to law are considered.

3. Evaluates offender's actions during his incarceration to see if said offender has let "time serve him." Emphasis is placed on the offender's conduct in the facility, including particularly whether he has taken advantage of the opportunities for self-improvement in the vocational, skilled or academic training programs, and whether he has been punished for misconduct within six months prior to his hearing.

4. Another area of consideration is the adequacy of the offender's parole plan including the type of residence, neighborhood or community in which the offender plans to live and the offender's family status and whether he has relatives who are interested in him or whether he has other close and constructive associations in the community.

5. In addition, updated institution reports, information from the offender, his attorney, the victim, or other persons are considered. All of this information is put together, a review copy completed, and a thorough evaluation made. The next step is the hearing.

In many jurisdictions, some criteria become formalized as a matter of policy, although not published in rules or guidelines. For example, in 1963, any inmate serving a life sentence in Indiana was required to serve 15 years before being considered for parole, despite the fact that such a requirement was not statutory (Thomas, 1963:175).

Dawson (1966:249) found in his review of parole decision-making in Kansas, Michigan, and Wisconsin, "that the principle consideration in the decision to grant or deny parole is the probability that the inmate will violate the criminal law if released." In making this determination, a number of criteria relating to offender/offense characteristics are considered. One criterion, however, "lies behind all the others."

Boards may keep an inmate in prison, even if the chances of parole success are favorable, because he is not welcome in the community or because repetition of his crime, however unlikely, would hurt the board's reputation (Stanley, 1976:59).

Implementation of guidelines may have the effect of punishing "as an individual" those offenders "possessing the recidivistic characteristics of a group" (Stanley, 1976:66). Further, the use of guidelines does not offer a solution to the problem of what term of incarceration is appropriate or "correct" for a particular offense or offender. "It only assures more even-handed application of past judgments on the severity of the crime" (Stanley, 1976).

Few state parole authorities are provided, either by statute or departmental regulations, with guidelines as explicit as those set forth in the U.S. Parole Commission Rules. Consequently, most state parole boards are subject to few limitations as to the information that is to be considered or the source of that information. They are free to formulate and implement rules and procedures provided that they do not conflict with their public safety and welfare mandate.

In many, if not most, states, the parole board may use any combination of a large number of factors, or rely solely on one factor (Scarpa v. United States Board of Parole, 380 F. Supp. 1194, 1973) in making parole decisions. Parole board members, at their discretion, may choose to ignore certain factors or place added emphasis on certain factors, thereby altering the outcome, yet keeping the decision within the guidelines.

A study of indefinite sentencing indicates that "by and large, parole board decision-making is marked by undefined procedures, "that the information upon which decisions are based is fragmentary, and that parole boards "seldom apply...criteria with any uniformity" (Council of State Governments, 1976:9). In an analysis of the New Jersey parole system, it was found that although the parole board is given complete discretion in establishing the criteria for release, "it had not formulated a set of criteria or a specific method of applying the criteria for making parole decisions" (New Jersey State Legislature, 1975:33). This method of decision-making is defended on the basis that "there are so many factors for consideration - some tangible, some intangible - in each individual case that no single set of factors can be accurately weighted as specific to release determinations" (Oswald, 1970:29).

Even in those state parole systems where a set of criteria has been defined and where a standard formula for using specific criteria has been determined, it is questionable that parole board members avail themselves of these decision-making tools. In making an evaluation of parole board member compliance to standards set by the parole board itself, Sacks (1977:386) found that compliance was unsatisfactory or uncertain in nine out of 21 of the subject areas. He suggests that the gap between "promise and performance" is due to board members acting individually and because each member "felt confident to decide cases without guidance from...board documents" (Sacks, 1977:387). Further, despite each board member having received a copy of the standards, discussion of these among members of the board rarely, if

ever, occurred. It became evident from the analysis that, in a significent number of its decisions, the "board was operating without any standards." This suggests that a lack of/or noncompliance with standards or explicit criteria "results in a process that is neither objective nor accountable" (New Jersey State Legislature, 1975:33).

In another study of parole criteria used in three adult penal institutions, three broad categories of information were identified (Scott, 1974). These were legal, institutional, and personal biographical information. The legal category included seriousness of offense and prior record. Disciplinary reports and institutional adjustment were in the second category. The third category consisted of age, education, I.Q., marital status, race, and sex. The results of this study suggest that the seriousness of the instant offense was the "best indicator of the severity of punishment" and that the prior criminal record was not a particularly important consideration. In the institutional category, both the number of disciplinary reports received and good institutional adjustment appeared to be related primarily to the severity of punishment. The final category, social-biographical factors, did not appear to be a very important consideration. In essence, "parole board decison-making appears to be based almost exclusively on one legal criterion, the seriousness of the crime" (Scott, 1974:222).

Given the multitude of different criteria which are alleged to be considered before granting or denying parole, and given that the human mind has a limited capacity to process information (Wilkins, 1973),

problems are bound to occur. Under these conditions, it is understandable that decisions will be based on a relatively small number of factors, perhaps six or seven, which are generally recognized as being important to post-release success.

In responding to the section of our survey's inquiry on readiness for parole, boards were asked whether specific factors were considered evidence of parole readiness. Table 3.1 gives the frequency of responses for each factor.

TABLE 3.1

READINESS FOR PAROLE

Factor	Yes (%)	No (%)
No prison misbehavior	48 (92.3)	4 (7.7)
Participation in prison programs	49 (94.2)	3 (5.8)
Increased maturity	46 (88.5)	6 (11.5)
Attitude change	47 (90.4)	5 (9.6)
Development of insight	42 (80.8)	10 (19.9)
Other	11 (21.9)	40 (76.9)
None of the above are important	2 (3.8)	50 (96.2)

In the "other" category, practically all of the items mentioned were included in most detailed lists of parole criteria. Georgia added the concept of "just deserts." The U.S. Parole Commission and Delaware were the two jurisdictions reporting "None of the above are important."

It would appear that many parole board have no structured criteria upon which to make decisions and that even when such criteria are available, they may not always be followed with precision (New Jersey Ad Hoc Parole Committee, 1975). An interesting idea was presented in Oklahoma, suggesting that efforts to improve the functioning of the parole board by creating a full-time professional board were misplaced. The point was made that since the judiciary makes the decision to incarcerate, they should also have the responsibility for deciding when the inmate should be returned to society (Fairbands, 1974). This more pragmatic trend is being recognized and has taken two directions: presumptive sentencing and fixed sentencing, both of which greatly restrict or eliminate entirely the parole decision-making process (Neithercutt, 1977; Gettinger, 1977). In either case, however, much of the discretion is removed from the judicial stage of the criminal justice process. In the case of presumptive sentencing, the discretion rests with the prosecuting attorney in the form of the charges he or she chooses to press; with fixed sentences, the legislature has absorbed a significant amount of judicial discretion.

Similar to the controversy over disparity in sentencing is an ever-increasing amount of criticism about the subjective use of parole factors in making parole release decisions. Exacerbating the problem is the "invisibility" of this administrative action. As in all areas of corrections, there has been an increasing number of court actions filed against parole boards. At least one case has been decided by a state supreme court, which held that members of the parole board were liable

for monetary damages on the basis of "gross negligence" (Grimm v. Arizona, 550P 2d 637). Such actions undoubtedly portend the necessity of expanding the use of objective criteria and limiting the use of subjective criteria in making parole release decisions.

CHAPTER 3

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CHAPTER 4

PREDICTION AND DECISION GUIDELINES

Introduction

This chapter is concerned with strategies used by parole boards in their decision-making processes. While recognizing the fact that it may well be virtually impossible to construct a model of decision-making which accurately represents parole board decision-making as it really occurs, several authors have attempted at least to capture the essence of the decision process. Parole board decisions involve a multitude of considerations, among which are some type of prediction about whether the parole applicant is likely to commit new criminal offenses, a judgment about whether a decision to grant parole is appropriate for the severity of the current offense, and some feeling about whether the inmate applying for parole has served "enough" time.

Formal devices which attempt to structure these kinds of considerations are the subject of this chapter. We will look first at the history and development of prediction instruments, which utilize statistical techniques in order to make predictions about which types of offenders are likely to succeed or fail on parole. Next, we will examine structured decision-making guidelines, particularly those developed by the U.S. Parole Commission, which integrate the prediction of risk consideration with the consideration of offense severity and appropriate amount of time served. Finally, we will briefly consider the implications of non-guided, discretionary decision-making.

Statistical Prediction Methods

Historically, one of the most important, and difficult, tasks in parole decision-making has been the attempt by parole board members to predict, with reasonable accuracy, the likelihood of future criminal behavior by a parole applicant. This kind of prediction is called for by the indeterminate sentencing model, which requires the parole board to determine the point at which an inmate has reached the optimum level of rehabilitation and is therefore least likely to commit further criminal offenses if released on parole. Some sort of prediction method, whether purely intuitive, clinical, or statistical, has thus been necessary ever since parole boards began to release selected inmates before the expiration of their maximum sentences. And, indeed, even the highly structured decision-making guidelines which are currently being utilized or tested in a number of jurisdictions have, as one component, a scale which attempts to classify inmates into groups which represent differing degrees of parole risk.

The prediction of human behavior, particularly deviant, socially sanctionable behavior, has been of great interest to social scientists for many years. Devices attempting to predict behavior in a wide variety of situations (ranging from prediction of educational achievement, marital adjustment, and successful performance in employment to behavior of large masses of individuals in crisis or panic situations) have been the subjects of numerous experiments for a long time.

One of the most widely debated issues in the prediction task has been the question of the dominance of clinical prediction or statistical

(or actuarial) prediction. Ohlin (1951:39) has said, "In parole prediction, the goal is to increase the number of paroles granted to offenders who are likely to succeed on parole and correspondingly to reduce the number granted to those who are likely to fail." The question, however, remains as to whether clinical prediction, statistical prediction, or a combination of the two, would most efficiently and accurately predict success or failure on parole.

Meehl's (1954) classic work on clinical and statistical prediction examined research studies which had actually attempted to compare the two methods by making predictions based on similar or identical sets of information by each method and ten comparing the frequencies of successful predictions made by each method. Meehl located at least sixteen relevant studies which had compared the accuracy of clinical and statistical predictions and found that, "...in all but one...the predictions made actuarily were either approximately equal or superior to those made by a clinician" (Meehl, 1954:119).

Gough (1962) also looked at comparisons between clinical methods (which Gough called case study, theoretical methods) and actuarial methods (which he called statistical, empirical methods). He noted that the phenomenon which defines the difference between the two methods is "the way in which the data, once specified, are combined for use in making the prediction" (Gough, 1962:530). Actuarial predictions, Gough said, are derived from data, whereas clinical predictions are created from data. Reviewing a number of studies done between 1928 and 1953, Gough found that actuarial predictions were generally more accurate

than the clinical predictions of psychiatrists, psychologists, sociologists, parole selection committees, and school governors and housemasters. The only exception to this extremely clear pattern was in the 1928 Burgess study, in which it was found that, while psychiatrists were worse at predicting failures on parole than an actuarial instrument, they were better at predicting successes.

If, as the data indicate, statistical prediction devices are at least as accurate (if not more accurate) as clinical predictions, a number of commentators have suggested that techniques which combine the two methods, or which utilize one method as a means of double-checking the other, would be valuable. Perhaps the most pointed comment encouraging this suggestion was made by Horst (1941): "The statistician and the case-study investigator can make mutual gains if they'll quit quarreling with each other and begin borrowing from each other."

History and Development of Prediction Devices

The impetus for the use of statistical prediction methods in parole was a 1923 study by Warner which examined the parole records of ex-inmates of the Massachusetts Reformatory. Warner's sample consisted of 300 parole successes and 300 parole failures. He compared parole outcomes with background characteristics found in reformatory records. Warner looked not only at those factors considered by the Massachusetts Parole Board, but also at an additional 64 items which were available to, but not considered by, the parole board. He found only a very limited, unclear relationship between offender characteristics and parole outcome. The only item found in reformatory records, and not

used by the parole board in its decision-making, which was found to have any prognostic value was the alienist's (forensic psychiatrist's) report.

Later in the same year, Hart (1924) published a critique of Warner's study, citing Warner's failure to utilize tests of statistical significance and suggesting a number of methodological improvements. Hart was the first to outline a definite procedure whereby a prognostic prediction table could be constructed. He suggested that, even if variables singly did not show significant relationships with parole outcome, a combination of variables added together might be used as predictive of parole success. Inmates, according to his procedure, would be scored on a series of fifteen items thought to be predictive of parole success; item scores would be added together, and parole violation rates established for each score interval. Hart even recommended the weighting of factors by testing their intercorrelations.

Although Hart developed the prototype for later prediction tables, Burgess (1928) is generally given credit for the creation of the first widely-applied experience table prepared for prognostic purposes. Working with parole records of 1,000 inmates from each of the three penal institutions in Illinois, Burgess found 21 factors which could be demonstrated to be associated with success on parole. He grouped the parolees on the basis of their scores on a number of variables, and computed violation rates for the sample as a whole and for each subgroup. Any factor whose subgroup had a violation rate below the

average violation rate was assigned one point. Every candidate for parole was given one point for each positive factor in his background, and the number of positive points was computed. Burgess found a regular progression of violation rates according to the magnitude of the prediction score. His system, using equal weights for each factor associated with success on parole, was put into practical use in the Illinois correctional system in 1933.

Dean and Duggan (1968) note that much of the literature following the publication of the Burgess study in 1928 was devoted to criticism of the Burgess, Hart, and Warner research. These criticisms concerned both the data and the analytical techniques used. Criticisms of the data included the following: the data were static, highly subjective, lacked orthogonality (freedom from intercorrelation), and were almost exclusively extrinsic to the individual. Further, the reliability of the data was questioned, the predictions made from the data were bound to time and geographic region, and the authors failed to account for differences in circumstances to which inmates were paroled. The following criticisms were leveled at the analytical techniques used: the dichotomized scales were crude, with little discriminating power; the assignment of equal weights to favorable factors lent disproportionate weight to some variables; and the method failed to take into account intercorrelations between obviously inter-related variables.

Shortly after the Burgess research was published, the Gluecks (1930) reported the results of their research which used data verified by field investigation, rather than data collected from institutional

files. They used a prediction system based on a small number (5-7) of factors found to be strongly associated with parole success. Each factor used was weighted according to the extent of its association, measured by contingency coefficient, with success. They did not test for significance of association.

In 1931, Tibbits published a refinement of the unweighted Burgess method, but suggested that categories whose violation rate differed from the mean rate by less than 5 percent should be excluded. The same year, Vold (1931) reported the results of a study of 542 parolees from the Minnesota State Prison and 650 from the Minnesota Reformatory. He stated that his research was "...the first published attempt to settle experimentally and by actual appeal to facts such important questions as optimum number of factors, importance of the degree of association with outcome exhibited by the factors employed, and the relative merits of the weighted and unweighted methods of scoring" (Vold, 1931:379). Vold measured strength of association with contingency coefficients and did not use tests of significance. He did find, however, in comparing the unweighted Burgess method with the weighted Glueck method, that weighting the positive factors did not result in an increase in predictive ability.

Laune (1935) criticized prior studies for relying almost exclusively on whatever information happened to be available. He hypothesized that intimate, personal knowledge of the inmate could be a valuable supplement to objective data. Further, he felt that objective data generally used tended to be static; he saw a need to take institutional

treatment programs into consideration also. In order to capitalize on information about institutional adjustment and knowledge of the inmate's attitudes and concerns, Laune developed a method designed to solicit the "hunches" of other prisoners concerning the inmate in question and his prospects for success on parole. His method, when tested, proved to be no more effective than the simpler, unweighted Burgess method.

In 1948, Hakeem noted, "In view of the repeated emphasis on the need for, and importance of, studies to demonstrate the validity of prediction, and the actual use of parole prediction in one state (Illinois), it is quite surprising that validation studies have not been made except in a very few instances" (Hakeem, 1948:377). Hakeem had conducted a study of 1,108 males paroled from one branch of a state prison during a two year period. He computed unweighted prediction scores for each subject based on a series of 27 factors derived from a previous study of 9,729 inmates paroled from the same prison system. After collecting outcome data on his experimental group during a follow-up period, he concluded that the predictions made for his experimental group were remarkably close to the actual outcomes and that the prediction table had been validated. Hakeem, however, did not use tests of statistical significance or tests of association.

Ohlin's (1951) classic work in Illinois updated the 1938 Illinois Experience Table, utilizing the constant relationship between the number of parole violators in the first year of parole and the total number of parolees who will violate in their five-year parole period. In contrast to the 21-item Burgess scale, Ohlin found that a table

using only 12 items was just as efficient as the larger, more unwieldy table.

A highly significant contribution to prediction research was made by Glaser (1954), who made the first search for predictor variables based on criminological theory. Glaser hypothesized that the degree of identification with criminality as a way of life would distinguish between parole violators and nonviolators. He scored inmates on 7 variables which were thought to be indicative of "differential identification" with criminality and found that the predictive power of the resulting experience table was somewhat superior to Ohlin's 12-factor Illinois Experience Table.

One of the technical advances which has had a profound impact on prediction research has been the application of multivariate techniques. These techniques, applied to the data collected for predictive purposes, result either in weighted methods or in configural methods for making predictions. Spurred by Kirby's (1954) use of discriminate function and Mannheim and Wilkins' (1955) use of multiple regression, the use of those and other multivariate techniques proliferated and became, for at least the next decade, the focal point of prediction research.

Briefly, discriminate function weights and combines variables which discriminate between groups in order to force the groups to be as distinct as possible (Nie et al., 1975:435); multiple regression produces an equation which weights independent variables by explaining as much of the variance in the dependent variable as possible (Nie et al., 1975: 321). Both of these methods take into account the intercorrelations of

the predictor variables and the correlations with the criterion (Gottfredson, 1971:354).

Multiple linear regression has been used in a large number of studies. Following the positive results reported by Mannheim and Wilkins (1955) and Kirby (1954), who used multiple regression in combination with discriminate function, the technique was used extensively in a number of parole prediction studies in California (Gottfredson and Bonds, 1961; Gottfredson, Ballard, and Bonds, 1962; Gottfredson and Ballard, 1965).

Other multivariate techniques tested in the past twenty years include configural analysis (Glaser, 1962), association analysis (Wilkins and McNaughton-Smith, 1964), and predictive attribute analysis (Wilkins and McNaughton-Smith, 1964). Glaser's configural analysis was a procedure designed to divide cases into risk groups with a minimum use of mathematics and a maximum use of information available in case files. Association analysis is also a method of subdividing a heterogeneous population into groups which are relatively homogeneous with respect to the variables used (Gottfredson, 1971:356). Predictive attribute analysis subdivides the population on a succession of variables, at each step using the variable which has the strongest association with the criterion.

Two recent studies have attempted to make comparisons in predictive efficiency among some of the more commonly used tehcniques. Simon (1971) compared, inter alia, the unweighted Burgess method, multiple regression, association analysis, and predictive attribute analysis. She found that, "The general conclusion suggested by those comparisons is that, for

practical purposes, there is little to choose between the power of most statistical methods that have been put forward for combining variables into a prediction instrument, in spite of the theoretical pros and cons of each" (Simon, 1972:53). More recently, Gottfredson, Gottfredson, and Wilkins conducted a comparison of the same methods, applying each method to the same data. Their findings tended to suggest that, "The results lend support to the view that the simple method devised by Burgess may provide prediction instruments equal or superior to those defined by more complex methods" (Gottfredson, Gottfredson, and Wilkins, 1977:347).

This conclusion reached by Simon and Gottfredson, Gottfredson, and Wilkins has been reflected in some of the most recently devised prediction instruments. These parole risk scales, developed for use in structured decision-making guidelines, have generally adopted the unweighted system of combining variables. The most widely known of these risk scales is the Salient Factor Score, used by the U.S. Parole Commission (Hoffman and Beck, 1974; 1976; Hoffman, Gottfredson, Wilkins, and Pasela, 1974). Currently under study are matrix and sequential decision-making models, in use in a number of jurisdictions, which have, as one component, a parole risk prediction scale (Gottfredson et al., 1978).

There are a number of major considerations which may not be ignored in the construction, implementation, or evaluation of a parole prediction table. These considerations include: reliability, validity, cross-validation, reliability of predictor variables, base rates, selection ratio, cutting scores, definition of the criterion, discrimination, and efficiency. A discussion of these considerations is beyond the scope of this paper; Gottfredson (1971), Gough (1962), Mannheim and Wilkins (1955), Ohlin (1951), Reiss (1951), Lanne (1935), Ohlin and

Duncan (1949), Duncan, Ohlin, Reiss, and Stanton (1953), Duncan and Duncan (1955), and Glaser (1955) are among the many other sources which treat these issues in a thorough and comprehensive manner.

The extent of current use of prediction instruments is not known. We do know, from published research, that decision guidelines, which include a risk prediction scale, are probably in use in at least seven jurisdictions: North Carolina, Virginia, Louisiana, Missouri, California (Youth Authority), Washington, and New Jersey (Gottfredson et al., 1978). In addition, the prototype guidelines developed by the U.S. Parole Commission are still in use. In our survey of parole boards, the following jurisdictions reported that they did use either a risk or success prediction instrument or a set of guidelines which combined a risk or success instrument with time served: Colorado, Florida, Georgia, Hawaii, Kentucky, Montana, Nevada, New Mexico, New York, Pennsylvania, Texas, Utah, and the federal system. (It is possible that some jurisdictions using a prediction instrument as part of decision guidelines did not report such use, due to the phrasing of the question).

Stable Predictors

Early in the development of prediction instruments, Lanne (1935) suggested that researchers engaged in studies attempting to isolate variables predictive of parole success or failure should make an effort to keep a running list of all variables found to be significantly associated with parole success or failure. He proposed that this tabulation be kept public and up-to-date so that variables which reappear

often enough to be considered universally applicable could be distinguished from variables which are significantly related to outcome only in a small number of studies and thus their association might be considered coincidental. To begin this tabulation, Lanne summarized the predictors from eight studies. Since Lanne's work, no other tabulation had been done until the very recent work of Pritchard (1979).

Pritchard located 71 studies which investigated predictors of recidivism in adult parolees (55 studies) and probationers (16 studies). The studies contained results on 177 different samples of offenders.

Table 4.1 presents the frequencies with which selected items were found to be related or unrelated to recidivism. With respect to this display of selected variables, Pritchard (1979:17) notes that, "...the frequency with which a particular item was found to be related (or unrelated) to recidivism indicates only the stability of that item's predictive ability; it does not indicate the magnitude of predictability associated with the item."

Conclusion

The contemporary version of prediction tables indicates that thinking about these tables has come full circle since their development in the late 1920's. Originally conceived as relatively simple, unweighted combinations of variables found to be associated with success (or failure) on parole, they have progressed through a number of iterations which have variously called for more complicated weighted scales, scales based on peer judgments, and scales utilizing rigorous, sophisticated multivariate statistical techniques; finally, prediction tables are once

TABLE 4.1*

FREQUENCY COUNTS FOR SELECTED ITEMS

Item	Related	Unrelated
Type of instant offense	118	27
Presence/number of prior adult convictions	99	17
Stability of employment	96	7
Age at first arrest	77	18
Marital status	75	59
Living arrangements	67	12
Race	65	59
Presence/number of prior adult incarcerations	45	13
Presence/number of dependents	43	48
Employment status	40	20
Presence/number of associates in instant offense	22	44
Presence/number of prior arrests	19	2
Type of job	13	6
Educational achievement	12	14
Weekly or annual income	11	4
Presence/number of prior probation orders	11	5
Intelligence rating/score	10	10
History of opiate use	9	1
History of alcohol abuse	9	2
History of alcohol use	8	13
Type of prior offenses	6	3
Stability of residence	5	5
Family criminal record	4	4

*Source: Pritchard, 1979:17.

again based on unweighted combinations of predictor variables. It is these contemporary scales which are used in the recently developed structured decision guidelines. The following section will examine the development and use of structured parole decision-making guidelines and will discuss some of the more important issues attendant upon their use.

Non-Predictive Guidelines

Although risk or prediction scores form an essential aspect of most structured release decisions, they represent only one of several criteria utilized in preparing an adequate set of guidelines. Most jurisdictions will also consider the severity of the offense, an inmate's institutional disciplinary record, and participation in institutional rehabilitative programs. Additional factors include the inmate's prior record, the type of sentence, and the parole plan.*

Naturally, the definitiveness and development of each item varies from jurisdiction to jurisdiction. Where some regulations simply state that certain factors must be considered and possibly provide some minimal specifics regarding classification, others provide extensive outlines which classify the various options into a manageable set of categories. Specific utilization of each criterion also varies, and those jurisdictions which use risk scores may use some of these other factors in determining potential parole success, rather than as part of their non-predictive considerations.

*Most of this information comes from the case review and the other pre-parole reports included in the case file. See Chapter 5 for more information concerning the preparation of these documents.

Severity of Offense

A typical example of this guideline continuum occurs in the "severity of offense" category. Louisiana regulations, for example, merely require the board to consider the severity of the offense with a view toward determining whether the requirements of retribution and deterrence have been met satisfactorily. Several items, such as the official version of the offense, the inmate's version, the length of sentence imposed, and any mitigating or aggravating factors, are considered in making decisions, but the board has no set hierarchy of severity for structuring the placement of offenses (Gottfredson et al., 1978:127).

In contrast, the federal parole board has developed a very extensive hierarchy of offenses, from immigration law violations and minor theft to aggravated felony, espionage, kidnapping, and willful homicide (Schmidt, 1977:22-23). In developing these categories, members of the parole board rated, according to severity, 65 offenses taken from the California penal code. Individual evaluation scores were then averaged and placed on a scale of one through six (Yale Law Review, 1975:823 and footnote 67; Gottfredson, Wilkins, and Hoffman, 1978: 69-80). While such a procedure may demonstrate that parole board members have remarkably similar opinions about various crimes, it does not necessarily lead to an equitable hierarchy of severity. Schmidt, in fact, contends that the ratings merely reflect "prevailing conventional wisdom regarding the seriousness of crimes" (1977:48).* Although her observation may not

*Hoffman and DeGostin indirectly support Schmidt's view when they observe that changing social attitudes toward offense severity may force a change in the guidelines (1974:10).

be precisely true, this ranking of offenses is arbitrary at best, and it contains several questionable features.

OFFENSE SEVERITY RATINGS*

U.S. Board of Parole

Low

Immigration-law violations
Minor theft (includes larceny and simple possession of stolen property less than $1000)
Walkaway

Low-Moderate

Alcohol-law violations
Counterfeit currency (passing-possession less than $1000)
Drugs:
Marijuana, simple possession (less than $500)
Firearms act, possession-purchase-sale (single weapon-not altered or machine gun)
Forgery-fraud (less than $1000)
Income-tax evasion (less than $10,000)
Selection Service Act violations
Theft from mail (less than $1000)

Moderate

Bribery of public officials
Counterfeit currency (passing-possession $1000-$9000)
Drugs:
"Hard drugs," possession by drug user (less than $500)
Marijuana, possession with intent to distribute-sale (less than $5000)
"Soft drugs," possession with intent to distribute-sale (less than $500)
Embezzlement (less than $20,000)
Explosives, possession-transportation
Firearms Act, possession-purchase-sale (altered weapon(s), machine gun(s), or multiple weapons)
Income-tax evasion ($1000-$50,000)
Interstate transportation of stolen-forged securities (less than $20,000)
Mailing threatening communications

Offense Severity Ratings - continued

Misprison of felony
Receiving stolen property with intent to resell (less than $20,000)
Smuggler of aliens
Theft-forgery-fraud ($1000-$19,900)
Theft of motor vehicle (not multiple theft or for resale)

High

Burglary or larceny (other than embezzlement) from bank or post office
Counterfeit currency (passing-possession $20,000 or more)
Counterfeiting (manufacturing)
Drugs:
"Hard drugs," (possession with intent to distribute-sale by drug user to support habit only)
Marijuana, possession with intent to distribute-sale ($5,000 or more)
"Soft drugs," possession with intent to distribute-sale ($500-$5,000)
Embezzlement ($20,000-$100,000)
Interstate transportation of stolen-forged securities ($20,000-$100,000)
Mann Act (no force-commercial purposes)
Organized vehicle theft
Receiving stolen property ($20,000-$100,000)
Theft-forgery-fraud ($20,000-$100,000)

Very High

Robbery (weapon or threat)
Drugs:
"Hard drugs," possession with intent to distribute-sale for profit (no prior conviction for sale of "hard drugs")
"Soft drugs," possession with intent to distribute-sale (over $5,000)
Extortion
Mann Act (force)
Sexual act (force)

Greatest

Aggravated felony (e.g. robbery, sexual act, aggravated assault) - weapon fired or personal injury
Aircraft hijacking
Drugs:
"Hard drugs," possession with intent to distribute-sale for profit (prior conviction(s) for sale of "hard drugs")

Espionage
Explosives (detonation)
Kidnapping
Willful homicide

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*Source: Schmidt, 1977:22-23.

By concentrating on the type of offense, federal guidelines reduce sentencing disparity. Offenders sentenced for robbery would, assuming a "good" Salient Factor Score and prison record, have to serve 36-45 months even though individual sentences might range from five to ten years (Yale Law Review, 1975:882-883).*

Prior Record

While somewhat subsidiary to severity of offense, the inmate's prior record represents another important factor in determining how long an inmate must serve for a particular crime. Generally, procedures for evaluating this aspect of an inmate's record are less precise than those associated with determining the severity of offense. Most boards will examine both the seriousness of the crimes and the number of violations in an inmate's prior history, eventually making a subjective evaluation on the relevance of the information. This evaluation, in turn, affects their assessment of offense severity and possible parole success.

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*Providing their sentencing discretion allows ample leeway, judges can set a sentence in order to specifically counter the guidelines. In such instances, they can either set the maximum high enough to make the inmate's eligibility date occur after the guideline period expires or set the maximum low enough to insure mandatory release before the inmate reaches the first guideline date (Yale Law Review, 1975:883). According to figures compiled by Hoffman, this occurs approximately 28% of the time (Hoffman and DeGostin, 1974:10).

Such a procedure, of course, minimizes the importance of prior record as a guideline, simply because handling criminal history in this fashion does little to channel discretion. Recognizing this, Louisiana adopted a set of guidelines for rating the seriousness of an inmate's previous criminal history. In this classification, an offender can be placed into one of four categories, depending on the overall seriousness of the record. As the classification is based on aggregate data, a number of minor offenses can have the same effect as one or more serious violations (Gottfredson et al., 1978:127-128).

LOUISIANA GUIDELINES FOR DETERMINING

PRIOR CRIMINAL RECORD*

NO record: No previous convictions

MINOR record:
1) Incarceration only: maximum sentence totalling no more than one year; or
2) Fines only; 0 to 4; or
3) Fines and incarceration combined: maximum sentences totalling no more than 6 months, if the inmate also has fines and court costs on his record

MODERATE record:
1) Incarceration only: maximum sentence totalling more than one year, but no more than 4 years; or
2) Fines only: 5 to 7; or
3) Fines and incarceration combined: maximum sentences totalling more than 6 months, but no more than 3 years, if the inmate also has fines and court costs on his record; or
4) Neither fines, nor prior incarcerations; but present sentence is the result of the revocation of felony probation.

SERIOUS record:
1) Incarceration only: maximum sentences totalling more than 4 years; or
2) Fines only: 8 or more; or

3) Fines and incarceration combined: maximum sentences totalling more than 3 years, if the inmate also has fines and court costs on his record.

The Board reserves the right to go outside the guidelines to take into consideration mitigating factors, or aggravating factors, such as probations, suspended sentences, arrests, and the seriousness or frequency of the offenses.

Source: Gottfredson et al., 1978:128.

Those jurisdictions that use the Salient Factor Score or its equivalent take a slightly different approach to the problem of unstructured data. In these instances, some of the information relating to prior record is used in computing potential parole success. In the Salient Factor Score, the relevant variables are prior convictions, prior incarcerations, and auto theft, and scores are adjusted according to the presence or absence of these items (Schmidt, 1977:19). Outside of auto theft, no consideration is given to the seriousness of the crime(s), and no adjustment is made regarding the number of convictions and incarcerations.* An offender with a long criminal history loses no more points than an inmate with only one prior conviction.

Although the use of only these items in the Salient Factor Score does not necessarily preclude the use of additional information about prior record in the non-predictive section of the guidelines, such utilization is apparently not the case, at least insofar as federal parole board policies are concerned. Outside of the Salient Factor Score, no stipulation is made for considering an inmate's prior record,

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*The Salient Factor Score considers only convictions and incarcerations. Prior arrests are not part of the tabulation.

and the board is prevented from adjusting offense severity by refering to a long history of criminal activity (Yale Law Review, 1975:835). As such, the federal guidelines sacrifice some of the complexity of the problem in an effort to achieve greater precision in the data that are used.

Institutional Adjustment

An inmate's institutional adjustment represents another essentially unstructured guideline consideration. In most instances, inmates sentenced for the same crime will obtain their release according to how successfully they conform to prison conditions, how well they demonstrate their willingness to adopt more conventional attitudes toward law and authority, and how interested they appear toward self-improvement. The federal guidelines, for example, assume good prison behavior in establishing their incarceration times (Schmidt, 1977:23, Note 1), and less successful adjustment can place the inmate in a different set of release times.

In evaluating this institutional adjustment, boards generally examine both institutional disciplinary behavior and inmate participation in prison rehabilitative programs. Discipline reports, which usually contain information on the types of infractions, the seriousness of each offense, and the actions taken by prison authorities, attempt to provide indications of the offenders' attitude toward authority, on how well inmates follow orders, and on their ability to handle the stresses of daily existence. Participation in institutional rehabilitative programs, on the other hand, is thought to provide some

indication of an inmate's desire for self-improvement. In evaluating this information, boards especially consider whether the inmate has developed any additional job-related skills and whether the inmate is making progress with any drug and/or alcohol problems that may be present. The latter information may also provide more precise and clinical evaluations on inmates' ability to cope with their own problems.

Use of Guidelines: Current Practice

In order to obtain current information on the use of guidelines by parole boards, our survey sought data on the number of jurisdictions that used guidelines, how each jurisdiction developed the guidelines, the type of information considered important in structuring the guidelines, whether their use was mandated by law, and the specific role guidelines played in the release decision. The results of this survey are summarized below and in Tables 4.2 through 4.5.

Frequency of Use

Despite recent criticisms of the discretion which parole boards have in the release decision, many boards continue to follow essentially unstructured procedures. According to figures tabulated from our parole board questionnaire, only 24 of the 52 jurisdictions use written policy guidelines. Six others use some other guideline form. Of these others, five (Hawaii, Montana, New York, Pennsylvania, and Texas) use a combination of risk scores and best release time, while Nevada used only parole risk scores.

Required by Law?

However lax parole boards have been in reforming their own procedures, legislatures have been even more hesitant in requiring boards to adopt structured release decision procedures. Of the 30 jurisdictions that have some form of guidelines, only seven (Florida, Indiana, Kentucky, New York, Nebraska, Oregon, and U.S. Parole Commission) have statutory regulations requiring their use.

Guideline Use in the Release Decision

Just as most legislatures have left discretion in the hands of parole boards, so have most boards opted for leaving themselves a certain amount of leeway in the application of whatever guidelines they might have. Guidelines are usually considered as aids in the decision-making process, with only six jurisdictions (Iowa, Maine, Minnesota, Nebraska, Oregon, and Utah) stating that the guidelines determine specific release dates. Only Oregon and Nebraska have guidelines that are both required by law and used as determinants of a specific release date.

Of course, using guidelines as an aid in decision-making rather than as explicit determinants does not necessarily reduce their importance. Under federal regulations, for example, the parole board must provide a written explanation of any decision which occurs outside of the guidelines (Hoffman and De Gotsin, 1974:9; Yale Law Review, 1975:836). On the other hand, federal guidelines are more specific than those of most other jurisdictions, and flexibility in application does allow parole boards to minimize the effect of guidelines on the

release decision.

Development

In addition to examining how boards use guidelines, our survey also investigated who developed these regulations for the various parole boards and if boards had modified existing guidelines currently in use in another jurisdiction for their own use.

Our results indicate a very diversified approach to this issue. Nine jurisdictions used the parole board to develop their guidelines, but only Montana used its own research staff. Colorado, Maryland, and Rhode Island modified guidelines that were currently in use in some other state. The majority of jurisdictions, however, indicated some other source. Of the seventeen states who responded with this option, six listed some combination of the above enumerated factors, with California also using private consultants. Florida, Louisiana, and Texas used private consultants exclusively, while Kentucky used them to supplement their own research staff. Indiana and Nebraska had their guidelines established by statute, Nevada's were developed by the Parole and Probation Division, and Minnesota's were established by the board in conjunction with research staff from the Department of Corrections. New Jersey, Pennsylvania, and Utah provided no explanatory information regarding their choice of other developmental methods.

Specific Factors Considered in Making Guideline Decisions

Some consideration was also given to the problem of determining how many parole boards used various factors in constructing their list of guidelines. In our survey, each parole board was asked whether or not

TABLE 4.2

GUIDELINES: USE AND DEVELOPMENT

Criteria	Number of Jurisdictions
Board uses guidelines	24(30)[a]
Use of guidelines mandated by law	6 (7)
Guidelines determine explicit release data	6 (6)
Guidelines used only as an aid in decision-making	18 (24)
Guidelines developed internally by board	8 (9)
Developed by board research staff	0 (1)
Developed by modifying guidelines currently used by another jurisdiction	3 (3)
Other	13 (17)

[a] ( ) Total for all jurisdictions.

they used seven different criteria in their release decision. These criteria ranged from severity of offense to providing assistance to the criminal justice system. Boards were also allowed to indicate if they used other factors than the ones listed in the questionnaire.

The responses from the seven variables ranged from unanimity to very negative. All 29 boards used severity of offense in making their decision, and 27 considered the inmate's institutional record as a relevant factor.* A second grouping of criteria included potential for successful community adjustment (24 boards), participation in

*Minnesota did not provide information on these guideline criteria.

TABLE 4.3

SUMMARY TABLE
GUIDELINES: USE AND DEVELOPMENT

Jurisdiction	Use				Development			
	Use of Boards	Use mandated by law	Determines explicit release date	Used only as aid decision-making	Internally by board	By board research staff	Modifying other guidelines	Other
Alabama	X			X	X			
Alaska								
Arizona								
Arkansas								
California	X			X				X
Colorado	X			X			X	
Connecticut								
Delaware								
Florida	X	X		X				X
Georgia	X			X				X
Hawaii[a]	X			X	X			
Idaho								
Illinois								
Indiana	X	X		X				X
Iowa	X		X		X			
Kansas								
Kentucky	X	X		X				X
Louisiana	X			X				X
Maine	X		X		X			
Maryland	X			X			X	
Massachusetts	X			X	X			
Michigan								
Minnesota	X		X					X

(Table 4.3 continued)

Jurisdiction	Use				Development			
	Use of boards	Use mandated by law	Determines explicit release date	Used only as aid decision-making	Internally by board	By board research staff	Modifying other guidelines	Other
Mississippi								
Missouri								
Montana[a]	X			X		X		
Nebraska	X	X	X					X
Nevada[a]	X			X				X
New Hampshire	X			X				X
New Jersey	X			X				X
New Mexico	X			X				X
New York[a]	X	X		X				X
North Carolina								
North Dakota								
Ohio								
Oklahoma	X			X	X			
Oregon	X	X	X		X			
Pennsylvania[a]	X			X				X
Rhode Island	X			X			X	
South Carolina								
South Dakota								
Tennessee								
Texas[a]	X			X				X
Utah	X		X					X
Vermont	X			X	X			
Virginia								
Washington								
West Virginia								

(Table 4.3 continued)

Jurisdiction	Use				Development			
	Use of boards	Use mandated by law	Determines explicit release date	Used only as aid decision-making	Internally by board	By board research staff	Modifying other guidelines	Other
Wisconsin								
Wyoming	X			X	X			
District of Columbia								
Federal	X	X		X				X

[a]States with other types of guidelines.

TABLE 4.4

GUIDELINES: CRITERIA FOR DECISION-MAKING

Criteria	Do They Use? Yes	No
Likelihood of recidivism	18(22)[a]	5(7)
Potential for successful community adjustment	20(24)	3(5)
Release time most likely to promote rehabilitation	12(16)	11(13)
Seriousness of original offense	23(29)	0(0)
Just and equitable time served	14(16)	9(13)
Institutional behavior (disciplinary)	21(27)	2(2)
Participation in institutional programs	17(23)	6(6)
Assistance to criminal justice authorities	3(3)	20(26)
Other	2(3)	21(26)

[a] ( ) Total for all jurisdictions.

TABLE 4.5

SUMMARY TABLE
GUIDELINES: CRITERIA FOR DECISION-MAKING

Jurisdiction	Criteria								
	Recidivism potential	Successful adjustment potential	Effect release time on rehabilitation	Seriousness of offense	Just and equitable time served	Institutional discipline	Participation in institutional programs	Assistance to criminal justice	Other
Alabama	X	X	X	X	X	X			X
Alaska									
Arizona									
Arkansas									
California	X	X	X	X	X	X	X	X	X
Colorado	X	X	X	X	X	X	X		
Connecticut									
Delaware									
Florida	X	X	X	X	X	X	X		
Georgia	X	X		X	X	X			
Hawaii[a]	X	X	X	X	X	X	X		
Idaho									
Illinois									
Indiana	X	X	X	X	X	X	X		
Iowa	X	X	X	X	X	X	X	X	
Kansas									
Kentucky	X			X		X	X		
Louisiana		X		X		X	X		
Maine		X	X	X		X	X		
Maryland	X	X		X	X				
Massachusetts	X	X		X	X	X	X		

(Table 4.5 continued)

Jurisdiction	Criteria								
	Recidivism potential	Successful adjustment potential	Effect release time on rehabilitation	Seriousness of offense	Just and equitable time served	Institutional discipline	Participation in institutional programs	Assistance to criminal justice	Other
Michigan									
Minnesota									
Mississippi									
Missouri									
Montana[a]	X			X	X	X	X		
Nebraska	X	X		X		X	X		
Nevada[a]	X	X	X	X		X	X		
New Hampshire	X	X	X	X		X	X		
New Jersey				X		X	X		
New Mexico	X	X	X	X		X	X		
New York[a]				X		X	X		X
North Carolina									
North Dakota									
Ohio									
Oklahoma	X	X	X	X	X	X			
Oregon				X	X	X			
Pennsylvania	X	X	X	X		X	X		
Rhode Island	X		X						
South Carolina									
South Dakota									
Tennessee									
Texas[a]	X	X	X	X		X	X		
Utah	X	X	X	X	X	X	X		
Vermont	X	X		X		X	X		

(Table 4.5 continued)

Jurisdiction	Criteria								
	Recidivism potential	Successful adjustment potential	Effect release time on rehabilitation	Seriousness of offense	Just and equitable time served	Institutional discipline	Participation in institutional programs	Assistance to criminal justice	Other
Virginia									
Washington									
West Virginia									
Wisconsin									
Wyoming	X	X	X	X	X	X	X		
District of Columbia									
Federal	X	X		X	X	X	X	X	

[a]States with other types of guidelines.

institutional programs (23 boards), and likelihood of recidivism (22 boards). On the other hand, only 16 boards considered the release time most likely to promote rehabilitation as important enough to consider, thus suggesting that rehabilitation is considered less important than punitive considerations and the inmate's potential for staying out of trouble. Only California, Iowa, and the U.S. Parole Commission used assistance to the criminal justice system in their guidelines, and the same number (Alabama, California, and New York) listed other considerations as important. Of the latter, California merely stated that other factors were important, while both Alabama and New York listed the

inmate's prior record as a consideration, with New York also examining the parole plan. This again suggests that the emphasis is on retribution and on having the inmate stay out of trouble.

Do Boards Really Use the Guidelines?

In a 1974 study of the U.S. Parole Commission, Hoffman and DeGostin presented evidence which indicated that parole board members made 91.7% of their decisions according to the guideline rules which they had previously developed (Hoffman and DeGostin, 1974:10). In a later study of the federal board, the authors of an article in the Yale Law Review essentially accepted this percentage by stating that the federal guideline table determined "almost all first parole decisions" (Yale Law Review, 1975:825; see also footnote 75).*

Closer scrutiny of the Hoffman and DeGostin data reveals several problems which suggest that their finding may not be strictly accurate. The decision to count questionable cases as falling within the guidelines (such as those cases where minimum terms did not expire until after the guideline period had ended or where the maximum term ended before the first guideline release date arrived), counting those as falling within the guidelines, inmates initially considered before they had served the incarceration period suggested by the guidelines and the apparent inclusion of cases which had been continued to a definite date (which may well be beyond the guideline period) as falling within

*Several factors make the federal parole board an excellent choice for testing whether or not parole boards follow their own guidelines. These include the availability of data, the preciseness of the guidelines themselves, and the accepted premise that the board does, in fact, make almost all of their decisions according to these guidelines.

the guidelines, all provide reason to question the accuracy of the study's findings. Schmidt does indicate in her study that 53% of those inmates either within or above the guideline ranges did not receive parole, but her study's usefulness is limited by its treatment of cases occurring prior to the implementation of the guidelines (Schmidt, 1977: 52). These problems suggest that a study of current practices which included some of the above considerations might obtain a "within" figure different from that given by Hoffman and DeGostin.

Abuse of Guidelines

Although a newly researched set of figures based on more acceptable premises would certainly show a drop in the number of decisions made according to the guidelines, the percentages would still indicate inflated figures, simply because the parole board will sometimes alter the severity of offense or some of the other variables used in the decision, such as the Salient Factor Score, in order to arrive at a decision within the guidelines (See Yale Law Review, 1975:837-839). Even Hoffman and DeGostin recognize that the board will alter an offensive severity rating according to aggravating or mitigating circumstances (1974:11). This alteration is done in spite of regulations which permit altering the severity of offense only under two specific conditions. Under these regulations, the board must use the more severe heading if the offense can be placed in two different classifications. An increase in severity rating is optional (Yale Law Review, 1975:835).

Another source of guideline abuse stems from the accuracy of the information upon which the board makes its release decisions. As

mentioned earlier, most of this information comes from the case review, and these reports seldom receive the attention they deserve.* Board members seldom use the parole hearing to check these data, even though they obviously realize that the information contained in the case review is frequently incomplete (Yale Law Review, 1975:835-836).

As this failure to check data indicates, the parole release hearing represents another source of guideline abuse. Board members generally give little weight to the inmate's version in determining offense severity; they generally fail to indicate to the inmate that guidelines are determining his or her disposition, at least in theory, and that some facts are more important than others (Yale Law Review:830, 832, and 835). Board members also tend to emphasize rehabilitative factors even though such decisions are essentially irrelevant to a guideline decision, and hearing examiners will sometimes ask institutional representatives to comment on factors which have supposedly been rejected and superseded by the adoption of the guidelines (Yale Law Review, 1975:830 and 839). The authors of the article in the Yale Law Review even contended that an observer of a federal parole hearing would receive almost no indication that a specific guideline table was supposedly controlling the release decision (1975:830).

Unstructured Decisions

Despite questions about actual use and potential abuse, states with guidelines have traditionally been contrasted with states that refuse to formally structure their decision-making processes. Even though

*See Chapter 5.

guideline use covers a wide spectrum of actual application, some jurisdictions have no set order of things to consider. Such jurisdictions like to stress individualism and the important of handling each case separately and distinctly.

While this emphasis on individualism and maximizing discretion provides more potential for abuse, in actual practice jurisdictions with no guidelines probably compare favorably with those that have them. Certainly guidelines do not prevent making decisions on extraneous factors, just as unstructured discretion does not necessarily imply arbitrary decisions. If boards want to make arbitrary decisions, the presence of guidelines can really do little to curb the practice, at least not without some supplemental assistance from due process safeguards.

Our survey provided additional verification regarding the similarity between unstructured and structured decision-making. For some unknown reasons, eight jurisdictions that claimed to have no guidelines answered the questions relating to the type of criteria the guidelines incorporated. When these responses were tabulated and ranked according to the number of jurisdictions which used each criterion, the rankings for states with no guidelines closely matched the rankings tabulated from those jurisdictions that attempted to structure their decisions. If due consideration is given to ties in the data scores, the rankings are identical.

Additional insights into structured decision-making are provided in Scott's 1974 article on a midwestern state that apparently did not

TABLE 4.6

COMPARATIVE RANKINGS OF GUIDELINE VARIABLES
BETWEEN STRUCTURED AND UNSTRUCTURED JURISDICTIONS

Criteria	Ranking: Guideline Jurisdictions	Ranking: Non-Guideline Jurisdictions
Seriousness of offense	1	1
Institutional behavior (disciplinary)	2	2
Potential for successful community adjustment	3	2
Participation in instutional programs	4	4
Likelihood of recidivism	5	4
Release time most likely to promote rehabilitation	6	6
Just and equitable time served	6	7
Assistance to criminal justice authorities	8	8
Other	8	9

use guidelines in making its parole release decisions.* According to Scott, the severity of offense represents the major factor in determining the amount of time served by an inmate. Disciplinary reports are also directly related to severity of punishment. On the other hand, prior criminal record and institutional adjustment require more time and effort to process and assess. Considering the time limitations under

*Although Scott is specifically concerned with the amount of time served, considering this topic necessarily implies determining when the inmate can be released.

which most parole boards work, it is perhaps only natural that these latter items receive less attention, especially when evaluating this information is not facilitated by a guideline format (Scott, 1974:217-219).

CHAPTER 4

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CHAPTER 5

INFORMATION GATHERING AND DECISION-MAKING PRIOR TO THE PAROLE HEARING

Introduction

Before an inmate appears for a parole hearing, a number of important tasks must be performed by the parole boards and supporting personnel. The duties include developing and maintaining a case file, preparing a case review or parole summary, determining the eligibility of each inmate, and setting a hearing date. For the case file, complete and accurate information must be maintained on the inmate's personal, institutional, and criminal record.

Parole eligibility, on the other hand, requires accurate data concerning statutory limits on possible parole dates and actual time served. Since conditions such as additional jail credit, additional sentences, and sentence reductions can change the eligibility date, these items require periodic updating, with a special tabulation occurring just prior to the parole hearing (New Jersey State Legislature, 1975: 29-30). When applicable, this information must be supplemented with data regarding good-time credits and the mandatory release date.

The Case File

During the pre-decision period, probably the most important duty of the parole board and supporting personnel is to prepare and compile the case file. This file is the prime repository of information concerning the inmate, and the data included in this document form the basis of the

case review. The file usually includes the inmate's entire criminal record and, if applicable, the juvenile court record, standard biographical data, and notice of any special family, drug, or alcohol problems. Reports relating to the inmate's institutional behavior are sought from "the institutional physician, psychiatrist, psychologist, director of education, correspondence censor, chaplain, financial officer, and disciplinarian," although the actual list of persons consulted will vary from jurisdiction to jurisdiction, as well as from case to case. New York requires a recommendation regarding parole from the district attorney of the county from which the inmate was sentenced. They also require the case file to contain any summaries of any interviews conducted in relation to the case, as well as a codefendant list, should any codefendants be incarcerated in a different prison (Citizens' Inquiry on Parole and Criminal Justice, 1975: 34 and 40).

The Case Review

As the name suggests, this report is a summary of the major information in the case file, the file usually being too extensive to read in its entirety before a parole hearing. In addition to summarizing much of the case file, the case review also evaluates the various other reports and attempts, at least ideally, to integrate these observations into a concise picture. This synthesis is then supplemented with a parole plan and, on occasion, a recommendation from the analyst regarding whether the inmate should be paroled (Stanley, 1975: 48-50).

In order to facilitate the presentation of this information, 42 jurisdictions have established a standardized format for the case review.

This format usually includes the presentence investigation, disciplinary reports, psychological data, a listing and evaluation of the inmate's participation in institutional programs, parole plan, and comments by interested personnel. Each criterion was used by at least 44 jurisdictions, with 49 using the parole plan.

Some jurisdictions also require additional information, such as a psychological/psychiatric report, for certain categories of offenders. According to our survey, 35 boards required such information for murderers, while 38 required it for sex offenders and 33 required it for mentally retarded offenders. A substantial number of jurisdictions (22) stated that they also required extra information for other types of offenders. In most instances, this category consisted of inmates involved in other crimes of violence, but both Hawaii and Rhode Island require additional information for all offenders. Massachusetts, Montana, and Delaware specifically mentioned arsonists, while Texas noted individuals with institutional problems and Oklahoma referred to the "young and geriatric set."

In order to present a more complete picture of the case review and what it entails, a sample report format has been included below.

FORMAT FOR PREPARATION OF CASE REVIEW: NEW YORK

Introduction

Since the completed form IS-5 contains the information usually recorded under the heading "Introduction" this heading will not be required in most cases. However, it may be needed to describe special circumstances or conditions such as change of sentence after return to court, additional sentences, etc.

Legal History

Present offense: Briefly describe crime; record objective facts, include date of offense and circumstances of arrest (official version). In prison indeterminate sentence cases state recommendation of District Attorney, if no recommendation has been received, so record.

Previous record: Give number of arrests; indicate general pattern of crimes; any institutionalization--if only 2 or 3 entries, list them.

Warrants or indictments outstanding: List them in order of their date; source or warrant; signer of warrant; place of issuance; charge; warrant or indictment number. Indicate when and to whom letters were sent inquiring as to disposition of warrant. Indicate date and nature of reply.

Institutional Adjustment

Work: Quote work with date report furnished by Principal Keeper, Director or Supervisor of Education, Superintendent of Industries or Maintenance Foreman.

Vocational education: Quote with date report furnished by Director, Supervisor of Education or by the teacher.

Academic education: Quote with date report furnished by Director, Supervisor of Education or by the teacher.

Recreational: Quote report furnished by Supervisor of Recreation or statement of inmate of what he does for recreation.

Disciplinary: Quote disciplinary report furnished by Principal Keeper or Assistant Superintendent.

Medical: Quote Doctor's report of physical examination and past history--date of examination.

Psychiatric: Quote with date (eliminate social history). Diagnosis-Prognosis.

Psychological: Quote report of psychologist with date.

Religious: Quote Chaplain's Reports. If not (sic) report is received, state religious denomination.

Correspondence: Quote Correspondence Censor report with date of report.

Visits: Quote visits furnished by Correspondence Censor or Visiting Room Officer.

Comptroller's clerk (cash): Quote report furnished by Chief Clerk or Comptroller's Clerk as to amount of inmate's cash and State allowance.

Associates: Give name and number of inmate's friends or associates. Report to be furnished by Principal Keeper or Assistant Superintendent.

Military Information: Indicate location of discharge papers. If in inmate's personal property file in institution, review same; indicate type of discharge, date, service, et al. If this information is not available, follow procedure and write to military for details. Indicate date such letter was sent.

Social security number: Give the number and indicate the location of the card. If inmate has no card, indicate date a new card was requested.

Evaluation

The following is to be used as a guide in preparing the evaluation, and is not intended as a method of evaluating the inmate. Recording should be brief and succinct. While topical headings are listed below for demonstration purposes they will not be used in the actual recording because they tend to segment the evaluation. They are used here merely to emphasize the need for orderly presentation of the material.

Legal history: Briefly record subjective and interpretative data re-present offense, indicating any of the following which are pertinent: the part he played; gang membership; leadership; acquisition and disposition of weapons; aggravating or mitigating circumstances; attitude toward crime and associates. Has he developed any remorse-insight? Previous offense-pattern, length.

Social: State age and nativity; indicate any of the following which are pertinent: broken home; family relations; school progress; associates; work habits; sex habits; use of drugs and intoxicants; religious beliefs and practices; community attitude of agencies, police and others toward

him and his family. Brief statement of parents' background, siblings. Follow-up on initial planning (refer to initial and subsequent interviews).

Intramural: Briefly record present medical findings, work limitations, e.g., "found to be physically normal with no work limitations." Psychiatric and Psychometric: Briefly record psychiatric diagnosis-prognosis: I.Q.; work record in community and in prison; work interests; academic, vocational interest. Comment briefly on institutional conduct and adjustment, interpreting the significance of disciplinary reports, e.g., "Subject has had three disciplinary reports (all for talking in line) none of which is serious." Describe recreational and leisure time activities. Record interests and participation in religious practices.

Community parole plans: Community contact while confined, i.e., correspondence; visits; attitude of parents, wife, etc.--residence and employment plans--where he should live, type of work for which trained or found desirable; warrants which may affect parole planning; community assets and problems of inmate. If the inmate has a large amount of money on deposit, indicate his plans for the disposition of these funds.

Parole supervision needs: Is the inmate ready for parole--if so, why; if not, why? If ready for parole, indicate supervision needs; by way of type of home setting-employment; areas to which he should go or from which he should stay away. Special needs: religious; medical; vocational training; Alcoholics Anonymous; remain away from narcotics. Financial needs, family need and attitudes; complainant; codefendants; leisure time. Type of approach to which inmate responds. Special interest. Psychiatric clinic follow-up.

Information to supplement probation report or needs for investigation: Record a numbered list of field contacts needed to obtain current information in the case. List the names and relationships of persons to be interviewed or the agency to be contacted to obtain necessary information. Such information may be necessary to supplement the Probation or Classification report. It may also be needed to resolve information provided by the inmate which

conflicts with the account given in either of these reports.

Parole Program

Residence: Give name, relationship and complete address of person with whom inmate plans to live, list telephone number if known. In urban areas give apartment number. In rural areas, in addition to recording the RFD number, clearly indicate how to reach the home. Record whether a residence program has been definitely offered, and whether it has previously been investigated.

Employment: Inidcate the source of employment offer, viz, inmate's own efforts, letters, etc. Specify the person who is to be contacted; give complete name and address of prospective employer; list telephone number if known. If no employment program is submitted, outline briefly the inmate's efforts to obtain such a program.

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*From Stanley, 1975:36-39.

Although virtually all boards use essentially the same type of materials, the actual rating of each item varies widely from jurisdiction to jurisdiction. Over half of the jurisdictions rate the presentence report as the most important source of information, but others rate it as low as seventh or eighth. Prison discipline, psychological reports, and the parole plan also receive high ratings, but almost as many boards rate the parole plan sixth as rate it first. Usually considered of least importance are an inmate's security classification and comments by interested parties. See Table 5.1.

Differences also exist in the regulations relating to the presentation of information. Some states allow summaries of the various reports, but New York requires the case review to contain the complete

TABLE 5.1

IMPORTANCE OF ITEMS USED IN THE CASE REVIEW

	Rating Distribution*							
	More Important							Least Important
Item	1	2	3	4	5	6	7	8
Presentence investigation	25	3	3	2	1	3	2	1
Prison discipline	3	12	6	11	6		1	
Psychological reports	1	10	18	3	3	3		1
Participation in prison programs	1	7	10	10	5	4	2	
Security classification		6	3	3	9	10	5	
Parole plan	10	2	5	6	7	8	3	1
Comments by interested parties		2	2	2	2	5	19	4
Other[a]	4	1	1	2				1

*Each rating square gives the number of jurisdictions giving the item in question that particular rating. Not all jurisdictions gave ratings. Some listed the item as not applicable while others simply left out the appropriate information.

[a]These "others" usually represent variations on the seven items specifically listed. Exceptions include Oklahoma, which considers interviewer reports as its prime source of information, and Utah, which relies most heavily on a personal interview with the parolee.

reports from prison personnel, as well as the reviewer's evaluations of these data.

The Presentence Report

In preparation of the case review from case file material, the presentence report undoubtedly represents the single most important source of information. These reports are frequently researched by field probation or probation-parole officers. Prepared while the offender is still under the jurisdiction of the court, these documents are at least as important in the judicial decision as they are in the parole decision; further, they often represent the major source of information regarding the inmate's criminal record and social background.

In compiling the criminal data, information is sought concerning the current criminal offense and any past juvenile or adult record. For the current offense, the investigator attempts to determine the nature, date, and place of the violation; whether the offender was under the influence of alcohol or other drugs; the date and place of the arrest; the arresting officer(s); place of detention; whether bond was posted and, if so, the amount; and the number of days the offender spent in custody. If the police record indicates co-defendants, the investigator attempts to determine their current status and to obtain their statements relating to the offense. This information is supplemented by the defendant's own statements concerning the offense and the offender's current attitude toward the crime (Louisiana Governor's Pardon, Parole and Rehabilitation Commission, 1977: VII-2).

When the investigator collects and evaluates information about the offender's social history, some effort is made to use biographical data in order to explain why the offender committed the crime. Standard items such as date and place of birth are included, but more stress is placed on marital status and problems, information about the family members, any history of drug and alcohol abuse, the offender's education history, and standing in the community. Information is also sought concerning the defendant's financial status and employment history. Some jurisdictions even request information about church affiliation, attendance, and the offender's general attitude toward church (Louisiana Governor's Pardon, Parole and Rehabilitation Commission, 1977: V11-3).

The investigator also collects information concerning the inmate's physical and mental health, using medical or psychiatric reports where available. In many cases, however, the investigator will often have to provide his or her own opinion about these items, even to the extent of providing opinions about "posture, gait, expressions, scars, defects, disabilities, and deformaties," as well as observations on the offender's "fears, obsessions, compulsions, anxieties, conflicts, depressions, frustrations, peculiar ideas and habits." Some effort is also made to describe the offender's special interests and activities, as such information may prove to be of importance in developing treatment plans (Louisiana Governor's Pardon, Parole, and Rehabilitation Commission, 1977:B11-3 and V11-4).*

*For a more complete analysis of the presentence report, see Townsend, Palmer, and Newton, 1978.

Institutional Reports

Although the presentence report covers most of the subject areas required in the case review, a thorough reviewer will supplement and update this material by compiling and synthesizing the inmate's institutional history. In order to obtain this information, reports are requested from the inmate's institutional physician, psychologist, psychiatrist, work supervisor, teacher, and chaplain. Evaluations are made regarding the inmate's physical well-being, including any handicaps; a psychological profile may be constructed; opinions concerning the inmate's ability to cope with various situations are duly noted; and participation in institutional work and educational programs is monitored with an eye to discerning any noticeable changes or maturation on the part of the inmate. In this, the institutional report essentially parallels the presentence investigation.

An exception to this parallelism occurs in the institutional disciplinary report. While the presentence report may include some general observations about the offender's attitude toward authority, the disciplinary report specifically notes the number of infractions a prisoner commits, the type and seriousness of each violation, and the disciplinary action taken by institutional personnel. Provided they are serious enough, these violations can have a decided impact on the parole decision, and the Colorado parole board will even deny parole consideration to those inmates who attack either another inmate or a custodial officer with a deadly weapon (O'Leary and Hanrahan, 1976:108).

Solicited Comments and Interviews

While the institutional reports provide most of the information on the post-sentence behavior of the inmate, a substantial number of jurisdictions supplement this material by soliciting comments from various individuals associated with the inmate and his or her criminal history. Judges are the most frequently used source of additional comments, with 30 jurisdictions specifically asking these individuals to provide information. Prosecutors are asked almost as frequently for their opinions regarding release, with 27 boards requesting their comments. Some states, such as Alabama, Arizona, and Maryland, require their judges and prosecutors to submit these reports. Other individuals who are specifically asked to submit information include correctional personnel (17 jurisdictions), victims (9), defense attorneys (5), the inmate's family and friends (5), and law enforcement personnel (5).

Although most jurisdictions do not specifically solicit information from victims, defense attorneys, and an inmate's family and friends, many boards will usually consider non-solicited information in their release decision. On the other hand, the responses of some boards indicated that they only considered information, whether solicited or merely accepted, from specifically listed sources. Twelve boards, including Florida, Hawaii, Oklahoma, Vermont, and the District of Columbia, do not solicit any information and must rely on voluntarily submitted materials in order to update their case reviews.*

*Florida, Hawaii, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Oklahoma, Tennessee, Vermont, District of Columbia, and U.S. Parole Commission.

Whatever the means of obtaining the information, the various options listed above invariably indicate that the inmate is at a distinct disadvantage in this effort to collect and submit information, unless he or she manages to obtain some sympathy and understanding from the judge and prosecuting attorneys than from defense attorneys and the inmate's family, and some boards list only sources that would tend to be less favorable to the inmate. It should also be noted that even when boards state that they will consider sources more favorable to the inmate, questions will remain concerning the comparative impact of these sources in relationship to the comments by judges and prosecuting attorneys.

The Parole Plan

The parole plan or program constitutes another essential part of a complete case review. This plan usually consists of nothing more than basic information regarding residence and employment, but its inclusion in the report does assure the board that the inmate has at least established some definite plans for the future. A typical plan might include the inmate's future address and telephone number, information on the individuals with whom the potential parolee plans to live, the name and address of the prospective employer, and the type of job offered the inmate. Where the inmate has no definite job offer, some indications concerning efforts to obtain employment are usually included.

Recommendations

In preparing the parole report, the reviewer will, of necessity,

make a number of recommendations concerning the potential parolee. Most of these are concerned with the parole plan, and they are used by the parole board in evaluating the inmate's potential for parole success. These recommendations may include opinions about where the inmate should live, employment training and what type of job might be most suitable, financial needs of the inmate, and any special supervision needs the parolee might require.

The case review also frequently contains a specific recommendation on whether the inmate should be paroled. In our survey, 33 jurisdictions indicated that their reports contained a written recommendation regarding the case in question. At the same time, the responses also indicated a rather varied pattern concerning the individuals responsible for preparing these evaluations. They include institutional staff, hearing examiners, institutional parole officers, case analysts, field parole officers, and parole panels. Some states used a combination of the above options. Oklahoma referred to an "interviewer," South Carolina used an investigating agent and used some unspecified professional staff. Institutional staff easily represented the largest groups, with professional case reviewers (case analysts and institutional parole officers) rating as a distant second.

Guidelines

In deciding whether to recommend parole, some jurisdictions use parole risk or suitability guidelines. Use of guidelines occurs less frequently than traditional parole recommendations, and only 15 jurisdictions routinely include guidelines in the case review. Even

fewer boards (11) use both the traditional recommendation and risk assessment scores.*

Completeness of the Reviews

Considering the volume and the complexity of the data required for a well-constructed case review, it is perhaps inevitable that problems exist regarding the completeness and usefulness of the data. Some reviews will not have all of the necessary reports, and the reports that are included will frequently lack essential data or provide meaningless generalizations about an inmate's institutional progress. Such problems probably occur less frequently in jurisdictions which provide standardized forms and guidelines, although this hypothesis has not specifically been tested.

A study of the pre-decision process in New Jersey demonstrates how serious the problem of inadequate case reviews can become. According to this study, which examined 100 randomly selected files in depth, the New Jersey Parole Board had to make a decision based on inadequate information in approximately 50 percent of the cases. The missing or incomplete items included the parole plan (16 missing and 2 incomplete), the psychological admission and progress report (65 missing and 3 incomplete), the medical-psychiatric admission and progress report (45

*The 15 boards that use risk scores as part of the guidelines are Colorado, Florida, Hawaii, Louisiana, Michigan, Minnesota, Nebraska, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, West Virginia, and the U.S. Parole Commission. Of these 15, Florida, Louisiana, Nebraska, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, West Virginia, and the U.S. Parole Commission use both recommendations and risk scores. It should be noted that Michigan, Washington, and West Virginia stated that they did not use guidelines in another section of the questionnaire. See Table 4.3.

missing and 10 incomplete), and the assignment, disciplinary, and transfer progress report (18 missing and 15 incomplete). Eleven files had no information at all, and no files contained the presentence report, although most of them had a digest of this information (New Jersey State Legislature 1975:50-52).

Although the situation appears somewhat better in New York, an analysis of case reviews in that state also detected some problems with data collection and interpretation. Most of these difficulties occurred in the areas of social history and institutional reports, with the usual difficulty being one of satisfactory analysis and commentary. According to this New York study, sections dealing with the legal and criminal history "were full and complete," but the social histories contained very little analysis. Several cases failed to contain all of the necessary evaluations of institutional behavior, while those evaluations that did appear were cited as being "often meaningless and not always substantiated." One report, for example, stated that an inmate had participated in group counseling without indicating how long the inmate had been in the program and wehther the counseling had been beneficial (Citizens' Inquiry on Parole and Criminal Justice, 1975:41).

Verification of Information

Problems of incomplete data are often compounded by inadequate procedures for verifying information. Although 30 jurisdictions indicated that they verified case review information and 42 stated that they verified institutional disciplinary reports, responses indicating the manner of verifying disciplinary reports suggest that actual checks

on information frequently ranged from inadequate to non-existent. Some states merely check the inmate's files, and a number of boards consider existing institutional procedures as adequate verification. Others either limit their checking procedures to contacting prison personnel, while some boards have institutional personnel do the checking. Only nine jurisdictions provide verification procedures that indicate some type of independent investigation. Arizona and North Carolina use case analysts to verify reports, while Indiana, New Hampshire, and New York use institutional parole officers. Wisconsin and the U.S. Parole Commission are the only two jurisdictions that utilize due process hearings in order to verify institutional disciplinary reports.*

A majority of jurisdictions place further obstacles in the way of obtaining verification by refusing to let the inmate see material in the case review. Only 20 boards allow the inmate to see the review, and, of these, only Hawaii currently places no restrictions on the material available to the inmate. Rhode Island, however, will apparently soon follow Hawaii's lead. Those jurisdictions that place restrictions on material accessible to the inmate frequently prohibit him or her from seeing psychological/psychiatric reports. A slightly smaller number prevent inmates from examining certain materials by classifying them as confidential. On the other hand, the U.S. Parole

*Federal hearings are referred to as "Wolff Hearings" in recognition of the Supreme Court case of Wolff v. McDonnell 418 U.S. 539 (1974). In this case, the court decided that advance written notice of the charges had to be given to the inmate at least 24 hours in advance and that the inmate was also entitled to a written statement by fact finders relating to the evidence used and the reasons for the disciplinary action (Lewis and Peoples, 1978:790-791).

Commission restricts only that information which would possible threaten someone's life or safety should it be disclosed.*

Further complications arise from both the nature of the information and from conflicting versions of events. In the former instance, some information may be withheld from the inmate because of possible adverse effects. Other information, because it reflects tehcnical psychological/psychiatric data or the opinions of various institutional personnel, does not readily lend itself to questions of truth or falsity. As for conflicting versions of events, there are numerous indications that parole boards will almost automatically give the least amount of credence to the version presented by the inmate. This rejection will even occur when the parole board might, with some extra effort, check the discrepancy against another source (Schmidt, 1977:88-96).

Receiving the Report

Despite the deficiencies that frequently exist in case reviews, a substantial number of boards do not receive these reports until shortly before the actual parole release hearing begins. According to our survey, fourteen boards receive the reports either immediately before or during the hearing, and two receive them between 12 and 24 hours before the hearing begins. Other jurisdictions allow more time, but only nine noted that they allowed two weeks or more between receipt of the case review by the board and the holding of the parole

*Twelve states restricted psychological/psychiatric data, nine classified certain materials as confidential, three restricted information that was counter to release, and one state (Illinois) specifically prevented the inmate from seeing material submitted by the victim.

hearing.* These time limitations make it difficult for these boards to conduct extensive checks on the information contained in the parole report.

While this task of checking could be, and sometimes is, performed by the reviewers, actual points of dispute may not arise until the time of parole interview. A similar problem exists regarding inadequate data. Since the information a board will actually require for a given case is unknown until that case is heard, it is difficult, if not impossible, to know when enough information has been gathered. Obtaining full reports containing all information naturally represents one way to offset this problem, but such a solution may be unfeasible. Having board members prepare the review might also minimize this difficulty, but such a solution will often present other problems concerning the technical expertise of the analysts and time availability of board members. As such, by the time boards obtain a case review, they usually have the alternatives of either making a decision based on incomplete information or of postponing the case until they receive additional data and clarifications. Normally they will pursue the former course.

Analysts

In order to alleviate some of the problems associated with preparing case reviews, some boards have designated personnel whose major

*Eleven boards received the report between 5 and 10 days before the hearing, four received it two weeks before, and five boards obtained the report a month or more before the hearing. Fifteen other jurisdictions noted that they received the report more than 24 hours before the hearing, but this could mean anything from two days onward.

function is to prepare these reports. Our survey indicated that 24 jurisdictions followed this practice. Ten of these boards used case analysts, while twelve used institutional parole officers; Pennsylvania and Texas indicated that they used both.

Jurisdictions that do not have individuals who concentrate on preparing case reviews usually require one or more board members to prepare the report. Data tabulated from our survey indicate that nine jurisdictions assign the task to one of the board members and that twelve boards use their full membership to prepare the reports. Other options include institutional staff (9), hearing examiners (3), and field parole officers (3).*

Institutional Parole Officers

Of the various personnel used for case review preparation, institutional parole officers are probably most closely associated with the entire scope of pre-decision activity. In New York, for example, these officers must counsel the inmate, provide him or her with information about parole decision-making and parole supervision, and must help the inmate develop a satisfactory parole plan. These officers conduct an initial interview with the inmate, as well as various follow-up interviews with both the inmate and appropriate prison personnel. Prior to the parole hearing, they also conduct a pre-parole interview. These officials provide no custodial or supervisory

*North Dakota delegated responsibility to the board executive secretary, while Montana used both the executive secretary and a hearing officer. Maine used an administrative assistant to the board to supplement their institutional parole officer, and Ohio supplemented their one board member with a hearing officer.

functions, and they are not under the jurisdiction of the local prison superintendent, in contrast to the other institutional staff who are occasionally used to prepare these reports (Citizens' Inquiry on Parole and Criminal Justice, 1975:34-35).

The status and placement of these institutional parole officers are designed to facilitate the preparation of satisfactory pre-parole reports, and the compiling of these reports represents one of their primary duties, along with maintaining the case file and collecting the various reports on the inmate prepared by institutional personnel. These officers must collect, verify, and evaluate all necessary information, and they can, in cases of an incomplete pre-sentence report, request that field parole officers conduct supplemental investigations in order to collect missing data (Citizens' Inquiry on Parole and Criminal Justice, 1975:34-35).

Although institutional parole officers essentially perform only one function, preparing the inmate and his or her record for the parole hearing, use of these individuals still presents some problems. As mentioned previously, New York case reviews lack important information and suffer from sterile evaluation. These inadequacies, in turn, can be partly traced to the problem of workloads. According to 1969 figures, the ratio between institutional parole officers and inmates was 1 to 241. These officers, who numbered 70 (54 institutional parole officers and 16 senior parole officers), also claimed to have conducted a total of 96,383 "interviews and contacts" (Citizens' Inquiry on Parole and Criminal Justice, 1975:34 and 41-42). Although these figures are

9-10 years old, the ratios have probably remained much the same.

Another difficulty stems from the placement of these officers in such close contact with the institutional setting. Designed as a means of facilitating information gathering, this proximity also makes these officers acutely aware of the perspectives of prison officials. While New York regulations duly noted this problem and attempted to counteract it by placing these individuals under separate jurisdiction, institutional parole officers will, almost inevitably, still be influenced by their own interpretations of how prison officials will react to releasing or retaining particular inmates (Citizens' Inquiry on Parole and Criminal Justice, 1975:40).

Field Officers

Despite the difficulties noted above, using institutional parole officers represents a better solution than using field parole or probation-parole officers, and apparently most jurisdictions have recognized this fact. However useful these field officers may be as investigators, jurisdictions which require these individuals to prepare case reviews have adopted an especially unsatisfactory solution. These officers simply have too many other pressing demands on their time and, unlike institutional parole officers, these demands are spread over a much more varied workload. According to a time study of federal probation officers, these individuals spent only 1.7% of their time preparing the pre-release report as compared to spending just over one-fourth of their time on the pre-sentence investigation (Stanley, 1976:125). In other words, federal probation officers usually provide a few updates and

addenda to the pre-sentence report, and consider the case review completed.

Questions have also been raised concerning the qualifications of field officers as report writers. In a staff analysis of the Louisiana parole system, the authors doubted that graduation from a four-year college, the required prior training of a probation-parole agent in Louisiana, gave these agents the expertise necessary to accurately compile and integrate what is essentially a life-history of the inmate (Louisiana Governor's Pardon, Parole and Rehabilitation Commission, 1977:VII-4 and VII-5). Considering the data required by a Louisiana pre-sentence report, this criticism is certainly well-founded, but one might reasonably wonder if anyone could accurately make some of the evaluations which are expected.*

Parole Eligibility

In addition to facing the problems associated with cases files and the use of special personnel to prepare case reviews, parole boards must also establish parole eligibility for each inmate and determine when the inmate can appear for a hearing. These considerations can involve statutory regulations on minimum sentencing, criteria for advancing hearing dates, presumptive parole dates, criteria for parole eligibility, and non-parolable offenses.

Criteria for Parole Eligibility

In order to be considered for parole, an inmate must first establish parole eligibility. While not all inmates can establish

*Since pre-sentence reports differ only slightly between jurisdictions, this observation essentially applies to all parole systems.

this eligibility due to conviction for non-parolable offenses, most inmates obtain their eligibility as a matter of course.* Most jurisdictions have established rather mechanical eligibility requirements that usually concern the amount of time served. Forty jurisdictions require than an inmate serve a minimum percentage of his or her sentence, while eighteen give credit for jail time. Twelve list entrance into the correctional system as a requirement, and of the fifteen states who responded by listing other criteria, eight of these had established some sort of time-served requirement. Only eight states listed achievement of a particular security classification as a criterion for parole eligibility, while five required an absence of detainers and two asked for recommendations of the sentencing judge.**

Setting the Parole Hearing Date

Assuming the inmate will meet basic eligibility requirements, the board must then set a date for a first parole hearing. The timing of this hearing is almost always set by statute. Our survey indicated that 44 jurisdictions have statutory requirements for setting a hearing date. In 29 of these states, statutory criteria are the only ones used,

*Thirty jurisdictions have non-parolable offenses. Crimes which come under this heading include murder (11 jurisdictions), rape (3), robbery (4), committing a crime with a deadly weapon (3), and kidnapping (2). Alabama will not parole for hijacking, Mississippi will not parole for drug offenses, and Indiana refuses to parole any inmate convicted of treason. These thirty jurisdictions also include seven boards that will not parole inmates who have received life sentences, two (North Carolina and West Virginia) that can deny parole to habitual offenders, and one (Massachusetts) that specifically denies parole to "dangerous offenders."

**Obviously the figures indicate that some boards use more than one criterion for determining eligibility, but specific tabulations were not run on particular combinations.

while 12 jurisdictions use a combination of statutes and administrative guidelines.* Only eight states use administrative guidelines as their sole criterion.

In certain instances, this hearing date can be advanced. Our survey indicated that eighteen states have procedures for advancing the parole date, but most of these states use the practice sparingly. Nine boards advanced only 0-8% of their hearings. Michigan and Texas, on the other hand, stated that they advanced 95% of their hearings. Five jurisdictions provided no data.**

Among the boards that have procedures for advancing the hearing date, no general pattern emerges in relation to the mechanisms which are used in this process. About all that can be said is that some of the procedures and criteria used include appeals by inmates, requests by institutional staff, statutory good time, good conduct, and emergency situations.

Because advancing parole dates represent an infrequently used option, inmates are generally eligible for their first parole consideration after serving a certain portion of their sentence. Thirty-four jurisdictions use time served as their sole criterion, while an

*North Dakota stated that they use statutory criteria and board policy, apparently considering their board policy as different from administrative guidelines. Oklahoma added the request of a board member to statutory and administrative criteria, while Oregon sets their dates according to statute and custom.

**New York and Missouri listed this percentage as zero, while Connecticut, Delaware, Kentucky, North Dakota, and Wyoming gave their figure as 1%. Iowa advanced 3% of their cases, Oregon and Florida advanced 5%, and Hawaii advanced 8%. No information was available from Alabama, Georgia, Kansas, Massachusetts, and Washington.

additional six others combine prison time with parole board discretion and/or input from the sentencing court. Five jurisdictions had specific time limits on first consideration which applied irrespective of sentence length. Three left first consideration to the discretion of the parole board, and one (District of Columbia) had the sentencing judge establish the time for first consideration.

In some jurisdictions where parole consideration occurs early in the inmate's incarceration, this first parole consideration establishes a presumptive parole date. In this procedure, the board informs the inmate that parole release will occur on a certain date if certain conditions are satisfied. Some jurisdictions set this date by contracting with the inmate. Our survey indicated that ten jurisdictions set presumptive parole dates and that seven of these contracted with the inmate.*

Shock Parole

Although most of the pre-decision process revolves around the difficulties of preparing adequate case files and case reviews, with lesser attention given to establishing parole eligibility and standard release dates, a parole board will occasionally decide to release an inmate long before his original hearing date. This type of release has received the appellation "shock parole."

Designed both as an experiment in shorter incarceration times for

*Of the ten jurisdictions that set presumptive parole dates; Idaho, Maryland, Minnesota, North Dakota, Oklahoma, Oregon, and Washington contract with the inmate. Florida, Utah, and the U.S. Parole Commission do not.

certain types of offenders and as a means of reducing prison costs, shock parole is based on the assumption that even a short stay in prison will "shock" some individuals with the realities of prison life. Having obtained a stark understanding of what incarceration means, the inmate is then ready to benefit from an act of forgiveness on the part of the parole board (Vaughan, et al., 1976:272 and 278; Scott, Dinitz, and Shichor, 1975:7 and 11).

Since Ohio pioneered the concept in 1974, 12 other jurisdictions have adopted the practice.* Our survey indicates that most of these boards have adopted less extensive regulations concerning eligible inmates than Ohio and that the U.S. Parole Commission and Arkansas place no formal restrictions on which inmates can be considered for this form of release. Six jurisdictions list non-violent crime as a prerequisite, while five jurisdictions require that the inmate be a first offender in order to be eligible. Although only Kansas and Kentucky specifically mention that offenders who used firearms in committing a crime are not eligible, this restriction is implied in almost all cases.

Mandatory Release and Good-Time

Another release decision that takes place outside of the standard format of case review preparation, parole hearing, and release, occurs when the inmate's incarceration time approaches the mandatory release

*Arkansas, Georgia, Idaho, Iowa, Kansas, Kentucky, Mississippi, Oregon, Utah, Vermont, Washington, and the U.S. Parole Commission. In Arkansas, Kansas, Kentucky, and the federal system, shock parole falls largely under the authority of the sentencing judge.

date. In many instances, these inmates have been denied parole on previous occasions and have had a prior parole revoked, but the situation may also occur when an inmate has received a relatively short sentence. While these inmates might not receive their release under normal procedures, they will usually obtain parole as a result of the different perspectives parole boards apply in such cases.

Actual implementation of these perspectives depends on how close the mandatory release date is, whether the jurisdiction has mandatory release with supervision, and the amount of good-time credit earned by the inmate. In jurisdictions in which reaching the mandatory release date allows the inmate to receive a non-supervised release, the problem is especially acute. On one hand, the board is faced with releasing an individual whom they feel would still benefit from continued incarceration and who might still represent a threat to the community. On the other hand, releasing the inmate prior to sentence expiration allows the board to provide a modicum of supervised adjustment. Given these options, most boards will choose the latter alternative.

In those jurisdictions with supervised mandatory release, parole boards can usually allow a prisoner to serve out his or her maximum sentence without conducting a special parole hearing, because most inmates have enough good-time accumulated to allow for an adequate period of supervision after release. In some instances, however, the board may consider the period of supervision resulting from good-time credits as inadequate for effective parole monitoring and prisoner adjustment. In such cases, the board must handle the release as if

Conclusion

Any assessment of the pre-hearing process must be necessarily ambivalent. All parole boards are aware of the complexity of the issues involved and most have taken some steps to improve their procedures. General agreement exists on the major components of the case file, presentence report, and case review, and some jurisdictions have attempted to improve the quality of the reports by designating special professional personnel to prepare them. Some boards have also adopted risk scores as part of the case reviews.

Innovations have also occurred in the area of setting parole eligibility dates. Through the use of shock parole, advancing parole dates, presumptive parole dates, and contacts, boards have at least made some efforts to reduce prison terms and provide inmates with a better understanding of what parole boards expect from them.

Still, despite these advances, many problems still remain. While boards recognize the importance of accurate and complete information in the case review, studies of the actual material included in these documents consistently indicate that these reports suffer from inadequacies, omissions, and poor verification procedures. Many boards also decline to utilize some of the recent innovations in parole practice, and even those boards which have adopted such procedures as advancing the parole date and shock parole use them infrequently.

Perhaps the greatest problem, however, lies in the area of verification. Although most boards claim to verify information in disciplinary reports and case reviews, actual examination of these procedures shows

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them to be frequently inadequate and even non-existent. Inmates continue to receive few due process guarantees, and those they do obtain are motivated by court decisions.

In all of this, inmates are generally overlooked as sources of information. Their testimony is brief, at best, and their sources of supporting information are seldom granted the authority of "official" sources. Inconsistencies between inmate supplied information and "official" sources are almost invariably resolved in favor of "official" sources. Since the subserviant relationship of the inmate to the parole board is unlikely to change, problems of information quality and verification can only be ameliorated through the use of carefully designed procedures evenhandedly applied.

CHAPTER 5

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CHAPTER 6

PAROLE HEARINGS

Introduction

This chapter will analyze the official hearings during which a prisoner's parole eligibility or status is considered. These hearings include parole consideration hearings, hearings which set presumptive parole release dates or minimum terms, and parole revocation hearings.

A parole consideration hearing is an interview which takes place after a prisoner has satisfied a minimum eligibility requirement, usually some fraction of the minimum or maximum sentence. At that time, the board will determine if, and when, the prisoner will be released on parole. If granted parole, the prisoner will be released, generally within a few months of the hearing. If denied parole, the prisoner may be rescheduled for another hearing after a certain period of time set by statute or board policy.

A presumptive parole release date or minimum term hearing is one which is held shortly after a prisoner arrives at an institution. At this hearing, the board will review the prisoner's case and establish a tentative release date for the inmate. If the prisoner's term is served without major incident and any recommendations made by the board (such as special treatment or program participation) are followed, the prisoner is usually granted parole.

Finally, the revocation hearing is used to determine whether the parolee will be allowed to remain on parole status or will be returned

to the institution to serve an additional period of time. Revocation hearings are held following allegations of technical violations and may also be held following arrest and/or conviction of a new misdemeanor or felony offense.

Parole Hearings and Opposing Views of Parole

Historically, parole release has been closely associated with the medical model of corrections and the indeterminate sentence. The medical model is based on the belief that the correctional institution can best serve as the location for programs designed to facilitate the offender's rehabilitation. The model views criminality as an illness which can be cured with treatment provided over an indefinite period of time. It requires that correctional administrators have broad discretion to determine length of sentence because it is believed that correctional personnel, by virtue of their close contact with the inmate, can best judge when rehabilitation has occurred (what is frequently referred to by parole authorities as "the optimum moment for release").

Parker (1975) sees three underlying concepts involved in parole: 1) the principle of shortening the term of imprisonment as a reward for good conduct, 2) the indeterminate sentence, and 3) supervision. Although good conduct within the institution is a common criterion for parole, the principle of shortening terms for good conduct is largely accomodated by good-time laws. Supervision is generally handled by field service agencies, leaving determination of sentence length as a duty for the parole board; the board makes this determination on the

basis of its assessment of the prisoner's rehabilitation.

Under this traditional view of parole, the decision about whether the offender has been effectively rehabilitated is made at the parole hearing. At the hearing, the parole board interviews the inmate in an attempt to assess the degree to which he or she has been rehabilitated. A Yale Law Journal report (Anon., 1975:820) noted that:

> Traditionally, the hearing state of parole decision-making was thought to provide decision-makers with an opportunity to speak with and observe the prospective parolee, to search for such intuitive signs of rehabilitation as repentance, willingness to accept responsibility, and self-understanding.

The concept of parole release relies on the belief that a trained board can judge when a prisoner has been rehabilitated and release him or her at the optimum moment.

A second important concept involved in parole decision-making is the idea that parole is a privilege granted to the inmate by the state; this concept has been accepted in decisions by both state and federal courts. This theory of parole holds that, since parole is a privilege, the inmate has no absolute right to parole; therefore, there is no right to due process guarantees in the procedures which lead to the determination of parole release. Thus, the concept of parole as a privilege grants the parole board the widest range of discretion in the administrative procedures used to determine parole release. Although Morrissey v. Brewer (-U.S.-, 60LEd2d 668, 99 Set 2100) repudiated this concept to a certain extent with respect to revocation hearings, the privilege concept is still prevalent regarding the decision to grant parole. A recent decision by the U.S. Supreme Court in Greenholtz v. Inmates of

the Nebraska Penal and Correctional Complex concluded, however, that discretionary parole systems create, for eligible inmates, a "justifiable expectation of parole" which is protected to a limited degree by the due process clause of the Fourteenth Amendment. The court held that inmates must be given a full formal hearing, reasonable advance notice of the hearing date, and written reasons if the application is denied.

Thus, two concepts are important in understanding the traditional view of the parole hearing and release decision. The first is the concept that the board can accurately determine whether the inmate has been rehabilitated and can be returned to the community without undue risk of parole violation. The second concept is that parole is a privilege, granted at the discretion of an autonomous board and not a right of the prisoner. Both concepts have shaped many of the procedures involved in parole hearings and release decision-making; and both concepts have come under attack from critics who regard them as relics of a time and theory long since past.

In contrast to these customary views of parole are the emerging non-traditional views. Again, these views are based on two concepts which have significant implications for the procedures of parole hearings. The first of these non-traditional concepts ties parole to the idea of sentencing equity. Rejecting the medical model, with its emphasis on determining the point at which rehabilitation has been achieved, the concept of sentencing equity abandons the belief that "treatment" through incarceration will facilitate rehabilitation and

stresses the benefits of certainty and fairness in sentence determination. Under this concept of parole, the primary function of the parole hearing is to make certain that similar types of inmates who have been convicted of similar offenses serve similar amounts of time in prison. In order to facilitate the determination of equity and certainty in sentence length, various sets of guidelines have been developed around which parole board decision-making may be structured. The use of structured guidelines to assure equity in sentences also contributes a degree of certainty into the parole decision-making process. Thus, while a few individual cases may have special characteristics which make the use of guidelines inappropriate, for the vast majority of cases, the inmate will know at a very early point in imprisonment, what his or her actual sentence duration will be.

Along with the concept of sentencing equity is emerging the idea that parole, rather than being a privilege extended by the state, is a right. This concept of parole implies that the applicant for parole has a real expectation that parole will be granted, and thus due process guarantees must be applied to the parole consideration hearing. As we have seen, the U.S. Supreme Court has just moved substantially toward this position. Under this concept, denial of parole would be an exception to the parole granting rule which could not be valid unless the inmate's interests had been adequately protected.

These two concepts of sentencing equity and parole as a right have profound implications for the purpose and character of the parole hearing. Under these concepts, hearings are more likely to be fairly

highly routinized, with much less emphasis on the background and history of the prisoner or the prisoner's attempts at self-improvement through participation in prison programs. It is likely, however, that emphasis will be placed on verifying the accuracy of information upon which board decisions are made, ensuring that the inmate's rights are protected, and on adequately justifying a denial of parole.

Commentary: The Need for Parole Hearings

A number of authors have contributed to the discussion concerning the question of whether there is really a need for parole hearings. Oswald, from his experience as the chairman of the New York Parole Board, states that the elimination of hearing interviews would "detract from the theory of individualized treatment" (Oswald, 1970). This statement reveals an important facet of the thinking of parole boards. Hearings seem to be required by theory and tradition, but their effect on parole decision-making seems minimal. Most of the criteria for parole decision-making depend on facts known to the board prior to the hearing. Most board members interviewed by Stanley (1976) appear to take the need for hearing for granted. Board members tend to describe the hearings as an opportunity to "get the feel of the prisoner, to measure this feeling" (Finsley, 1958). The hearing, thus, is a situation for gathering impressions, rather than facts. Although it tends to be more of a review of information than an information-gathering session, the parole board hearing is one of the most important steps in the parole decision-making process. Within perhaps a ten to twenty minute span, the board member will consider an inmate's file, ask a few

questions and then make a decision on whether to grant or deny parole. Within that short period of time, the parole board will make a crucial decision that will affect the life of a prisoner they might have never met before. They will try to determine whether it is likely that the prisoner will be able to live up to the conditions of parole, what kind of risk is represented if he or she returns to a criminal life, and whether the release is compatible with a number of other standards. As the chairman of the U.S. Parole Board once remarked, "We have this terrible power; we sit up here playing God" (Stanley, 1976).

Critics of the parole system might be quick to point out that the power seems God-like because the board does not take the time to fully consider each case and render a rational, well-informed decision. Instead, it would seem that parole boards are depending on divine guidance for decisions. Giardini has written that "hearing interviews are notorious for inadequacy from the standpoint of time given to them and for the lack of skill on the part of the interviewer" (Giardini, 1959). Yet some board members have a high degree of confidence in their interviewing skills. One board member writes "By careful questioning much of (the applicant's) character and plans will be open to the interviewer" (Finsley, 1958). Board members feel that they can tell whether they are being "conned" by the inmate. Oswald writes "Many times a board member will interrupt the most intriguing tales to let the person know the performance is a flop" (Oswald, 1970).

Most of all, board members feel that the interview is necessary to show that the board is sincerely interested in the applicants as

individuals. The board members feel that an individual hearing will help the prisoner gain confidence in the parole process. Chew writes that unless the hearing is handled correctly, the prisoner "will come away with a sense of defeat rather than being encouraged that he will be treated right" (Finsley, 1958). Encouraging the parole applicant and demonstrating that the process is fair and that he or she will be treated as an individual seem to be major justifications for parole hearings.

Stanley (1976) has summarized both the criticisms and arguments in favor of parole hearings. In opposition to the usefulness of parole hearings, he notes the following:

1. Parole hearings 'are of little use in finding out whether the inmate is likely to succeed on parole.' (42)
2. If precedents and policy of the board indicate clearly that parole should be granted or denied, then the hearing is a 'charade.' (42)
3. If the deny/grant decision is not so clear-cut, then the hearing 'is a proceeding in which the inmate is at a great disadvantage and in which he has reason to say anything that will help his chances for parole.' (43)
4. The hearing 'is an ineffective way to elicit information, evaluate character traits, and give advice, all of which parole boards try to do.' (43)

Overriding these criticisms of parole consideration hearings, however, are several powerful reasons for continuing the practice of holding face-to-face interviews with the parole applicant. The first argument, Stanley (1976:43) notes, is the "right to a day in court" idea. This idea holds that every applicant is entitled, at the very least, to confront the board, have the opportunity to state his or her

own case, to correct any misinformation which may be before the board, and to demonstrate reform or progress toward rehabilitation. Even more important, however, is the reason that:

> ...as a matter of apparent fairness and decency the prisoner has to be interviewed, and the information gained is believed by the board to be useful. The prisoners themselves believe they must be heard, although they denounce any hearing with an adverse outcome. Board members feel frustrated and guilty if they make decisions about a person who is only a name, a number, and a collection of data in a file. (Stanley, 1976: 43-44).

Conduct of Parole Hearings

All states (with the exception of Georgia), the District of Columbia, and the federal system hold parole consideration hearings. Although the number of hearings held varies from year to year, the following summary table lists the number of parole hearings (broken down into initial hearings and re-hearings where information was available) held in each jurisidiction during the most recent fiscal or calendar year (Table 6.1). As the table indicates, the number of hearings held each year ranges from a low of 22 (Maine) to a high of more than 28,000 (federal system). The table also illustrates the number of paroles granted during the most recent fiscal or calendar year, again broken down into grants at initial hearings and grants at re-hearings where this information was available. Finally, Table 6.1 reports our respondents' perceptions of the formality of the hearings they conduct. Almost two-thirds (65.4%) of the respondents characterized their hearings as "somewhat formal," almost one-fourth perceived their hearings as "informal"; and only five jurisdictions (Florida, Hawaii, Nebraska, Oregon, and Tennessee) consider their

TABLE 6.1

NUMBER OF HEARINGS, NUMBER OF PAROLES,
CHARACTERIZATION OF HEARINGS

Jurisdiction	Hearings		Paroles		Characterization of Hearing
	Total	Initial Re-hearing	Total	Initial Re-hearing	
Alabama	2876	missing	1689	missing	informal
Alaska	210	missing	66	missing	somewhat formal
Arizona	--	missing	--	missing	somewhat formal
Arkansas	2200	missing	1570	missing	somewhat formal
California	11000	missing	--	missing	somewhat formal
Colorado	3033	missing	945	missing	somewhat formal
Connecticut	1523	missing	1152	missing	informal
Delaware	534	483 51	169	144 25	somewhat formal
Florida	11296	11296 0	3667	3667 0	formal
Georgia	0	0 0	2667	1984 683	
Hawaii	149	missing	23	missing	formal
Idaho	548	missing	300	199 101	somewhat formal
Illinois	6684	3744 2940	3823	2012 1811	informal

(Table 6.1 continued)

Jurisdiction	Hearings		Paroles		Characterization of Hearing
	Total	Initial Re-hearing	Total	Initial Re-hearing	
Indiana	5987	missing	1322	missing	somewhat formal
Iowa	3120	720 2400	564	164 400	informal
Kansas	1730	22 missing	1053	missing	somewhat formal
Kentucky	3524	2162 1362	2082	1221 861	somewhat formal
Louisiana	--	missing	--	missing	informal
Maine	22	missing	92	missing	somewhat formal
Maryland	8252	missing	2659	missing	somewhat formal
Massachusetts	1405	969 436	935	668 267	somewhat formal
Michigan	14000	missing	47000	missing	informal
Minnesota	900	missing	900	0 900	somewhat formal
Mississippi	missing	210 missing	missing	734 missing	informal
Missouri	5400	2400 3000	1033	missing	somewhat formal
Montana	missing	390 missing	missing	253 missing	somewhat formal

(Table 6.1 continued)

Jurisdiction	Hearings Total	Hearings Initial Re-hearing	Paroles Total	Paroles Initial Re-hearing	Characterization of Hearing
Nebraska	452	missing	386	missing	formal
Nevada	1329	missing	714	missing	somewhat formal
New Hampshire	351	missing	198	missing	somewhat formal
New Jersey	2750	1978 772	1832	1215 617	somewhat formal
New Mexico	1571	missing	524	missing	somewhat formal
New York	9610	6352 3258	5024	3265 1759	somewhat formal
North Carolina	18000	missing	7325	missing	somewhat formal
North Dakota	240	missing	175	missing	informal
Ohio	12100	8000 4100	5825	2725 3100	somewhat formal
Oklahoma	3187	missing	1809	missing	somewhat formal
Oregon	1600	1200 400	missing	missing 1500	formal
Pennsylvania	5457	4412 1045	4145	3309 836	informal
Rhode Island	547	254 293	178	78 100	informal
South Carolina	1918	1918 0	1020	1020 0	somewhat formal

(Table 6.1 continued)

Jurisdiction	Hearings		Paroles		Characterization of Hearing
	Total	Initial Re-hearing	Total	Initial Re-hearing	
South Dakota	missing	591 missing	missing	238 missing	informal
Tennessee	3335	2143 1192	1881	1232 649	formal
Texas	16271	7406 8865	5747	2253 3494	somewhat formal
Utah	1026	924 102	306	missing	somewhat formal
Vermont	415	missing	204	204 0	somewhat formal
Virginia	5826	missing	1148	missing	somewhat formal
Washington	1849	1489 360	863	863 0	somewhat formal
West Virginia	940	missing	missing	missing	informal
Wisconsin	5905	missing	missing	missing	somewhat formal
Wyoming	275	240 35	125	110 15	somewhat formal
District of Columbia	2491	1477 1014	1323	missing	somewhat formal
Federal	28463	3581 24882	10996	missing	somewhat formal

hearings to be "formal."

Parole consideration hearings, of course, constitute just a portion (albeit a large portion) of the total hearings a board might conduct in a given year. A parole board might also hold hearings on commutations, pardons, and other grants of executive clemency. In addition, boards are required, under the Morrissey v. Brewer (408 U.S. 471, 1972) decision, to hold parole revocation hearings. Revocation hearings will be discussed in more detail in a later section of this chapter. In some other states, the board may hold hearings on requests for early discharge from parole supervision. There are also jurisdictions which hold minimum term hearings for inmates just entering the prison system. The hearings described in Table 6.1 and in this section are only those hearings at which a parole request is considered, or for several jurisdictions, those hearings at which minimum terms and/or presumptive parole dates are set.

Table 6.2 displays the average number of hearings held by each board per day, along with the average length of time spent on each hearing. The average reported number of hearings held per day ranges from a low of 5 (California, spending as much time as necessary for each hearing) to a high of 110-150 hearings per day (Arkansas, spending from 1-35 minutes per hearing, as required). The modal number of hearings held per day is 15 (10 jurisdictions), with an additional 19 jurisdictions holding between 16 and 30 hearings per day. The modal amount of time allotted to each hearing appears to be between 20 and 30 minutes.

TABLE 6.2

NUMBER OF HEARINGS PER DAY/
AVERAGE LENGTH OF HEARING

Jurisdiction	Average Number of Hearings Per Day	Average Length of Time Per Hearing
Alabama	40	10 min.
Alaska	10	45 min.
Arizona	12	varies - no time limit
Arkansas	110-150	1-35 min. as required
California	5	varies
Colorado	20	as needed
Connecticut	14	25-30 min. as needed
Delaware	22	35 min.
Florida	83[a]	as needed - no set time
Georgia	0	- - -
Hawaii	10	20-30 min.
Idaho	15	as needed
Illinois	20	15 min. as required
Indiana	30	20-30 min. - varies
Iowa	50	2-60 min. as required
Kansas	25	20-30 min.
Kentucky	30	no set time - varies
Louisiana	35	10-15 min.
Maine	15	as needed
Maryland	15	20-25 min.
Massachusetts	16	20-30 min.
Michigan	25	15-30 min.
Minnesota	15	20 min.
Mississippi	38	15-20 min.
Missouri	15	20-30 min.
Montana	18	no set time - 5-30 min.
Nebraska	19	varies - 20 min.-3 hours

(Table 6.2 continued)

Jurisdiction	Average Number of Hearings Per Day	Average Length of Time Per Hearing
Nevada	10	30 min.
New Hampshire	40-50	varies
New Jersey	20	20-30 min.
New Mexico	8	varies by case
New York	50[b]	as long as necessary
North Carolina	30-40	as required
North Dakota	20	varies - no time limit
Ohio	50[c]	25 min.
Oklahoma	60	5-60 min. - varies
Oregon	15	varies
Pennsylvania	20	15-30 min. as needed
Rhode Island	40	10-30 min.
South Carolina	65-75	5-20 min.
South Dakota	30	15 min.
Tennessee	25	20 min. - more if needed
Texas	30	15 min. - 2 hours
Utah	30	varies - quick to 1½ hrs
Vermont	15	30 min. - as needed
Virginia	15	no set time - varies
Washington	20	20-30 min.
West Virginia	30	25 min.
Wisconsin	15	30-45 min. - as needed
Wyoming	85[d]	20 min.
District of Columbia	14	as needed
Federal	15	30 min.

[a]This figure represents the number of formal hearings per day: institutional hearings, which are conducted by hearing examiners and result in recommendations to the board, average 12-15 hearings per panel per day.

[b]This represents the total number of hearings held per day by all panels.

[c]This figure is a total for all panels; an individual panel generally manages 15 hearings per day.

[d]This is a total figure for a 48-hour period.

Table 6.3 describes the usual size of the hearing body, the composition of the hearing body, the person(s) responsible for conducting the hearing, and any changes which may occur in the composition of the hearing body in cases involving special difficulty, notoriety, or public attention.

The usual size of the hearing body ranges from one (Virginia) to 7 (Kentucky and South Carolina); the modal size of the hearing body is 3 (22 jurisdictions). The most frequently used composition pattern for the hearing body is the entire board (23 jurisdictions; this represents a slight increase over the 20 jurisdictions reported by O'Leary and Hanrahan (1976:34) to use full boards. Only one jurisdiction (federal system) reported that hearings are held without the presence of at least one board member. In virtually all jurisdictions (43), the hearing is conducted by the chair of the board or by a board member. Seven jurisdictions report that the hearing may be conducted by a variety of persons: Alaska (Executive Director), California (Chair, member of the board and/or hearing examiner), Indiana (all members may conduct hearings on a rotation basis), Maryland (hearing examiner, or Parole Commissioner in original jurisdiction hearings), Missouri (Chair, member of the board and/or hearing examiner), Pennsylvania (member of the board or hearing examiner), and Texas (Parole Commissioner).

Bixby has suggested the partial phase-out of parole board participation in parole grant hearings. He feels that boards should expand their role in policy-setting and the creation of parole grant and

TABLE 6.3

CHARACTERISTICS OF HEARING BODY

Jurisdiction	Usual Size of Hearing Body	Composition of Hearing Body	Person Conducting Hearing	Change in Composition for Special Cases
Alabama	2	Majority (2 members) of board	member	
Alaska	4	Entire board	Executive Director	
Arizona	5	Entire board	Chair	
Arkansas	5	Entire board	Chair	
California	2	Under Indeterminate Sentencing Law, 2 members	Chair, members and/or Hearing Examiner	
Colorado	2	Panel of members	member	may sit en banc
Connecticut	3	Panel of members	Chair	
Delaware	5	Entire board	Chair	
Florida	2	Panel of members[a]	member	
Georgia	0	- -	- -	
Hawaii	3	Entire board	Chair	
Idaho	3	Violent crime - entire board; non-violent crime - 3 member panel	member	sit en banc on violent crimes
Illinois	3	Panel of members	member	en banc
Indiana	5	Entire board	all members - rotate	

(Table 6.3 continued)

Jurisdiction	Usual Size of Hearing Body	Composition of Hearing Body	Person Conducting Hearing	Change in Composition for Special Cases
Iowa	3	Majority of board	member	all members consulted
Kansas	3	Panel of members	member	en banc
Kentucky	7	Entire board	member	
Louisiana	5	Entire board	Chair	
Maine	5	Entire board	Chair	
Maryland	Missing	Depends on[b] type of hearing	Depends on[b] type of hearing	
Massachusetts	3	Panel of members	member	en banc
Michigan	2	Panel of members	member	members must discuss case with entire board
Minnesota	3	Depends on[c] type of hearing	member	en banc
Mississippi	5	Entire board	Chair	
Missouri	3	Members and Hearing Examiners	Chair, member and/ or Hearing Examiners	
Montana	3	Entire board	Chair	
Nebraska	5	Entire board	Chair	
Nevada	3	Entire board	Chair	en banc
New Hampshire	3	Entire board	Chair	
New Jersey	3	Entire board	Chair	
New Mexico	3	Member and Hearing Examiner	Chair	en banc

(Table 6.3 continued)

Jurisdiction	Usual Size of Hearing Body	Composition of Hearing Body	Person Conducting Hearing	Change in Composition for Special Cases
New York	3	Panel of members	member	
North Carolina	2	Panel of members	member	en banc
North Dakota	3	Entire board	Chair	
Ohio	2	Members and Hearing Examiners	member	en banc
Oklahoma	5	Entire board	Chair	
Oregon	2	Panel of members	member	
Pennsylvania	3	Majority of board	member or Hearing Examiner	
Rhode Island	6	Entire board	Chair	
South Carolina	7	Entire board	Chair	
South Dakota	3	Entire board	Chair	
Tennessee	2	Panel of members	Chair	en banc
Texas	3	Panel of Commissions or board members	Parole Commissioner	Full board (3) or commission panel
Utah	3	Panel of members	Chair	Commutation requires full board
Vermont	5	Entire board	Chair	
Virginia	1	Panel of members	member	
Washington	2	Panel of members	member	
West Virginia	2	Entire board	member	

(Table 6.3 continued)

Jurisdiction	Usual Size of Hearing Body	Composition of Hearing Body	Person Conducting Hearing	Change in Composition for Special Cases
Wisconsin	3	Panel of members	member	
Wyoming	3	Entire board	member	
District of Columbia	2	Panel of members	member	en banc
Federal	2	Hearing Examiners	Hearing Examiner	

[a]Formal hearing; institutional hearing is held by hearing examiners.

[b]Two Parole Commissioners to stipulate parole date under MAP contract; for others, 1 hearing examiner make recommendation to a Parole Commissioner who has final authority; original jurisdiction hearings, for homicides and reviews of appeals from hearing examiner recommendations, examiner; original jurisdiction hearings conducted by Parole Commissioner.

[c]Entire board for lifer's and special cases; 3 members for crimes against person, 2 members for crimes against property.

revocation guidelines. Parole boards, under Bixby's plan, would only hear appeals from inmates and sit as a parole panel on unusual cases. (Bixby:1970). Parole panels would be made up of 1) a representative of the central board, 2) a representative of the institution, and 3) a local citizen appointed by the director of corrections. The use of the parole board as a policy-setting body would certainly encourage the use of clearer guidelines and more rational written policy. At the present time, only the Maryland design of the use of parole boards is similar to the Bixby proposal.

To our question about whether the composition of the hearing body changes if the board is hearing an especially difficult case, a case which has achieved a high degree of notoriety, or one which has received a large amount of media attention, 12 jurisdictions responded that the board will sit en banc on these cases, and another 2 jurisdictions responded that, while the board does not necessarily sit en banc, all members of the board must be consulted before a decision can be reached.

Of great interest to parole boards is the variety of individuals who routinely are present at parole hearings. The following table illustrates the frequency with which identifiable groups of individuals are present at hearings.

Table 6.5 provides more detail concerning the various individuals regularly in attendance at parole hearings in all surveyed jurisdictions. With respect to "other" individuals who are routinely present at hearings, it is interesting to note that Colorado, Nebraska, and West

TABLE 6.4

INDIVIDUALS ROUTINELY PRESENT AT HEARINGS: PERCENTAGE OF JURISDICTIONS

Individuals Present	Percentage of Jurisdictions Yes	No
Inmate Required to Attend	73.1%	26.9%
Institutional Parole Officer	42.3	55.8
Institutional Staff	44.2	53.8
Case Review Officer	9.6	88.5
Inmate Attorney	38.5	59.6
Family and Friends of Inmate	26.9	71.2
Prosecuting Attorney	11.5	86.5
Other[a]	38.5	59.6

[a]See detail in Table 6.5.

Virginia open their hearings to anyone wishing to attend (with Nebraska going so far as to advertise their hearings). Vermont's hearings are open to anyone with pertinent input or a valid interest in the hearing, and the District of Columbia will allow attendance by anyone requested by the inmate.

Regardless of the types of individuals who are ordinarily present at parole hearings, most commentators agree that the hearing itself is a very tense situation for all parties concerned, particularly the inmate. Stanley (1976:41-42) describes the inmate's reactions in anticipation of and following his parole hearing:

> Sat down by myself and started thinking really heavy on what the parole board was going to say to me and what I was going to say to them...I spent all night thinking about what I was

TABLE 6.5

ATTENDANCE AT HEARINGS[a]

Jurisdiction	Inmate Required to Attend	Institutional Parole Officer	Institutional Staff	Case Review Officer	Inmate Attorney	Family/Friends of Inmate	Prosecuting Attorney	Other
Alabama	X	X						Administrative Assistant to Parole Board
Alaska		X	X		X	X		
Arizona	X				X	X		
Arkansas	X	X	X		X	X	X	
California		X			X		X	
Colorado	X	X	X		X			Anyone may audit hearing.
Connecticut								Board secretary
Delaware	X				X			Recording secretary; substance offense person may be present
Florida		X	X	X	X	X	X	
Georgia								
Hawaii	X		X		X			
Idaho			X		X	X		
Illinois					X	X	X	
Indiana	X	X						
Iowa		X	X					Executive secretary; liaison officer
Kansas	X		X					
Kentucky	X							
Louisiana	X		X					Up to 3 persons on behalf of inmate.
Maine		X						Institutional Classification Officer; Board Administrative Asst.; Div.of Parole representative

(Table 6.5 continued)

Jurisdiction	Inmate Required to Attend	Institutional Parole Officer	Institutional Staff	Case Review Officer	Inmate Attorney	Family/Friends of Inmate	Prosecuting Attorney	Other
Maryland	X		X					
Massachusetts	X	X	X					In revocation, board liaison counsel, witnesses
Michigan	X		X					
Minnesota	X	X	X					
Mississippi	X	X						Executive Secretary
Missouri	X				X	X		Trainees (Board staff)
Montana			X					
Nebraska	X	X			X	X		Open, advertised public hearing.
Nevada	X		X					
New Hampshire	X				X			Chief Parole Officer, Recording Secretary
New Jersey	X			X				
New Mexico	X			X				
New York	X	X						Hearing reporter
North Carolina					X			
North Dakota	X				X	X		
Ohio	X							
Oklahoma	X	X	X	X	X	X	X	Department of Corrections personnel
Oregon	X							
Pennsylvania	X	X	X					
Rhode Island	X				X			
South Carolina					X	X		Representatives of service provision agencies

(Table 6.5 continued)

Jurisdiction	Inmate Required to Attend	Institutional Parole Officer	Institutional Staff	Case Review Officer	Inmate Attorney	Family/Friends of Inmate	Prosecuting Attorney	Other
South Dakota		X			X	X		Supervising parole officer
Tennessee	X		X		X	X	X	
Texas	X							
Utah	X	X	X					Inmate's attorney in personal capacity only
Vermont	X							Anyone with pertinent imput or valid interest
Virginia	X	X	X					
Washington	X	X						
West Virginia	X		X					Open to anyone
Wisconsin	X							
Wyoming			X					Anyone requested by inmate
District of Columbia	X	X						Court reporter, institutional parole officer, analyst
Federal	X	X	X		X	X		

[a]An "X" indicates a "Yes" response.

> going to say and what I was going to do...(on the morning of his hearing). I started pacing back and forth and then I walked back to my house (cell) and got sick, vomited. It was just something. All of a sudden my mind was a blur. I couldn't think, I couldn't talk or nothing.

Parole board members stress that they try to make the prisoner at ease during the hearings. Board members in Louisiana make an "effort in most cases to put the inmate at ease, to discuss his case with him and to express an interest in him personally." (Louisiana Governor's Pardon, Parole and Rehabilitation Commission, 1977:III-11). Dawson describes hearings that he attended in Michigan and Wisconsin as conducted "in a leisurely fashion and the inmate is given opportunity to make virtually any statement he wishes." (Dawson, 1966:301).

However, Stanley's description of the parole board hearing seems to indicate an effort on the part of the board to increase tensions, not diminish them. The board asks condescending questions like "What are we going to do with you?" or "What are you trying to prove?" (Stanley, 1976:34). They would not seem to relax a tense and sullen prisoner, rather it would put them on the defensive. Parole boards will often retry the prisoner's case. They will attempt to get him to admit his guilt in the crime and to show some remorse. In a special report done on parole denial in New Jersey, researchers found that, in fifty-eight percent of the hearings conducted, applicants for parole were asked to admit guilt or express remorse for their crimes. (New Jersey Ad Hoc Parole Committee, 1975:23).

Stanley notes that parole hearings usually center around three subjects: the inmate's prison records and parole plans, and the

circumstances of the crime (Stanley, 1976). But topics can range far beyond those three. Fairbanks remarks on the subject of religion and the parole applicant. "Many a hopeful parolee has spent considerable time memorizing the ten commandments and other biblical passages because failure to be able to recite the law of the Diety has frequently resulted in denial of parole." (Fairbanks, 1974:648). Fairbanks found this practice prevalent in Oklahoma. Stanley found that parole boards frequently attempt to counsel the inmate, advising them to "get their heads together" or trying to psychoanalyze them. (Stanley, 1976:37). Table 6.6 below shows the frequency with which parole boards routinely ask inmates about various subjects.

TABLE 6.6

INFORMATION FROM INMATE:
PERCENTAGE OF JURISDICTIONS

Information	Percentage of Jurisdictions Yes	No
Inmate's Version of the Offense	80.8%	17.3%
Aggravating or Mitigating Factors	78.8	19.2
Participation in Prison Programs	90.3	5.8
Prison Behavior	92.3	5.8
Other Offenses and/or Plea Bargaining	63.5	34.6
Parole Plans	94.2	3.8
Other	19.2	78.8
Inmate Asked to Verify Information Available to Board	80.8	17.3

Table 6.7 provides more detailed information about the types of

TABLE 6.7

INFORMATION SOLICITED FROM INMATE[a]

Jurisdiction	Inmate's Version of the Offense	Aggravating/ Mitigating Factors	Prison Program Participation	Prison Behavior	Other Offenses, Plea Bargains	Parole Plan	Other	Inmate asked to verify information
Alabama				X		X		
Alaska	X		X	X	X	X		X
Arizona	X	X	X	X	X	X		
Arkansas	X	X	X	X	X	X		
California	X		X	X	X	X		X
Colorado	X	X	X	X	X	X		X
Connecticut	X	X	X	X	X	X	sexual problems addictions family problems	X
Delaware	X	X	X	X	X	X	special needs, e.g. drug/alcohol treatment	
Florida		X	X	X	X	X		X
Georgia								
Hawaii			X	X		X		X
Idaho	X	X	X	X	X	X		X
Illinois	X	X	X	X		X		X
Indiana	X	X	X	X	X	X		X
Iowa	X	X	X	X	X	X		X
Kansas	X	X	X	X	X	X	treatment programs in/out of prison	
Kentucky	X	X	X	X	X	X		X
Louisiana			X	X		X		X
Maine	X	X	X	X	X	X		X
Maryland		X	X			X		
Massachusetts	X	X	X	X	X	X	use furlough, community service programs	X

(Table 6.7 continued)

Jurisdiction	Inmate's Version of the Offense	Aggravating/ Mitigating Factors	Prison Program Participation	Prison Behavior	Other Offenses, Plea Bargains	Parole Plan	Other	Inmate asked to verify information
Michigan	X	X	X	X	X	X		X
Minnesota	X	X	X	X	X	X		X
Mississippi	X	X						
Missouri	X	X	X	X		X		X
Montana	X		X	X		X		X
Nebraska			X	X		X		X
Nevada	X	X	X	X	X	X		X
New Hampshire			X	X		X		X
New Jersey	X	X	X	X	X	X		X
New Mexico	X	X	X	X	X	X		X
New York	X	X	X	X	X	X	addictions	X
North Carolina	X		X	X	X	X		X
North Dakota	X	X	X	X	X	X		X
Ohio	X	X	X	X	X	X		X
Oklahoma	X	X	X	X		X	employment offers	X
Oregon	X	X			X		accuracy of case materials	X
Pennsylvania	X	X	X	X	X	X		
Rhode Island			X	X		X		
South Carolina		X	X	X		X		X
South Dakota	X	X	X	X	X	X		X
Tennessee	X	X	X	X		X	inmate's opinion about deserving parole	x
Texas	X	X	X	X		X		X
Utah	X	X	X	X		X	special conditions, drug programs, etc.	X

(Table 6.7 continued)

Jurisdiction	Inmate's Version of the Offense	Aggravating/ Mitigating Factors	Prison Program Participation	Prison Behavior	Other Offenses, Plea Bargains	Parole Plan	Other	Inmate asked to verify information
Vermont	X	X	X	X	X	X		X
Virginia	X	X	X	X		X		X
Washington	X	X	X	X	X	X		X
West Virginia	X	X	X	X	X	X	inmate's background	X
Wisconsin	X	X	X	X	X	X		X
Wyoming	X	X	X	X	X	X		X
District of Columbia	X	X	X	X		X		X
Federal	X	X	X	X	X	X		X

[a]An "X" indicates a "Yes" response.

questions asked of inmates in each surveyed jurisdiction. It is interesting to note, under the other types of information solicited from the inmate, that Tennessee asks the inmate to evaluate his or her own criminal behavior and institutional record in terms of deserving to have parole granted. Several jurisdictions (Connecticut, Delaware, Kansas, Massachusetts, New York, and Utah) also question the inmate about special problems and needs (such as drug or alcohol problems) and the inmate's proposed use of community social services.

One of our survey questions, reported in Tables 6.6 and 6.7 above, asked parole boards to select the types of information which they routinely solicit from inmates during the course of parole consideration

hearings. We found that virtually all jurisdictions (94.2%) reported that inmates are regularly questioned about their plans for living in the community should their parole be granted. As Table 6.8 below indicates, only 75% of the jurisdictions surveyed actually require the inmate to have a parole plan before parole can be granted. The item most frequently required as part of the parole plan is information concerning the prisoner's proposed residence plans.

TABLE 6.8

INFORMATION ABOUT PAROLE PLANS

Required	Percentage of Jurisdictions Yes	No
Parole Plan is Required	75.0%	25.0%
Employment Information is Required	57.6	42.4
Residence Information is Required	75.0	25.0
Participation in Treatment Programs is Required	25.0	75.0

Detailed information concerning parole plan requirements in each jurisdiction is preserved in Table 6.9.

Inmate Rights at Parole Hearings

There has been a substantial amount of litigation over inmate rights in the parole process. Although there has been very little recognition for a right to due process in the grant hearing, there has been some recognition of due process rights in revoation hearings (Morrissey v. Brewer, 408 U.S. 271, 1972, Gagnon v. Scarpelli,

TABLE 6.9

PAROLE PLAN REQUIREMENTS[a]

Jurisdiction	Parole Plan Required	Employment Plan Required	Residence Plan Required	Treatment Program Participation Required
Alabama	X	X	X	
Alaska	X	X	X	
Arizona				
Arkansas	X	X	X	X
California				
Colorado				
Connecticut				
Delaware	X	X	X	
Florida		X	X	
Georgia	X	X	X	
Hawaii	X		X	
Idaho	X	X	X	
Illinois				
Indiana	X		X	
Iowa	X	X	X	
Kansas	X	X	X	
Kentucky	X	X	X	
Louisiana	X	X	X	
Maine	X	X		
Maryland	X		X	
Massachusetts	X	X	X	
Michigan				
Minnesota	X		X	X
Mississippi	X	X	X	X
Missouri	X			
Montana	X	X	X	
Nebraska	X	X	X	X

(Table 6.9 continued)

Jurisdiction	Parole Plan Required	Employment Plan Required	Residence Plan Required	Treatment Program Participation Required
Nevada	X	X	X	X
New Hampshire	X	X	X	X
New Jersey	X		X	
New Mexico	X	X	X	X
New York	X	X	X	X
North Carolina[b]	X		X	X
North Dakota				
Ohio				
Oklahoma	X	X	X	
Oregon	X		X	
Pennsylvania			X	
Rhode Island	X	X	X	X
South Carolina	X	X	X	
South Dakota	X	X	X	
Tennessee	X	X	X	
Texas	X	X	X	X
Utah	X	X	X	X
Vermont	X	X	X	
Virginia				
Washington	X		X	
West Virginia				
Wisconsin	X	X		
Wyoming[c]	X	X	X	
District of Columbia				
Federal	X	X	X	X

[a]An "X" indicates a "Yes" response.

[b]North Carolina also requires restitution in come cases.

[c]Wyoming may also require educational program participation and/or limitations on geographic mobility.

411 U.S. 778, 1973). The reason for the difference in granting due process rights has been the partial abandonment of the grace or privilege theory of parole with respect to revocation. Instead of regarding parole as a privilege that can be revoked at any time, the courts have required some due process procedures. They state that since an individual possesses a liberty or property interest in his or her parole status that is within the scope of the Fourteenth Amendment, the parole board must follow some due process procedures in revoking the parole. (Louisiana Governor's Pardon, Parole and Rehabilitation Commission, 1977). But an individual who is in prison is not considered to possess the liberty of a parole grant. So, unlike the parole revocation procedure, the parole grant procedure has not been required to follow due process.

The traditional view of parole as a grace or privilege granted at the complete discretion of the parole board has resulted in the inmates' having few due process rights at the parole grant hearings. The important rights that inmates have requested include the right to have an attorney present at the hearing; the right to an appointed attorney; the right to present witnesses on his own behalf; the right to cross-examine witnesses that testify in front of the board; and the right of access to a written verbatim transcript of the hearing. These rights will be discussed in this section. Two other important inmate rights that will be discussed in other sections are the right to review of the inmate's file and the right to a written denial with full explanation of the reasons for denial.

At least eight times, U.S. circuit courts of appeals have denied due process rights as a part of the parole grant process. In one case, Menechino v. Oswald, the court denied the use of an attorney at the hearing.

> "There are no 'charges' or accusations against the appellant. Nor is the board necessarily called upon, in deciding whether he should be released on parole, to resolve disputed issues of fact, which might be the occasion for use of skills associated with lawyers, judges and the judicial process." (Newman, 1972).

Recently, however, the U.S. Supreme Court, in Greenholtz v. Inmates of the Nebraska Penal and Correctional Complex, held that, at least to some extent, the parole consideration hearing is protected by Fourteenth Amendment due process guarantees. In addition to procedures already implemented in Nebraska, the court held that the board is required to provide each eligible inmate with a full formal hearing, reasonable advance notice of the hearing date, and written reasons if parole is denied. The court stated that a discretionary parole system, such as Nebraska's, does in fact create a justifiable expectation for parole which is protected by due process guarantees. This decision may signal a willingness by the court to extend even more due process guarantees to applicants during parole consideration hearings.

Tables 6.10 and 6.11 below depict contemporary parole board practice in providing some elements of due process in parole consideration hearings.

The survey results indicate that virtually all jurisdictions (90.4%) give notice to the inmate of the hearing's purpose; other due process elements are provided in less than half of the jurisdictions.

TABLE 6.10

DUE PROCESS ELEMENTS FREQUENCIES

Element	Percentage of Jurisdictions Yes	No
Allow Witnesses	26.9%	71.2%
Notice to Inmate	90.4	7.7
Pro-parole Witnesses	40.4	57.7
Anti-parole Witnesses	34.6	63.7
Inmate Corss-Examination of Witnesses	5.8	92.3
Legal Representation for Inmate	32.7	65.4
Transcript of Proceedings	28.8	69.2
Other	25.0	73.1

Only Hawaii, Maine, and Tennessee allow the inmate the opportunity to cross-examine witnesses. Table 6.11 provides a detailed breakdown of due process elements for each jurisdiction.

There has been some research on the effect of witnesses and legal counsel at the parole hearing. In a report in the Yale Law Journal, lawyers and law students were found to be given negative treatment by parole boards. (Anon., 1975). They were asked not to make legal arguments and usually asked to comment on factors outside the guidelines used by the board. Since very few states appoint attorneys and inmates are commonly without the means to hire them, very few attorneys appear at board meetings. One report estimated that only five percent of board hearings involved legal representatives for inmates. (Arizona Governor's Commission on Correction Planning, 1977).

TABLE 6.11

DUE PROCESS ELEMENTS[a]

Jurisdiction	Allow Witnesses	Notice to Inmate	Pro-Parole Witnesses	Anti-Parole Witnesses	Cross-Examining Witnesses	Inmate's Attorney	Transcript Made	Other
Alabama		X						
Alaska		X						
Arizona	X	X	X			X		
Arkansas	X	X	X	X		X		notice of board action
California		X				X	X	tape record all hearings
Colorado		X	X	X				accept written documents for/ against
Connecticut		X						
Delaware		X				X		notice of board's decision
Florida	X		X	X		X		
Georgia								
Hawaii	X	X	X	X	X	X	X	
Idaho	X	X	X	X			X	
Illinois	X		X	X				
Indiana		X						
Iowa		X						
Kansas		X						
Kentucky		X						written reason for denial
Louisiana		X	X					
Maine	X	X	X	X	X			
Maryland		X						records hearing; examines interview for appeal
Massachusetts		X						

(Table 6.11 continued)

Jurisdiction	Allow Witnesses	Notice to Inmate	Pro-Parole Witnesses	Anti-Parole Witnesses	Cross-Examining Witnesses	Inmate's Attorney	Transcript Made	Other
Michigan		X	X					
Minnesota		X					X	
Mississippi	X	X				X	X	
Missouri	X	X	X	X				notice of reason for denial
Montana		X						
Nebraska	X	X	X	X		X	X	
Nevada		X						
New Hampshire		X	X	X		X	X	
New Jersey		X						offer third-party assistance to inmate
New Mexico		X					X	comments from caseworker
New York		X					X	
North Carolina		X	X	X		X		
Ohio		X						
Oklahoma	X	X	X	X				
Pennsylvania								
Rhode Island						X		
South Carolina	X	X	X	X		X		
South Dakota		X	X	X		X		
Tennessee		X	X	X	X	X	X	
Texas		X	X	X		X	X	
Utah	X	X	X	X				
Vermont		X				X		board findings not recorded
Virginia		X						
Washington		X						
West Virginia		X						

(Table 6.11 continued)

Jurisdiction	Allow Witnesses	Notice to Inmate	Pro-Parole Witnesses	Anti-Parole Witnesses	Cross-Examining Witnesses	Inmate's Attorney	Transcript Made	Other
Wisconsin		X					X	partial disclosure
Wyoming	X	X					X	
District of Columbia		X						
Federal		X					X	guidelines/reasons for denial

[a]An "X" indicates a "Yes" response.

The presence of witnesses for the inmate-applicant is a more positive factor in parole decision-making than the legal representative. Beck found that adult inmates appearing with representatives (family, friends, or institutional staff) served a month and a half less than applicants without representatives. Those with representatives were also paroled at a higher rate (80.8% v. 72.5%) than those without representatives. Beck found that while parents had very little impact as witnesses, institutional staff and friends had the most positive effects (Beck, 1975).

In a number of the states that do not allow attorneys or witnesses to appear at the hearings, the boards will allow them to submit written statements to the board prior to the hearing or will allow them to meet with the board before or after the hearing to discuss the inmate's case. Connecticut, Arizona and Missouri allow witnesses and counsel to consult with the board after the interview is held. New

Jersey allows written statements to be submitted prior to the interview, and Wisconsin and Michigan allow personal appearances prior to the interview (Dawson, 1966).

Verbatim transcripts of hearings would provide a basis for appeals on substantive and procedural grounds. O'Leary felt that they would show whether an inmate had a full opportunity to present his case. They would also act as a source for research into the board's policy and its application (O'Leary and Nuffield, 1972). Our survey indicated that 28.8% of the jurisdictions do make transcripts of parole hearings. In California and Vermont, hearings are tape-recorded; in Maryland, the initial hearing before the hearing examiner is tape-recorded.

Decision-Making, Notification, and Appeal Procedures

The actual decision-making strategies used by parole boards have been discussed in a separate chapter of this report. In this section, we will simply report contemporary practice in terms of the type of decision (if any) which is actually made at the time of the hearing, whether unanimity or a simple majority is required in voting on decisions, and whether the votes of the individual board members are recorded.

Before making its decision or recommendation, hearing bodies in a number of jurisdictions routinely discuss various aspects of the case which has just been heard. Below (Table 6.12) are listed the facets of cases which are normally discussed after the hearing.

Results of our survey indicated that binding decisions are made by parole boards in 80.8% of the jurisdictions. Recommendations are made

TABLE 6.12

FACETS OF CASES NORMALLY DISCUSSES AT HEARINGS

Jurisdiction	Facets
Alabama	N/A
Alaska	60 by individual case, but two areas are generally discussed: 1) has the inmate served enough time for the crime committed and 2) will the inmate be successful on parole if released.
Arizona	Any unusual factors.
Arkansas	All facets.
California	N/A
Colorado	Institutional adjustment, past record, aggravating or mitigating factors.
Connecticut	All information; degree of risk, conditions of parole.
Delaware	Time served, prior record, parole plans, special problems, risk, progress toward rehabilitation, attitude, special conditions.
Florida	Offense severity, offender characteristics, aggravating or mitigating circumstances.
Georgia	
Hawaii	Programs, behavior, adjustment, risk, employment, house, rehabilitation, chances of success.
Idaho	Crime, parole prospects, ability to succeed on parole.
Illinois	Seriousness of offense, aggravating or mitigating circumstances, institutional discipline, institutional program placement.
Indiana	Offense, past record, institutional conduct.

(Table 6.12 continued)

Jurisdiction	Facets
Iowa	Type of crime, length of sentence, time served, institutional progress, past criminal involvement.
Kansas	Varies by case.
Kentucky	Criminal history, institutional adjustment, program participation and performance, parole plans.
Louisiana	Offense, history, background, parole plans.
Maine	All factors which were considered.
Maryland	N/A
Massachusetts	Members' impression of inmate, strengths/weaknesses of parole plan, consideration of special factors such as drug/alcohol abuse, mental/psychological problems.
Michigan	N/A
Minnesota	If it is the inmate's first hearing (on his way in), look at offenses, etc.; if inmate is on his way out, look at parole plan.
Mississippi	What decision to render; type of offense, violence, number of confinements.
Missouri	Varies by case.
Montana	Parole plan, time on sentence, rehabilitation efforts, institutional conduct, past record, nature of offense.
Nebraska	All relevant factors; risk, correctional adjustment, parole plan, misconduct, attitudes, training, etc.
Nevada	History of inmate, nature of crime, psychological report, employment history.
New Hampshire	Any special conditions, any special instructions to supervision staff.
New Jersey	The decision itself.
New Mexico	Pertinent facts of the case.

(Table 6.12 continued)

Jurisdiction	Facets
New York	Parole readiness, realistic parole plans, length of time to reconsideration.
North Carolina	N/A
North Dakota	Risk and parole plans.
Ohio	Nature of crime, prior record, institutional conduct.
Oklahoma	Varies by case.
Oregon	History, risk score, crime severity, aggravating or mitigating circumstances, presumptive range to set term.
Pennsylvania	N/A
Rhode Island	Entire hearing information considered.
South Carolina	All facts pro and con for paroling inmate.
South Dakota	Total situation; varies by case.
Tennessee	Varies by case.
Texas	N/A
Utah	Information presented at hearing.
Vermont	Varies greatly by case.
Virginia	N/A
Washington	Prior criminal record, psychological record, institutional behavior, future plans.
West Virginia	Offense, institutional adjustment, program participation, parole plans.
Wisconsin	Varies by case.
Wyoming	Varies by case.
District of Columbia	Suitability for community, institutional adjustment, community resources.
Federal	Guidelines, reasons for going outside guidelines.

in 9.6%, no decision in 1.9% (Hawaii), and other types of decisions in 7.7% (Maryland, Massachusetts, Ohio, and Wisconsin). Almost all jurisdictions reported that decisions are made by majority vote in most cases (88.5%), although 9.6% (Idaho, Maryland, Ohio, Oregon, Virginia, and the District of Columbia) require unanimity. Wisconsin requires unanimity only in cases involving assaultive offenses; decisions on non-assaultive cases may be made by majority vote. The votes of individual board members are recorded in slightly more than three-fourths (76.9%) of the jurisdictions. A detailed breakdown of these results by jurisdiction is provided in Table 6.13.

Our survey also included a series of questions concerning the timing and method of informing the inmate of the board's decision. Almost two-thirds (63.5%) reported that inmates are informed of the board's decision at the time of the hearing. Of those jurisdictions informing the inmate of the decision at the hearing, only Delaware, North Dakota, and West Virginia do not also inform the inmate of the reason for the decision. Most jurisdictions also inform the inmate officially at a later time. These later notifications are almost all done by letter from the board or from the prison staff; California sends a copy of the board decision, and Minnesota sends a copy of the minutes of the hearing. The length of time between the hearing and notification to the inmate of the board's decision (excluding those cases in which the inmate is notified verbally at the parole hearing) range from a few hours (as in Alaska and the District of Columbia) to several weeks (as in Georgia, Missouri, Pennsylvania, and Texas). It

TABLE 6.13

HEARING DECISION BEHAVIOR

Jurisdiction	Type of Decision Made at Hearing	Vote Necessary for Decision	Votes Recorded[a]
Alabama	Binding	Majority	X
Alaska	Binding	Majority	X
Arizona	Binding	Majority	X
Arkansas	Binding	Majority	X
California	Binding	Majority	X
Colorado	Binding	Majority	X
Connecticut	Binding	Majority	X
Delaware	Binding	Majority	X
Florida	Binding	Majority	X
Georgia	Binding	Majority	X
Hawaii	No decision	Majority	X
Idaho	Binding	Unanimity	X
Illinois	Binding	Majority	X
Indiana	Binding	Majority	X
Iowa	Binding	Majority	
Kansas	Binding	Majority	X
Kentucky	Binding	Majority	X
Louisiana	Binding	Majority	
Maine	Binding	Majority	
Maryland	Depends on type of hearing[b]	Unanimity	X
Massachusetts	Binding or referral for en banc review	Majority	X
Michigan	Binding	Majority	X
Minnesota	Binding	Majority	X
Mississippi	Binding	Majority	
Missouri	Binding	Majority	X
Montana	Binding	Majority	

(Table 6.13 continued)

Jurisdiction	Type of Decision Made at Hearing	Vote Necessary for Decision	Votes Recorded[a]
Nebraska	Binding	Majority	X
Nevada	Binding	Majority	
New Hampshire	Binding	Majority	
New Jersey	Binding	Majority	X
New Mexico	Binding	Majority	X
New York	Binding	Majority	X
North Carolina	Binding	Majority	X
North Dakota	Binding	Majority	X
Ohio	If unanimous, panel makes binding; otherwise goes to full board	Unanimity	X
Oklahoma	Recommendation	Majority	X
Oregon	Binding	Unanimity	X
Pennsylvania	Recommendation	Majority	X
Rhode Island	Binding	Majority	X
South Carolina	Binding	Majority	X
South Dakota	Binding	Majority	
Tennessee	Binding	Majority	X
Texas	Recommendation	Majority	X
Utah	Binding	Majority	
Vermont	Binding	Majority	
Virginia	Recommendation	Unanimity	X
Washington	Binding	Majority	X
West Virginia	Binding	Majority	
Wisconsin	Denials are final; grant recommendation made to paroling authority	Majority (non-assaultive cases) Unanimity (assaultive cases)	X
Wyoming	Binding	Majority	X
District of Columbia	Binding	Unanimity	
Federal	Recommendation	Majority	X

[a] An "X" indicates a "Yes" response.

[b] In Maryland, hearing examiners make recommendations to panels of members; in MAP and original jurisdiction hearings, panels of members make binding decisions.

is also important to note that in all jurisdictions except Delaware, Illinois, Oklahoma, and South Dakota, the reasons for denial of parole are provided to the inmate, either at the hearing or in the later notification. Table 6.14 describes the notification procedure used in each surveyed jurisdiction.

In the event the parole board decides to deny parole, we were interested in finding out whether the board informed the inmate of what he or she could do in order to improve chances of receiving parole at the next hearing. Virtually all jurisdictions (84.6%) reported that they do make it a practice to inform the inmate about what types of behavior changes, prison program participation, or improved parole plans would be required before the board would elect to grant parole. Most jurisdictions also set a date for re-hearing an inmate whose parole was denied and inform the inmate of the new date. Re-hearing dates may be set automatically by statute, may be determined by standardized board regulation or policy, or may be set on an individual case-by-case basis at the board's discretion. Information concerning the settings of re-hearing dates derived from the survey is presented by jurisdiction in Table 6.15.

Only slightly more than half (53.8%) of the jurisdictions surveyed have procedures by which an inmate can appeal a decision to deny parole. In general, appeal requests must be sent in writing by the inmate to the board, sometimes through an institutional liaison officer. In several jurisdictions, the appeal must be submitted within a specified period of time. Several boards restrict appeals to those based on

TABLE 6.14

NOTIFICATION PROCEDURE[a]

Jurisdiction	Inmate Informed at Hearing	Justification Given at Hearing	Method of Later Notification	Time Lapse; Hearing to Notification	Justification Given in Later Notification
Alabama	X	X	letter	usually at hearing; by letter within 5 days.	X
Alaska			prison staff & letter	by prison staff 15 min to 3 hrs; letter within 30 days	
Arizona			letter	within 3 days	X
Arkansas			letter	2-3 hours	X
California	X	X	copy of decision	copy of decision-same day; lifers also get longer summary within 60 days	X
Colorado			letter	12 hrs or less	X
Connecticut	X	X	letter	verbally at hearing; letter in less than 10 days	X
Delaware	X		letter	same day	
Florida	X	X	letter	1-2 weeks	X
Georgia			prison staff	2-3 weeks	X
Hawaii			letter	5-10 days	X
Idaho	X	X		immediately	X
Illinois			letter	12 hours	
Indiana	X	X	letter	verbally at hearing; letter within 7 days	X
Iowa	X	X	letter	within 10 days	X
Kansas			letter from prison staff	48-72 hours	X
Kentucky	X	X		immediately	X

(Table 6.14 continued)

Jurisdiction	Inmate Informed at Hearing	Justification Given at Hearing	Method of Later Notification	Time Lapse; Hearing to Notification	Justification Given in Later Notification
Louisiana	X	X		immediately	X
Maine	X	X	letter	verbally at hearing; letter within 10 days	X
Maryland	X	X	letter	within 5 days	X
Massachusetts	X	X	letter	verbally at hearing; letter within 14 days	X
Michigan	X	X	letter	verbally at hearing; letter within 30 days	X
Minnesota	X	X	copy of minutes	verbally at hearing; in special cases, send copy of minutes in 3-4 days	X
Mississippi			verbal & letter	verbally in 2-3 days; letter in 5 days	X
Missouri			letter	2 weeks	X
Montana	X	X		5-10 min	X
Nebraska	X	X	letter	verbally at hearing; letter in 7 days	X
Nevada	X	X		immediately by institutional counselor	X
New Hampshire	X	X	letter	5 working days	X
New Jersey	X	X	letter	18-21 days	X
New Mexico	X	X		immediately	X
New York			letter	from institutional staff 2-3 days	X
North Carolina			letter	2-3 days	X
North Dakota	X		letter	verbally at hearing; letter within 24 hours	X
Ohio	X	X	letter	verbally at hearing; letter in 2 days	X
Oklahoma			verbal & letter	verbally immediately by institutional counselor; letter sometime later	

(Table 6.14 continued)

Justification	Inmate Informed at Hearing	Justification Given at Hearing	Method of Later Notification	Time Lapse; Hearing to Notification	Justification Given in Later Notification
Oregon	X	X		immediately	X
Pennsylvania			letter	2-4 weeks	X
Rhode Island			verbal & letter	verbally same day; letter within 1-2 days	X
South Carolina	X	X	letter	verbally at hearing; letter sent immediately after	X
South Dakota			letter	within 12 hours	
Tennessee	X	X		immediately	X
Texas			letter	letter and institutional staff - 3 weeks	X
Utah	X	X	verbal & letter	verbally at hearing; letter takes longer	X
Vermont	X	X	verbal & letter	by prison staff and letter - same day	X
Virginia			letter	2-4 weeks	X
Washington	X	X		immediately	X
West Virginia	X		verbal & letter	verbally at hearing; letter within 2 weeks	X
Wisconsin	X	X	verbal & from	verbally at hearing; check-off from given to inmate	X
Wyoming	X	X		immediately	X
District of Columbia			verbal & letter	by institutional staff in less than 24 hours; letter within 7 days	X
Federal	X	X	verbal & letter	verbally at hearing; letter in 21 days	X

[a]An "X" indicates a "Yes" response.

TABLE 6.15

RE-HEARING PROCEDURES[a]

Jurisdiction	Inmate Informed How to Improve	Board Sets New Hearing Date	Inmate Informed of New Date	Criteria for Re-hearing
Alabama	X	X	X	within 3 years of original hearing
Alaska	X	X	X	depends on inmate behavior; board will suggest/recommend improvement
Arizona				automatically within 6 months, but can be advanced
Arkansas	X	X	X	at least once a year; can be advanced
California	X	[b]	X	one year - by statute
Colorado	X	X	X	new information
Connecticut	X	X	X	increased rehabilitation
Delaware	X	X	X	board belief that inmate needs re-hearing
Florida				
Georgia		X	X	within 1 year of denial
Hawaii	X			
Idaho	X	X	X	depends on type of crime
Illinois	X	X	X	new facts
Indiana	X	X	X	additional information; traditionally extended right to re-hearing in 6 months
Iowa	X			
Kansas	X	X	X	board determines by individual case
Kentucky	X	X	X	inmate knows specific objectives to be met; if objectives are met, parole is granted
Louisiana	X	X	X	conditions set by board must be met

(Table 6.15 continued)

Jurisdiction	Inmate Informed How to Improve	Board Sets New Hearing Date	Inmate Informed of New Date	Criteria for Re-hearing
Maine	X	X	X	serve denial time; varies by case; set by board
Maryland	X	X	X	varies; responsive to policy of institutional availability of programs
Massachusetts	X	X	X	varies by reason for denial
Michigan	X	X	X	if less than 1 year from first hearing, re-hearing not necessary
Minnesota	X	X	X	depends on reason for denial
Mississippi	X	X	X	meeting any requirements set by board
Missouri	X	X	X	1-5 years depending on length of sentence
Montana	X	X	X	reason for denial and meeting conditions set by board
Nebraska	X	X	X	compliance with conditions; improved conduct; better participation in prison programs
Nevada	X	X	X	set by statute
New Hampshire	X	X	X	satisfactory completion of conditions set by board
New Jersey	X	X	X	within 1 year - completing prison programs
New Mexico	X	X	X	6 months with clean conduct record in prison
New York	X	X	X	completion of time
North Carolina		X	X	all cases reviewed yearly or less (usually 6 months)
North Dakota	X	X	X	once a year
Ohio	X	X	X	nature of offense, prior record, prison conduct
Oklahoma	X			board discretion

(Table 6.15 continued)

Jurisdiction	Inmate Informed How to Improve	Board Sets New Hearing Date	Inmate Informed of New Date	Criteria for Re-hearing
Oregon		X	X	governed by misconduct rules
Pennsylvania	X	X	X	program participation, training; length of time with no misconduct
Rhode Island	X	X	X	new facts not previously presented or sentence reduction by court
South Carolina		X	X	specified amount of time - based on maximum sentence
South Dakota	X	X	X	no set criteria - depends on individual case factors
Tennessee	X	X	X	board sets time at time of denial
Texas	X	X	X	new and special information or one year from time of original hearing
Utah	X	X	X	crime seriousnesses; program needs specialized for individual offenders
Vermont	X			recommendation of institutional supervisor; or discretion of board
Virginia		X	X	no set criteria - varies by case
Washington	X	X	X	better adjustment or parole plan
West Virginia	X			1 year - statutory requirement
Wisconsin	X	X	X	same as for granting parole
Wyoming	X			
District of Columbia	X	X	X	if sentence is less than 3 years - 6 months; if sentence is more than 3 years - 1 year
Federal		X	X	if sentence more than 1 year, less than 7 years, = 18 months; more than 7 years = 24 months

[a]An "X" indicates a "Yes" response.

[b]Set by statute, not by board.

allegations of incomplete or erroneous information used at the original hearing. Only one jurisdiction (New York) indicated that an attorney was permitted to assist the inmate in preparing the appeal. The appeals procedures used in those jurisdictions permitting appeals are briefly described in Table 6.16.

Revocation Hearings

Other sections of this report have considered the issues involved in parole revocation hearings and some of the case law which has required that the rights of parolees faced with revocation be protected by a number of due process guarantees. Briefly, the U.S. Supreme Court decision in Morrissey v. Brewer (408 U.S. 471, 1972) held that a parolee in danger of revocation has the right to a hearing to present evidence in his own behalf, and to contest adverse evidence. In order to assure due process in revocation hearings, the court required a prompt, locally-held preliminary probable cause hearing with the following requirements (cited in Merritt, 1979:8):

1. The hearing is to be conducted by an individual who is not involved in commencing the revocation proceedings.
2. The parolee must receive notice of the facts upon which revocation is based prior to the hearing.
3. The parolee must be present at the hearing.
4. The parolee is entitled to be heard on his own behalf, and to present evidence and witnesses on his own behalf.
5. There is to be a written summary of the evidence and argument presented.
6. The hearing officer shall make a written statement of his decision, the reasons therefore and the facts that it is bound upon.

TABLE 6.16

APPEALS PROCEDURES

Jurisdiction	Procedure
Alaska	Inmate requests special hearing; application made to institutional counselor who makes a recommendation to the board.
Arkansas	Inmate sends informal letter to board; board does not have to review.
California	Appeal through institution which channels it to board.
Connecticut	Appeal to court, not to board.
Florida	Can appeal within 60 days of decision to commissioners other than ones who make decision; inmate must state reasons for appeal.
Georgia	Inmate writes to board's executive officer; board will reconsider, if appeal is deemed valid.
Hawaii	Inmate submits reason for appeal, in writing, within 30 days of decision.
Illinois	New facts not known at original hearing are grounds for appeal; by letter to the board; appeal considered by panel of 3 members.
Iowa	Inmate submits written requests for reconsideration to liaison officer who makes a written report to the board; board reviews decision and advises inmate.
Kansas	Inmate appeals directly to board; board reviews en banc.
Louisiana	Inmate writes to board; all requests receive a reply, but requests are seldom granted.
Maine	Inmate with new information makes application to institutional parole officer within 60 days after hearing; institutional parole officer presents application to board to consider.
Maryland	Cannot appeal original jurisdiction hearings; hearing examiner interviews can be appealed to panel of 2 commissioners who review case materials and recording of interview.
Massachusetts	Inmate appeals in writing to board; office review by the sitting panel plus one additional member; final decision en banc.

(Table 6.16 continued)

Jurisdiction	Procedure
Michigan	Only accuracy of information can be appealed.
Missouri	Inmate must appeal through institutional parole officer within 30 days after hearing; parole officer sends appeal to board; review done by full board.
Nevada	Cannot appeal to board - must go through court on habeas corpus or civil rights violation.
New Hampshire	Inmate appeals in writing to board.
New Jersey	Can appeal on grounds of incomplete information at hearing; inmate states reasons to board in writing.
New York	Within 30 days after hearing, inmates files notice with appeal unit; has 120 days to prepare appeal; counsel can assist in preparation; appeal unit makes recommendation to appeal board (2 members not previously involved in case).
Oregon	Inmate writes letter to board chairman; board meets to consider.
Pennsylvania	Can challenge reasons for refusal - inmate writes letter to the board.
Rhode Island	May write letter requesting reconsideration.
Tennessee	Recent legislation requires complete board review of appeals.
Texas	Can appeal to present new pertinent information or correct any erroneous information.
Vermont	Can appeal only if illegal hearing occurred; take case to court - court can rule only if board was in compliance with law.
Virginia	May appeal through chair of board with written justification based on new or different information or errors detected since board's decision.
Federal	Appeal to Regional Director within 30 days after decision; appeal to National Appellate Board.

7. During this hearing the parolee is entitled to cross-examine any persons giving adverse information upon which revocation is based unless the hearing officer finds that revealing the identity of an informant may subject him to unreasonable risk.

The court also specifically required that a final revocation hearing be held. Again, definite requirements for the hearing were set out by the court (cited in Merritt, 1979:8-9):

1. This hearing must be conducted before a neutral body or individual.

2. The court suggests that this hearing be held reasonably promptly, a period of two months being explicitly found to be reasonable.

3. There must be a written notice of the claimed violations of parole provided to the parolee.

4. The evidence against the parolee must be disclosed to him.

5. The parolee is to be afforded an opportunity to be heard on his own behalf, to present evidence and to call witnesses.

6. The parolee is to be permitted to cross-examine adverse witnesses unless the hearing officer specifically finds good cause to deny such.

7. There is to be a written decision setting first the facts and the reasoning upon which it is based.

Very shortly after the Morrissey decision, the Supreme Court held in Gagnon v. Scarpelli (411 U.S. 778, 1973) that the parolee also has a qualified right to counsel at the revocation hearing.

Table 6.17 presents the survey findings concerning the total number of revocation hearings held during the most recent fiscal or calendar year (preliminary and final hearings), the number of revocations during that year (for technical violations or new offenses), and

TABLE 6.17

REVOCATION HEARINGS AND REVOCATIONS

Jurisdiction	Total Number of Revocation Hearings	Number of Preliminary Hearings	Number of Final Hearings	Total Number of Revocations	Number of Revocations for Technical Violations	Number of Revocations for New Offenses	Number of Violators Continued on Parole
Alabama	*	*	*	251	*	*	106
Alaska	49	25	24	24	22	2	2
Arizona	*	*	*	*	*	*	*
Arkansas	*	*	282	233	158	75	49
California	4000	0	4000	3200	*	*	*
Colorado	*	*	741	741	676	65	62
Connecticut	277	65	212	212	53	159	48
Delaware	94	15	79	51	15	36	23
Florida	2380	1011	1369	*	*	*	*
Georgia	254	50	204	420	*	*	*
Hawaii	94	47	47	29	20	9	9
Idaho	*	*	88	*	*	*	*
Illinois	*	*	1611	1318	429	889	287
Indiana	366	106	260	366	106	260	*
Iowa	281	138	143	143	107	36	20
Kansas	*	*	260	272	128	144	30
Kentucky	1764	908	856	856	805	51	52
Louisiana	15	*	*	*	*	*	*
Maine	111	54	57	55	28	27	10
Maryland	*	*	672	440	84	356	214
Massachusetts	812	524	288	*	*	*	*
Michigan	*	*	582	1298	582	716	40
Minnesota	*	*	*	*	*	*	*
Mississippi	*	*	210	174	*	*	36

(Table 6.17 continued)

Jurisdiction	Total Number of Revocation Hearings	Number of Preliminary Hearings	Number of Final Hearings	Total Number of Revocations	Number of Revocations for Technical Violations	Number of Revocations for New Offenses	Number of Violators Continued on Parole
Missouri	*	*	70	170	*	*	*
Montana	170	40	130	125	94	31	5
Nebraska	*	*	111	97	26	71	10
Nevada	337	92	245	138	*	*	57
New Hampshire	42	5	37	37	*	*	0
New Jersey	1033	675	358	295	77	218	400
New Mexico	*	*	199	*	101	*	23
New York	3380	*	3380	*	*	*	*
North Carolina	838	687	151	711	*	*	*
North Dakota	62	34	28	56	56	0	8
Ohio	1599	547	1052	1051	329	722	38
Oklahoma	0	0	0	130	*	*	*
Oregon	896	468	428	*	*	*	*
Pennsylvania	400	*	*	*	*	*	*
Rhode Island	67	14	53	38	*	*	*
South Carolina	390	147	243	209	81	128	64
South Dakota	48	13	35	37	31	6	0
Tennessee	*	*	480	*	*	*	*
Texas	1418	480	938	*	*	*	*
Utah	130	*	*	130	*	*	*
Vermont	74	18	56	50	18	32	6
Virginia	3615	*	3615	345	345	*	13
Washington	1106	0	1106	116	*	*	341
West Virginia	*	*	64	53	39	14	11
Wisconsin	0[a]	0	0	0	0	0	0

(Table 6.17 continued)

Jurisdiction	Total Number of Revocation Hearings	Number of Preliminary Hearings	Number of Final Hearings	Total Number of Revocations	Number of Revocations for Technical Violations	Number of Revocations for New Offenses	Number of Violators Continued on Parole
Wyoming	16	8	8	8	4	4	0
District of Columbia	1120	560	560	297	*	*	56
Federal	*	*	2747	*	*	*	*

* Indicates "missing"

[a]In Wisconsin, none of the revocation functions are handled by the parole board.

the total number of parolees found to be violators who were continued on parole. Any trends or patterns which might be found are suspect because of the large amount of missing data on these questions. In fact, the most important finding concerning the number of revocation hearings held and the number of paroles revoked may very well be the fact that so few jurisdictions actually know (or are willing to reveal) this information. We found only 16 jurisdictions which were able to provide complete information on these questions. It should be noted, however, that missing data for the total number of revocation hearings and number of preliminary hearings held may be explained for some jurisdictions by the fact that preliminary hearings are frequently not held by the parole board, and accurate information concerning the number of these hearings held may not be available to the board. It is surprising

to note the large number of jurisdictions (27) who reported missing data either for total number of revocations or for numbers of revocations for technical violations or new offenses. A slightly smaller number of jurisdictions (20) could not provide information concerning the number of parole violators who were continued on parole.

Table 6.18 illustrates, by jurisdiction, the composition of the hearing bodies for preliminary and final revocation hearings. Most frequently, preliminary hearings are held by parole supervision staff members, hearing examiners (who work for the parole board), and hearing officers, who work with the parole field services agency or other department. In only four jurisdictions (Alaska, Arizona, Idaho, and New Mexico) are preliminary hearings held by members of the parole board. Final revocation hearings are most frequently held by the full board (16 jurisdictions), a majority of the board (15 jurisdictions), or a panel of the board (9 jurisdictions). In Florida, the parolee can choose between a majority of the board or one member of the board. New York's final hearings are held by a panel of the board or by a final hearing officer. In Ohio, final hearings are held by one board member and a hearing examiner. Oklahoma's hearings are held by the full board, although the revocation decision itself is made, not by the board, but by the Governor and the Department of Corrections. Final revocation hearings in Wisconsin are held by attorney hearing examiners who are not associated with the parole board.

Our survey asked parole boards whether they automatically revoked the parole of an offender who had been convicted of a new felony or a

TABLE 6.18

COMPOSITION OF HEARING BODIES:
PRELIMINARY AND FINAL REVOCATION HEARINGS

Jurisdiction	Preliminary[a] Hearing	Final Hearing
Alabama	Parole Supervision Staff	Majority of Board
Alaska	Board member	Full Board
Arizona	Board member	Full Board
Arkansas	Hearing Examiner	Full Board
California	not specified	Panel of Board (2 members)
Colorado	Hearing officers	One Board member
Connecticut	Hearing officers	Panel of Board (3 members)
Delaware	Parole Supervision Staff	Full Board
Florida	Hearing Examiner	Majority of Board or one Board member - parolee's choice
Georgia	Hearing Examiner	Majority of Board
Hawaii	Parole officer	Full Board
Idaho	Board member	Majority of Board
Illinois	Parole Supervision Staff and Hearing Examiner	Panel of Board (3 members)
Indiana	Parole Supervision Staff	Full Board
Iowa	Probably cause hearing officer (lawyer)	Panel of Board (2 members)
Kansas	Parole Supervision Staff	One Board member
Kentucky	Hearing Examiner	Full Board
Louisiana	Parole Supervision Staff	Majority of Board
Maine	Parole Supervision Staff	Majority of Board
Maryland	Parole Supervision Staff	One Board member
Massachusetts	Hearing Examiner	Panel of Board (3 members)
Michigan	Parole Supervision Staff and Hearing Examiner	Panel of Board (2 members)
Minnesota	Parole Supervision Staff	Panel of Board (2 members)
Mississippi	Hearing Examiner	Majority of Board

(Table 6.18 continued)

Jurisdiction	Preliminary Hearing	Final Hearing
Missouri	Parole Supervision Staff	Majority of Board
Montana	Parole Supervision Staff	Full Board
Nebraska	Parole Supervision Staff and Hearing Examiner	Full Board
Nevada	Parole Supervision Staff and personnel from law enforcement, community services, and corrections	Full Board
New Hampshire	Parole Supervision Staff	Full Board
New Jersey	Parole Supervision Staff	Majority of Board
New Mexico	2 or more Board members	2 or more of Board members
New York	Hearing officers	Panel of Board or final hearing officer
North Carolina	Hearing Examiner	One Board member
North Dakota	Hearing officer (lawyer)	Full Board
Ohio	Hearing officer (lawyer)	One Board member and Hearing Examiner
Oklahoma	Interviewers	Full Board (but Governor and Department of Corrections make decision
Oregon	Hearing Examiner	Majority of Board
Pennsylvania	Hearing Examiner	Majority of Board
Rhode Island	Parole Supervision Staff	Full Board
South Carolina	Hearing Examiner	Full Board
South Dakota	Special parole agents from Office of Correctional Services	Full Board
Tennessee	Independent hearing officer	Full Board
Texas	Parole Supervision Staff	Panel of Board or Commissioners (3 members)
Utah	Hearing Examiner	Majority of Board
Vermont	Probable cause hearing officer (from Attorney General's office)	Majority of Board

(Table 6.18 continued)

Jurisdiction	Preliminary[a] Hearing	Final Hearing
Virginia	Parole Supervision Staff	Majority of Board
Washington	Hearing Examiner	One Board member
West Virginia	Department of Corrections hearing officers	One Board member
Wisconsin	Parole Supervision Staff	Attorney Hearing Examiners independent of Board
Wyoming	Department of Probation and Parole Hearing Officer	Majority of Board
District of Columbia	Hearing Examiner	Majority of Board
Federal	Parole Officer	Hearing Examiner

[a]In general, the difference between a Hearing Examiner and a Hearing Officer is that, unless otherwise noted, a Hearing Examiner works for the parole board and a Hearing Officer works with the parent department or the parole field service agency.

new misdemeanor. In 59.6% of the jurisdictions, revocation is automatic following conviction of a new felony; revocation is automatic in only 9 (17.3%) of the jurisdictions (Alaska, Colorado, Indiana, Maine, Oklahoma, Rhode Island, South Carolina, Tennessee, and Wyoming) for conviction of a new misdemeanor.

Table 6.19 shows the average length of time, by jurisdiction, between arrest for a new offense or technical violation and the final parole revocation decision.

Remembering that the U.S. Supreme Court, in Morrissey v. Brewer, held that the final revocation hearing should be held reasonably promptly, suggesting that 60 days should be considered reasonable, it

TABLE 6.19

AVERAGE LENGTH OF TIME FROM ARREST TO PAROLE REVOCATION DECISION

Jurisdiction	Length of Time
Alabama	45-60 days
Alaska	10-120 days
Arizona	30 days
Arkansas	60-90 days
California	30-40 days (but 60-70 days for those requiring counsel).
Colorado	45 days
Connecticut	60 days
Delaware	30 days
Florida	60 days for technical violations, 4-9 months for new offense.
Georgia	30-45 days
Hawaii	5-60 days
Idaho	30 days
Illinois	90 days
Indiana	Within 60 days
Iowa	Less than 60 days
Kansas	Within 30 days
Kentucky	45 days
Louisiana	15 days for preliminary hearing; final hearing depends on next scheduled institutional visit by the board.
Maine	30 days
Maryland	30 days
Massachusetts	60 days
Michigan	Within 30 days
Minnesota	45 days
Mississippi	30 days (state statute requires 30-90 days).
Missouri	Varies

(Table 6.19 continued)

Jurisdiction	Length of Time
Montana	Within 30 days
Nebraska	30 days
Nevada	60 days
New Hampshire	Varies, depending on whether individual appeals; may also vary by county.
New Jersey	75 days
New Mexico	30-60 days
New York	60-90 days
North Carolina	30 days
North Dakota	30 days
Ohio	60 days
Oklahoma	Varies
Oregon	60 days
Pennsylvania	30-120 days
Rhode Island	30-60 days
South Carolina	Varies
South Dakota	30 days
Tennessee	90 days (after service of warrant).
Texas	Less than 90 days.
Utah	30 days
Vermont	10 days
Virginia	30-45 days
Washington	Varies
West Virginia	60-90 days
Wisconsin	Not applicable; the Wisconsin parole board does not handle revocation procedures.
Wyoming	60 days (by statute).
District of Columbia	21-45 days
Federal	90 days

appears from our survey that most jurisdictions are following these court guidelines. Even assuming that jurisdictions routinely used the maximum time period which they reported in our survey, only ten jurisdictions would be exceeding the reasonable time period set by the court. It should be noted that most of the jurisdictions whose maximum periods of time exceeded 60 days also reported minimum time periods less than 60 days.

Finally, with respect to parole revocation, our survey asked parole boards whether they used structured guidelines to reach their revocation decision and, if so, whether the contents of these guidelines were known by or available to field supervision staff, parolees, and the general public. The results of our survey questions on these points are reported in Table 6.20.

As the table indicates, fewer than half of the surveyed jurisdictions (44.2%) use structured guidelines for revocation decisions. Where guidelines are used, however, they are generally known by, or at least available to, field supervision personnel, the parolee, and (to a lesser extent) the general public.

TABLE 6.20

USE AND AVAILABILITY OF PAROLE REVOCATION GUIDELINES[a]

Jurisdictions	Use Revocation Guidelines	Guidelines Known to Field Staff	Guidelines Known to Parolees	Guidelines Known to Public
Alabama				
Alaska				
Arizona				
Arkansas				
California	X	X	X	X
Colorado	X	X	X	
Connecticut				
Delaware				
Florida				
Georgia				
Hawaii	X	X	X	X
Idaho	X	X	X	X
Illinois				
Indiana	X	X	X	
Iowa				
Kansas	X	X	X	X
Kentucky				
Louisiana	X	X	X	X
Maine	X	X	X	
Maryland	X	X	X	X
Massachusetts	X	X	X	
Michigan				
Minnesota	X	X	X	
Mississippi				
Missouri				
Montana				
Nebraska	X	X	X	

(Table 6.20 continued)

Jurisdictions	Use Revocation Guidelines	Guidelines Known to Field Staff	Guidelines Known to Parolees	Guidelines Known to Public
Nevada				
New Hampshire	X	X	X	
New Jersey				
New Mexico	X	X	X	X
New York				
North Carolina				
North Dakota	X	X	X	X
Ohio				
Oklahoma				
Oregon	X	X	X	X
Pennsylvania	X	X	X	X
Rhode Island	X	X	X	X
South Carolina				
South Dakota				
Tennessee				
Texas	X	X	X	X
Utah	X	X	X	
Vermont				
Virginia				
Washington	X	X	X	X
West Virginia				
Wisconsin				
Wyoming	X	X	X	X
District of Columbia				
Federal	X	X	X	X

[a]An "X" indicates a "Yes" response.

CHAPTER 6

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CHAPTER 7

EXTERNAL INFLUENCES ON PAROLE BOARD DECISIONS

Introduction

Parole boards do not make decisions in a vacuum. Influences and pressures from sources external to the board affect both the decision-making process in individual cases and the general decision-making policies of the board. These influences can arise from sources located within the criminal justice system and from sources completely external to the system. In some cases, these influences will actually override a decision made by the board on the merits of the case. In other cases, outside influences will increase or decrease the relative importance of particular criteria which the board uses to guide decisions. Finally, these influences can affect decisions in certain "borderline cases," thereby prompting a shift in the overall rate of granting parole. Thus, although the board may be structured and identified as "autonomous," it may, in reality, be very much directed and influenced by external forces.

The consideration of external influence arises from the function and structure of parole boards. Within the corrections system, the parole board often plays a quasi-judicial role. It makes the determination as to when offenders put in the charge of the corrections system will be released. Two aspects of this role result in the emergence of external influences in parole release decision-making.

The first is that most paroling authorities view themselves as a component of the corrections system and feel some obligation to be responsive to other components of that system. The second point is that goals upon which the board makes its judgement are multiple and somewhat vague.

The first aspect creates a situation wherein corrections officials and prison administrators will exert pressure on the board to play an active role in release decisions. These officials see parole as an integral step in the correctional process to which they are committed. For example, when space limitations demand that institutional populations be reduced, corrections officials look to parole boards to relieve some of the pressure by releasing more inmates, even though this action may not always be consistent with the board's mandate. Although in many states parole boards are structurally autonomous, the degree of their interaction with corrections officials and their dependence on corrections for information and services results in pressure on the board to be responsive to correctional needs.

The second aspect that allows the emergence of outside influences centers on the fact that parole boards make decisions based on objectives that are both vague and sometimes conflicting. Traditionally, the focus of corrections effort has been rehabilitation. Under an indeterminate sentencing structure, the parole board acts as the "judge" of an offender's degree of rehabilitation. If the sole determination to be made is degree of rehabilitation, then the bulk of decision-making factors would lie within the individual case. But the objective of

determining the degree of rehabilitation has been coupled with the objective of preserving public safety. Further, the value objectives of deterrence and of equitable punishment are often included as basic considerations for parole board decision-making. These added objectives require that the board take into consideration factors that lie beyond the individual case. For this reason, the board allows institutions like the courts, the police, and the media to influence the decision-making process through their comments on the public safety aspects of parole release decision-making.

Outside influences on the parole board can affect parole release decision-making in three ways. First, it can have an effect on individual case decision-making. There is evidence to suggest that, in certain cases, the pressures or influences of persons and institutions outside of the parole board can reverse board decisions. For example, the board may indicate that a certain offender deserves parole based on the merits of his or her case, but is denied parole because of an external factor such as public outrage or opposition by the courts.

The second way in which outside influences affect parole release decisions is that these influences can affect the consistency of parole board decisions. Most parole boards have a formal or informal policy that governs the standards of parole releases. External influences can raise or lower the general standards offenders must meet for parole, or they can cause a change in the relative importance the parole board places on factors considered in parole release decision-making. For example, a board may require that potential parolees participate in

institutional employment and training programs to qualify for parole, but make no particular effort to determine the degree of benefit derived by a particular inmate. However, in the case of an inmate whose sentencing judge writes a "pen letter" to the board suggesting that the inmate not be released without a "trade," the board is likely to apply its program participation rather strictly.

Third, influences can affect decision-making in borderline cases. General media pressure on a board for being too lenient can cause a slight tightening of decision criteria that will only manifest itself for borderline cases. The board may elect to "play it safe" by routinely denying cases where it was not quite certain that parole should be granted. If this effect is constant, over the long run it will change the rate at which parole is granted. The net result of all the above is that general rates of parole release may rise or fall depending on the strength and nature of the outside influences.

In defining external factors for this chapter, we will first consider whether the source of influence or pressure originates from outside the parole board. This can be in the form of either actual or perceived pressure. We will then look to see if this influence or pressure affects parole board decision-making in either individual cases or in terms of its effect on more general parole board policy. In this chapter, we will be considering a number of external factors. Those that are within the criminal justice system include correctional departments, judges, prosecutors, and the police. Those sources that exist outside the criminal justice system include the general public

and government officials. The reader should be aware that information contained in this chapter is only suggestive of the magnitude of these influences. Parole boards do not readily admit to being influenced by external factors; we can only present bits and pieces of evidence, opinions, and cases that indicate the presence and force of external influences.

Criminal Justice System Factors

Prison Administrators

Parole decision-making has been structured in three distinct models during the development of parole. Early parole decision-making was structured within an institutional model. The institutional model placed the authority for parole decision-making in the hands of the staff of the correctional institution. It was felt that decision-making authority would be most effective when placed with those most familiar with the inmates. But this model sacrificed objectivity. Institutional concerns for discipline and population size tended to overshadow concerns for individual treatment and the welfare of society. In response to this oversensitivity to institutional concerns, a second model of parole decision-making emerged. This model placed the authority for parole decision-making with independent, autonomous parole boards. The goal of this model was to increase the objectivity of the parole decision process. But this model was criticized for being too sensitive to public pressures and too far removed from the needs of institutions. More recently, a consolidated model of parole decision-making has emerged. In this model, the authority for decision-making still rests

with parole boards, but the boards are placed within corrections agencies. This structure attempts to maintain the board's independence while increasing its sensitivity to the needs of corrections (President's Task Force, 1967:65-66).

O'Leary and Hanrahan's (1976:9) research on parole board organization reveals that of the three models of parole board organization only two, the autonomous and consolidated models, are present today. Their research, presented in Table 7.1, indicated a trend toward the consolidated model. Our more recent survey indicates a definite swing back to autonomous boards, with 36 boards indicating they were autonomous, 13 consolidated, and 3 undefinable. This swing back to autonomous boards may indicate a desire on the part of state legislatures and executives to reduce the influence of the correctional establishment on parole decision-making.

TABLE 7.1

ORGANIZATIONAL SETTING
OF STATE PAROLING AUTHORITIES

	Number of Jurisdictions		
Organizational Setting	1966	1972	1976
Autonomous Agency	40	20	25
Larger State Agency or Department of Corrections	10	30	25
Total	50	50	50

Source: O'Leary and Hanrahan, 1976:9.

The corrections establishment seeks to influence parole decision-making for two purposes: (1) to control prison populations, and (2) to enforce prison discipline. During 1974, the parole system was responsible for the release of 64% of persons leaving U.S. prisons and institutions (Uniform Parole Reports Newsletter, March 76:6). With the majority of releases from prisons being determined by parole boards, it must be expected that prison authorities would exert a great deal of pressure on parole boards. Realistically, parole board decision-making may have more effect on institutional populations than prison parole boards, given the current state of chronic prison overcrowding. A recent LEAA study indicates that prison populations exceed rated capacities in 24 states (Prison Population and Policy Choices, 1977). Faced with the adverse results of overcrowding on prison discipline, prison costs, and inmate legal actions, administrators have a limited number of responses. Basically, prison administrators are limited to three choices in responding to overcrowded conditions: build new facilities, refuse to accept new prisoners, or pressure parole boards into releasing more prisoners. For most correctional systems, releasing prisoners on parole is the quickest, most economical, and most acceptable response to overcrowding.

There is some evidence and data available to support the proposition that parole boards are influenced by problems of severe overcrowding. One instance of this phenomenon of board response to overcrowded prison conditions occurred in Mississippi. The inmates at the Mississippi State Penitentiary at Parchman brought suit against the

State of Mississippi in Federal Court in 1971. After six years of litigation and investigation, the Federal Court ordered the closing of eight prison camps and approximately 1,000 bed spaces on the 21,000 acre prison farm. In order to lower the population of the State Penitentiary at Parchman, the State Legislature and the parole board made a number of changes in the system of parole. In July of 1976, the state passed a series of laws cutting one year off the minimum for parole eligibility. The parole board responded by paroling seventy-one percent of the seven hundred applicants for parole. The combined effort resulted in early parole release for over 250 prisoners (Prison Population and Policy Choices, 1977). However, these measures did not result in sufficient relief. The Mississippi Department of Corrections went back to the legislature and asked for a supervised release program that would, in most cases, allow parole release after one year of serving sentence.

It was noted in the Prison Population and Policy Choices (1977) report that institutional overcrowding causes pressure on other segments of the criminal justice system. Prosecutors and judges were asked to rely more on diversion projects and probation than had been done in the past. On at least one occasion, the Governor called a meeting of trial judges to discuss the court orders. But the state seemed to put emphasis on using parole release to comply with the court order. The report concludes from interviews with officials that in addition to early parole and supervised earned release, parole policy has generally become more lenient. Borderline cases are now uniformly decided in favor of the

prisoner.

The report further states that the typical parole board does not require a court order to be influenced by pressures regarding institutional populations. In Iowa, prison over-population resulted in more lenient parole board policy. Between 1971 and 1972, parole releases increased by 210, from 421 per year to 631 per year (Prison Population and Policy Choices, 1977). The inmate population was reduced by 240. The report notes that state criminal justice officials felt that this reflected the desire of the Department of Corrections to lower the population and the Parole Board's effort to comply (Prison Population and Policy Choices, 1977).

The role of parole boards in reducing prison populations is widely discussed, but their role in increasing them is practically never mentioned. A study by the Council of State Governments did, however, touch on the issue. It reports, "Prison population levels over the past few decades have been characterized by wide fluctuations. It is generally accepted that variation in parole board practices is one major contributory factor in producing these erratic population shifts" (Council of State Governments, 1976:36). This suggests that parole boards may be a cause as well as a potential solution to problems of erratic prison populations. Boards can be more than a safety valve for excess population; they can also serve a broader regulatory function.

Kastenmeier and Eglit (1973) note the desire on the part of parole boards to regulate prison populations. They state, "One function of the parole boards is to assure that prison populations do not exceed

manageable maxima." For support, they quote Foote, "Despite all the rhetoric about individualization and treatment I am convinced that the major impetus behind the development of parole and other measures of indefinite sentence length has been the effort of correctional bureaucracy to achieve better control over their population and management problems" (Kastenmeier and Eglit, 1973:518).

Cole and Talarico (1977) charge that parole boards are more interested in avoiding responsibility for parole decision-making and defer basic justice and equity goals in favor of system maintenance goals. They state, "It would appear that the primary concerns of both the courts and the parole boards are directed at keeping the system going. Because there are no clearly established priorities it is possible that no one wants to take clear and definitive responsibility for decisions. Therefore, it is feasible that the least participants can do is to assure smoothness and efficiency" (Cole and Talarico, 1977:976).

The National Advisory Commission (NAC) refers to a role of parole boards as a kind of "system regulator". They state that parole officials are sensitive to the import of their decisions on corrections and take these factors into account in their decisons (National Advisory Commission on Criminal Justice Standards and Goals, 1973). The term "system regulator" may have broader application, however, than just population control. Boards also seem to control other variables, one of which is the correctional budget.

Evidence of this additional concern for stability is particularly

strong in the Arizona Governor's Commission Report on Corrections Planning. Portions of the report (portions that were submitted by the Board of Pardons and Parole) give the impression that the Arizona Parole Board is very much interested in reducing the inmate population and stabilizing it at its present capacity. The board, however, pursues this goal in terms of budget rather than population stabilization. There is also evidence of a strong concern to bring the rate of parole release up to levels that are more in line with national and regional rates (Arizona Governor's Commission, 1977).

The pressure on the parole board to release more inmates because of economic concern is substantial. Kastenmeier and Eglit (1973) state "Prisons are expensive--much more than probation and other non-institutional programs. Not withstanding the rhetoric of law and order, at some point public demands for economy do become dispositive" (Kastenmeier and Eglit, 1973:516). The National Clearing House for Criminal Justice Planning and Architecture surveyed thirteen high security institutions and found wide costs variations. Costs per inmate per year ranged from a low of $3,100 per year to a high of $10,500 per year.

They put the average cost per inmate per year in state adult institutions at $8,723. This figure includes basic support and custody costs. It consists of capital costs of $3,712 per inmate/year and operating costs of $5,011 per inmate/year. They also surveyed construction costs of recently constructed and planned institutions and found the per bed costs of high security institutions ranged from a low of $23,700 in Ohio to a high of $57,052 in Maryland. In addition to

construction and operating costs, they estimated the foregone productivity of inmates at $5,212 per year based on a fifteen percent unemployment rate among inmates (Singer and Wright:1976).

Although investigations of parole costs are generally less rigorous, they all show substantial savings when compared to incarceration costs. Although they do not offer supportive data, Singer and Wright state that annual operating costs for the incarcerated inmate are roughly eight times the amount for supervision of parolees. They also note that "if a state has a part time board costing $200,000 per year (the state) should expect to break even financially if the full-time board costing an additional $200,000 is able to shorten 127 inmate terms by only two months each" (Singer and Wright:1976).

In a more recent study, the Arizona Governor's Commission on Corrections Planning investigated the cost savings of parole over incarceration and found that inmate costs per year were over ten times the cost of parole for one year: more than $6,500 for incarceration versus a little over $600 for parole. It was reported that, for each five percent rise in the parole release rate, the reduction in prison costs would be $208,202 per year. The report of the Commission argues for an increase in the parole board staff as a means of raising the parole rate. The report puts the rate of eligible inmates granted parole at 48 percent in Arizona, while the National Center for Crime and Delinquency reports a national median rate of 63 percent. The report concludes that the state could raise its parole rate and realize significant savings (Arizona Governor's Commission, 1977:26-27).

Studies which identify the savings to institutional corrections which result from parole activities are yet to appear. Most information is highly speculative, such as Gottfredson's report of work done by Burdman, "In 1961 the California legislature approved a program based on a screening of inmates by base expectancy scores combined with programs for more intensive institutional and parole services. The goal was reduction of institutional costs for nonviolent cases by release slightly ahead of the expected time. By 1963 the Department of Corrections reported to the legislature that this program had reduced the institutional population by more than 840 men and women, that support savings were at least $840,000 and that $8½ million in capital outlay was deferred" (Gottfredson, 1975:87).

Our survey of current parole board practices provided only sketchy information regarding boards' responses to prison population pressures. Only one board (and that in a side comment) indicated that its major role had recently changed to that of institutional population regulator. When boards were asked to rank their five most important tasks from the list in Table 7.2, "Control of institutional populations" ranked last. It was listed as not applicable or not ranked by 49 of the 52 jurisdictions. Thus our survey failed to verify the contention of many commentators that control of institution populations is an important role for parole.

Parole has long been regarded as a means of maintaining discipline within institutional populations. Prison administrators have openly acknowledged the disciplinary role which parole has played. Now, faced

CONTINUED

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TABLE 7.2

PAROLE BOARD TASK RANKINGS

Task	Rank 1	2	3	4	5	Not Ranked --
Determination of Rehabilitation	4	10	10	3	2	16
Control of Institutional Behavior	0	1	1	5	9	30
Assurance that Inmate Receives Just Deserts	2	3	1	9	8	22
Assurance that Inmate Serves Equitable Time	3	6	5	7	6	18
Release at Most Opportune Time for Parole Success	13	9	14	1	4	3
Protection of the Public	21	10	5	5	2	1
Control of Institutional Populations	0	1	0	0	2	42
Reduction of Sentencing Disparity	1	4	6	10	3	22

with the threat of abolition of parole and the substitution of determinate sentences, correctional administrators are expressing concern over the loss of this disciplinary tool. Sigler, former Chairman of the U.S. Parole Board, writes "If we are going to have prisons, we must give administrators the means by which to operate these prisons on a reasonably orderly basis. If prisoners are committed with fixed terms--there will be no incentive for the prisoners to behave themselves in confinement" (Sigler, 1975:47). May interviewed a number of state corrections

commissioners for Corrections Magazine on the issue of determinate sentencing. He found "They (the commissioners) are afraid that if parole is simply discarded they and their prison wardens will be deprived of a valuable tool that provides at least some hope for early release for thousands of inmates in their institutions. It is this hope, although dim for some inmates, that helps reduce the tensions of confinement" (May, 1977:43).

It can be argued, however, that parole contributes to violence and tension within the walls of a correctional institution, rather than controlling it. The McKay Commission report on the Attica state prison uprising reports, "The operation of the parole system was a primary source of tension within the walls and the existing parole procedure merely confirms to inmates that the system is indeed capricious and demeaning. The uncertainty of release is demoralizing and a major cause of depression and social instability in prison. Planning for one's release is impossible; family relationships become strained and employment possibilities are difficult to develop or retain" (Quoted in Arizona Governor's Commission, 1977:10).

Despite the fact that using parole as a device to enforce institutional discipline may seem to run counter to its rehabilitation aim, it appears that it is nonetheless used in this manner. The difficulty in discussing this topic is that it is hard to determine when the board is interested in maintaining discipline over the entire prison population and when it is concerned with the merits of individual cases. Dawson sees this problem and writes, "It is often difficult to determine

whether a board is interested in the inmate's disciplinary record as an indication of his probable adjustment on parole or whether it is concerned about the effect which parole of an inmate with a bad institutional record would have on the efforts of the institutional administrator to maintain discipline. In many cases it seems likely that the board is interested in both" (Dawson, 1966:257). Most parole boards use the inmate's disciplinary record as a source of information at the parole interview, and many boards use institutional adjustment as part of their criteria for parole selection. The use of this criterion reflects a legitimate concern for the individual's ability to succeed on parole. Parole boards have reasoned, with little if any empirical support, that if a person can adjust to the prison environment then he or she can adjust to parole conditions. The Model Penal Code authorizes parole denial when the inmate's "release would have a substantial adverse effect on institutional discipline" (The Model Penal Code 305.9 (1)(c):1962).

Although the organizational placement of the board and its administrative procedures will help to determine the role of a parole board in institutional discipline, Stanley reports that there are no studies showing whether parole boards perform differently in different organization structures. He felt, based on his field observations, that it made little difference. The boards he studied relied on information from institutions and placed strong emphasis on the inmate's institutional performance (Stanley, 1976:27). Moule and Hanft (1976) found that, in Oregon, institutional recommendations received mixed reviews. Three

members of the parole board felt they were important as a decision-making tool, but two other members felt they were not. The chairman of the board stated, "They stink." Surprisingly, they found that inmates receiving positive recommendations tended to serve longer terms than those without (Moule and Hanft, 1976:328-329). It would seem that there is clear cut relationship between the organizational placement of a parole board and its responsiveness to prison officials' demands.

Parole boards are likely to deny parole on the grounds of past institutional conduct when they perceive that paroling such an applicant might have an adverse effect on prison discipline. Dawson recalls board members in his study writing statements such as "I can't parole anyone involved in so serious a breach of discipline" (Dawson, 1966: 278). Part of the reason parole is used to support institutional discipline is the inadequate job that "good-time" provisions do. One board member in Dawson's study states that in order to lose good-time, an inmate "would have to spit in the warden's eye" (Dawson, 1966:279). Board support of institutional discipline can be part of a formal or informal policy. The Citizen's Inquiry on Parole and Criminal Justice (1975:61) report notes that the New York Parole Board makes it a policy to deny parole to men in segregation (solitary confinement), and Moule and Hanft indicate that it is board policy in Oregon to deny parole to inmates who have lost their good-time. The following conversation between two Oregon board members, recorded by Moule and Hanft, (1976:324-325) reveals this policy and its purpose:

"X: I'd like to give him parole immediately.

Y: I don't think we should grant parole until he regains his good time.

X: The prison isn't going to give back his good time.

Y: I'll call the supervisor. If he doesn't object, I'll go along with the parole.

(The assistant supervisor objected to parole, saying release would give a mixed message to the prison population; that it would be a bad example to parole a man who had lost good time).

X: He's still a good prospect for parole, in my opinion.

Y: Mine, too, but we have to consider the population."

Our survey indicated that parole boards gave a relatively low ranking to the task of controlling institutional behavior (see Table 7.2). Thirty respondents did not rank it among their top five tasks and only one ranked it among the two most important tasks.

The issue of disciplinary reports and actions against inmates is one part of the issue of the use of parole to maintain institutional control over inmates. Less important, but still a determining factor in the decision to grant parole, is the consideration of the inmate's participation in institutional programs. Some scholars feel that parole boards use parole to coerce cooperation from inmates in institutional programs as a means to show that they, the parole board, support the institution and what it is trying to do. Carroll and Mondrick (1976:98), writing about such programs, state:

> Despite the greater power of noninstitutional factors to predict success and failure on parole..., parole boards are inclined to rely upon institutional factors in making their decision either because they are unaware of prediction tables or, perhaps more importantly, because they are concerned with matters other than probable success on parole, matters such as the maintenance of order within the institution.

For example, their study indicated that parole boards put more emphasis on treatment program participation for black prisoners than for white prisoners. They explained this by theorizing that parole board members perceived program participation on the part of black inmates as an acceptance of the institutional order and a rejection of political militancy (Carroll and Mondrick, 1976:105).

The problem in considering parole as a tool to support institutional programs is similar to the problem of considering parole as a tool to maintain institutional discipline; that is, when is the board concerned with the individual case and when is it concerned with showing its support for the institution? Many board members feel that participating in an institutional program is evidence that a parole applicant has developed an understanding of his or her needs and situation and is trying to "improve himself." Stanley cites a U.S. Bureau of Prisons report in stating that participation in prison programs can predict success on parole (cited in Stanley, 1976:55). However, previous studies have questioned the value of prison programs and their ability to predict success on parole. A 1971 study conducted for the California Department of Corrections showed little correlation between prison behavior and parole success, and resulted in the dropping of institutional behavior as a criterion for parole decision-making in California (Stanley, 1976:54).

In addition to those who believe parole should support institutional programs, there are those who view prisons as an institution for rehabilitating offenders and view parole as a reward for that

rehabilitation. They feel that it would be grossly unfair to judge an individual's readiness for parole on factors that could not be changed during the period of incarceration. They argue that parole is meant to be granted when the individual is rehabilitated and that institutional performance is the best indication of such a condition. Dawson reported one such person in his study of parole board decision-making. "One board member in Wisconsin said that if an inmate appeared for parole and all prognosticating factors were in his favor for adjustment under supervision, and even if he, the parole board member, thought the individual would successfully complete parole, he would still vote to deny parole if the inmate made no effort at all to change himself by participation in institutional programs." But Dawson goes on to interpret this board member's stance as an indication of parole board support of institutional programs rather than a concern for the individual's rehabilitative effort. "Thus conceived, the parole decision becomes a means of encouraging participation in the institution's programs, much as it may be used to encourage compliance with the institution's rules of discipline" (Dawson, 1966:255-256). The Citizens' Inquiry on Parole in New York voiced similar opinions on the use of parole in encouraging program participation. "In stressing institutional adjustment, board members are aware that wardens consider inmate participation in prison programs and good discipline record essential to the maintenance of institutional order. By considering these factors in parole release decision-making, the board uses the granting of parole as a device for controlling inmate behavior during

incarceration" (Citizens' Inquiry on Parole and Criminal Justice, 1975: 57).

Since most inmates are anxious to be paroled, it requires very little overt action on the part of boards to trigger inmate participation in institutional programs. Kastenmeier and Eglit write, "Obviously many, if not all, inmates are astute enough to realize the substantive irrelevance of these programs, and thus imprisonment becomes a matter of role-playing" (Kastenmeier and Eglit, 1973:518). Prisoners, it seems, are more concerned with how their participation will look to the parole board rather than any benefits they might receive from the program. Boards seem to recognize this and evidence a constant concern that they are being "conned" by the inmates who take the programs only for the sake of appearance. Critics of parole argue that using program participation as a criterion for parole strips away any possible benefit that program might hold. In effect, the criterion of participation makes the programs mandatory rather than voluntary for those inmates seeking parole. In separating fact from opinion in this area, there are two complicating factors: (1) that program participation can be regarded as a criterion for determining an individual's ability to succeed on parole, and (2) that inmates are not coerced into program participation, but use it as part of a "con" to look good in front of the board. There is no research currently available which allows the effects of these factors to be separated.

The strength of correctional influences on parole is difficult to assess. One study that does give some indication of the strength of

these influences is a survey conducted by the National Parole Institutes. In 1965, parole board members were surveyed concerning considerations which effected their decisions to grant or deny parole. In response to the statement: "What I thought the reaction of other prisoners might be to the policy which they might ascribe to me from my decision in a particular case", board members stated this would be a significant influence in 3.7 percent of their cases and 12.2 percent of the board members stated that it would be among their five most important consideration. In response to the statement: "What I thought the reaction of prison officials might be to my decision in a particular case", board members stated this would be a significant influence in 3.1 percent of their cases and 5.0 percent stated that it would be among their five most important considerations (quoted in Parker, 1975: Appendix A(1)). These results seem to indicate that the influence of prison officials is low, and that the board is not too concerned with the effects of its decisions on prison officials. However, it is possible that when these considerations become significant in even a small number of cases, their effects are widespread. Prisoners will become aware of what the board wants in terms of discipline and participation and will try to meet those standards. Boards may only take these criteria into consideration in special cases, for example, when an applicant appears before the board who has a number of severe infractions on his disciplinary record or who has no record of participation in institutional programs. Parole in these cases might be denied more because parole in these cases would have an adverse

effect on prison discipline or morale, rather than denied because these factors cast doubt on the applicant's ability to succeed on parole. In less obvious cases, disciplinary records and program participation are reduced to just two of a number of considerations.

In summary, despite the fact that the considerations of discipline and program participation may be significant in only a small number of cases, their presence indicates that boards do use parole as a tool to control institutional discipline and support institutional programs. It is evident that prison officials exert influence on the board to continue this practice. The prisoners believe, and the board and prison officials will not discourage the notion, that if they severely violate standards or discipline or they refuse to participate in institutional programs, their chances for parole will diminish, without regard to the merits of the rest of their case. As Kastenmeier and Eglit state, "Whether or not prisoner conduct is made an explicit statutory precedent to parole release, it clearly is a significant factor in the release decision, making parole, in the words of one witness before Subcommittee No. 3 (a Congressional sub-committee), 'the single most important source of coercive power within the correctional system'" (Kastenmeier and Eglit, 1973:517).

The effectiveness or ineffectiveness of this use of parole cannot be demonstrated with the available information. Cole and Talarico (1977:975) probably best sum up current knowledge about the influence of corrections on parole when they state:

> The opportunity for parole may be one way by which correctional administrators maintain order among their charges; however, this is certainly not the only method to 'hold the lid on.' Liberal provisions for 'good time' are generally used when disciplinary incentives are needed. It is probably true that should parole be discontinued and flat sentences instituted, participation in treatment programs would be reduced but time in prison might be occupied in other ways. A defense of parole based on the needs of prison administrators seems to be an example of the tail wagging the dog.

Courts and Prosecutors

Judges and prosecutors exert a different type of pressure on parole boards. While prison officials are primarily concerned with the effect of parole decisions and trends of decisions on the total prison population, judges and prosecutors are concerned with outcomes in individual cases. They are more likely to attempt to influence the board when a particular case comes up before the board. Frequently, there will be public pressure involved in these cases along with that generated by judges and prosecutors. It is likely, however, that the judge and prosecutors are more aware of notorious or sensitive cases coming up for parole and thus are more likely to put forth their opinions in advance of the board's decision. A key aspect of the influence of judges and prosecutors is that their influence is not limited to themselves, but is increased by their ability to mobilize public opinion against the board.

Many parole boards actively solicit the opinions and recommendations of prosecuting attorneys and sentencing judges. In 1976, O'Leary and Hanrahan reported that 36 of 52 parole jurisdictions either contacted or solicited opinions from judges and prosecuting attorneys

on upcoming cases. In six states (Arizona, Arkansas, Georgia, North Dakota, Texas, and Wisconsin) such contact was mandated by law (O'Leary and Hanrahan, 1976).

A few of the states responding to the O'Leary and Hanrahan survey reported the method of contact between the board and the judge and prosecuting attorney. In Florida, Oregon, Rhode Island, and Colorado, judges and prosecutors are contacted by parole field staff workers and their opinions are recorded as part of a pre-hearing investigation report (O'Leary and Hanrahan, 1976). In some other jurisdictions, the method of contact is very casual. In New Jersey, Ohio, and Maryland, the board sends out lists of parole applicants with upcoming hearings to judges and prosecutors. The burden then falls on them to respond to the board.

There is little discussion in the present literature as to the content of the recommendations and opinions submitted by the judges and prosecutors. Most of the boards contacted by O'Leary and Hanrahan indicated that the recommendations dealt with "the subject of the inmate's parole." In Alabama, the judges and prosecutors are "urged to submit a statement of the theory of the crime" (O'Leary and Hanrahan, 1976).

The quality and quantity of judges' and prosecutors' influence on the parole board is not well documented. Parker cites a 1965 survey of parole boards in which members were asked what considerations affected their decisions. Board members reported that in 7.5% of cases considered by them, the reaction of the sentencing judge to the inmate's parole

was a conscious and significant influence. Twenty-one percent of the responding board members included this factor as one of the five most important considerations (Parker, 1975). The influence of the judges was reported as greater than any outside influence with the exception of the prisoner's relatives or dependents. Included in the group with less influence would be local police, executive branch officials, legislative officials, media, prison officials, prisoners, and other board members (Parker, 1975).

Moule and Hanft asked Oregon Parole Board members about the importance of the recommendations of judges and prosecutors. Four of seven members responded by stating such recommendations were important, while two said they they were not important. Their research into parole release decision-making reveals that court recommendations were made in only 7 percent of the cases researched (12 of 285). The effect of the court recommendations on parole decision-making cannot be fully determined by so small a sample. But the data suggest that the effect of the court recommendation on the board's decision is often the opposite of the effect intended by the court. Inmates with favorable recommendations were not released until they had passed at least five-eighths of their sentence, and only two of the seven with favorable recommendations were released before the three-quarters point in their sentence. Five of the seven inmates with unfavorable recommendations were released before the three-quarters point and two were released before the five-eighths point* (Moule and Hanft, 1976).

*Total data for Moule and Hanft's study of 185 samples: 30% (56) were released before halfway point, 50% (93) before 5/8ths point and 86% (154) were released before 3/4ths point.

In Louisiana, it has been the practice of some district attorneys to appear at the parole release hearing of any inmates from their districts and generally to oppose parole. The Louisiana Governor's Pardon, Parole and Rehabilitation Commission (1977) feels this practice is ill-advised and comments:

> An observer would have to be blind or naive to ignore the additional pressure to deny parole felt by the Board when it returns its decision in the presence of a representative of a politically powerful district attorney who has just argued against release. They can anticipate public denunciation in the press and angry response from public and political officials responsive to public sentiment.

The New York Citizens' Inquiry on Parole reports that cooperation with prosecuting attorneys and other law enforcement officials can play a role in the granting of parole. They cite the case of an inmate granted parole despite a particularly poor record because he had acted as an informer in prison, had testified for the prosecution at a criminal trial, and had a letter of recommendation from a district attorney (Citizens' Inquiry on Parole and Criminal Justice, 1975). The authors state, "If an inmate refuses to cooperate, he may be denied parole. If he does cooperate either by being a secret informer or testifying before a jury, he may be rewarded by being paroled without any attention being paid by the parole panel to the status of his rehabilitation or the likelihood of recidivism" (Citizens' Inquiry on Parole and Criminal Justice, 1975).

It is likely that the influence of the courts on parole decision-making is greatest on the unusual or sensitive case. The vast majority of cases seem to go by without comment from the court. In the cases

in which the court does comment, it is likely that its comments are seriously considered by the parole board. Moule and Hanft reported that courts comment on about 7 percent of all cases. Parker notes that board members, in responding to a survey, report that in 7.5 percent of all cases, reaction of the judge is an important consideration. This would seem to indicate that when the court does make a recommendation, the board members give it serious consideration. The small percentage of cases in which the court does make a recommendation would lead us to believe that there are unusual factors in those cases or that they are particularly sensitive cases.

Our survey provides little help in resolving the issue of court and prosecutor influence. Parole boards were asked to rank various types of community influences with regard to their effect on parole decisions. The results are presented in Table 7.3. "Courts and Prosecutors" were ranked as the strongest of community influences, with 37 respondents ranking them either first or second. Boards were further asked which community influences would be of sufficient importance to lead the Board to deny parole to an otherwise eligible inmate. Table 7.4 presents these data and indicates that courts and prosecutors have the greatest potential of any of the alternatives to override the merits of an individual inmate's case. It is evident that these particular outside influences are among the most important for parole decision-making; however, the extent of their effect and the degree to which particular types of cases are differentially affected is unresearched and unknown.

TABLE 7.3

PAROLE BOARD INFLUENCE RANKINGS

	Rank				Not Ranked
Sourch of Influence	1	2	3	4	-
Citizen Input	11	15	10	3	13
Courts and Prosecutors	26	11	3	1	11
Law Enforcement	3	14	14	7	14
News Media	1	8	20	2	21

TABLE 7.4

INFLUENCES OF SUFFICIENT IMPORTANCE TO LEAD BOARD TO DENY PAROLE TO OTHERWISE ELIGIBLE INMATE

Source of Influence	Yes	No	Not Applicable
Citizen Input	26	16	10
Courts and Prosecutors	35	7	10
Law Enforcement	25	16	11
News Media	15	26	11

The Police

Law enforcement officials exert less influence on parole board members than the courts do. Part of the reason for this is that law enforcement officials and the parole board are farther apart in the criminal justice process. This distance is both temporal and philosophical. The police deal with the offender at the opposite end of the criminal justice process. The length of time between arrest and parole board interview can be quite long. The influence of the court, in particular the judge, on the board's decision is likely to be greater because the judge has dealt with the offender more recently than the police and, a very important factor, the judge and the parole board share responsibility in the sentencing function. The judge and the parole board are likely to share certain values in making sentencing decisions. The judge is likely to have at least some sympathy for the rehabilitative model of corrections. The police, on the other hand, are more likely to view imprisonment as having deterrent value, a view more congruent with their role in the criminal justice system. The difference in philosophies between law enforcement officials and parole boards probably acts to limit the influence of the police on board decision-making.

Often there is a great deal of similarity between law enforcement attitudes and public attitudes. The Louisiana Governor's Pardon, Parole and Rehabilitation Commission report (1977) states, "When a board cites such factors as 'community response' or 'law enforcement attitudes'...it may be responding to public pressure or anticipated

public pressure." Parole boards are likely to consider law enforcement attitudes as representative of the community attitudes toward an offender. They are also likely to consider law enforcement reaction to the parole of a prisoner in terms of the capacity of the policy to mobilize public opinion against the board.

In the National Parole Institutes' survey of parole boards, it was found that board members felt that the possible reaction of the local police to a grant of parole was a conscious and significant factor in about three percent of the cases. Twelve percent of the board members responding felt that police reaction was among the top five important considerations for parole release decision-making (Parker, 1975). In O'Leary and Hanrahan's (1976) study of parole board practices, four states reported that the board regularly contacts law enforcement officials when inmates are up for parole. In Arkansas, this practice is required by law, and in North Carolina it is required by written policy of the board. (The other two states are Delaware and Kansas).

Our survey found that parole boards rank law enforcment influence third behind courts and prosecutors, and citizen input (see Table 7.3). When the strnegth of the influence was assessed, in terms of denying parole to an eligible inmate (see Table 7.4), law enforcement and citizen influence ranked essentially equal. This tends to lend some support to the notion that parole boards may view citizen and law enforcement influence similarly. Law enforcement and parole share the common goals of public protection and prevention of recidivism, but

their methods and philosophies differ so radically that communication, and thus influence, are minimized.

Public Pressures

In most jurisdictions, equal weight is given to the consideration of the individual inmate's rehabilitative potential and to the concern for public safety in release decision-making. The Texas Handbook on Parole states (1978), "No offender should be paroled until it can be shown that it is for the better interest of the community to have him back than to keep him in prison. Release should be effected as soon as possible but only if it is in the public interest." The Hawaii Paroling Authority's administrative rules state "Parole shall not be granted unless...it is determined...(that) release is compatible with public safety" (Rules and Regulations Governing the Hawaii Paroling Authority, Sec. 1.1a). Among the goals listed in the Hawaii administrative rules, the first is, "Every effort will be made to protect the inherent rights of law abiding members of our community" (Hawaii Rules and Regulations, Sec. 121). The New Jersey parole code states "The board shall not release an inmate on parole unless the Board is of the opinion that there is reasonable probability that...he or she will assume his or her proper and rightful place in society without violation of the law and that such release is compatible with the welfare of society" (New Jersey State Parole Board Administrative Code, 10:70-7.3a).

Under the present structure of parole decision-making, the board is charged with making the determination as to whether parole release is compatible with the public safety. But since public safety is a

factor in that decision, the parole board will consider and even seek public input on parole decisions. In some ways, the public's attitude toward parole, particularly its attitude in individual cases, relates to the individual inmate's rehabilitative potential. The degree to which a community is willing to accept an inmate may play an important role in determining the parole success or failure of that inmate. A hostile environment may decrease his or her chances, and a supportive environment may increase the chances for success of parole. The board takes this into consideration in making the decision to grant parole.

The parole board is also interested in the public's attitude toward the board itself. Board members often cite the need for public support for the parole system in order to make that system work. It also must be kept in mind that parole board members are not completely detached from politics or from government. They are public officials, with a desire to remain in their jobs and perhaps some aspirations for higher offices. Parole boards must also submit budgets and reports to legislators, and many are subject to reappointment by governors. Even if parole board members are immune to public opinion, legislators and governors are not.

In Dawson's study of parole criteria in Kansas, Wisconsin, and Michigan, avoidance of criticism is listed as a major criterion in parole release decision-making. In fact, Dawson feels the fear of public criticism pervades much of the parole board's decision-making process. In discussing recidivism as a consideration he states, "If for no other reason, parole boards are concerned with the probability of recidivism

because of the public criticism which often accrues to them when a person they have released violates his parole, especially by committing a serious offense" (Dawson, 1966:249).

Dawson also points out that the board is concerned with the type of violation that may occur should the inmate violate parole. He states that boards may have differing standards of likeliness of parole success for a murderer than a forger (Dawson, 1966:250). Again the differences may not reflect a concern for parole success as much as the implication of possible recidivism. A parolee who forges a check is a minor problem for the board, while one who commits murder is a very serious problem. Dawson demonstrates, through examples, that boards will more readily release a forger whose recidivism probability might be as high as 70 percent than a murderer whose potential for another murder is significantly lower.

Public influence on the parole board's decision-making is most evident in individual cases and may not necessarily be tied to any other criterion except avoidance of public cirticism. In general, the evidence of this avoidance of public criticism occurs in two types of cases: those involving assaultive behavior where there is definite concern for public safety, and those involving trust violation cases. The New York Parole Board directs its institutional parole officers to mark, in advance, certain cases as "sensitive". Included in this category are cases involving gansterism, racketeering, large scale confidence operations or cases that were given publicity or notoriety (Citizens' Inquiry on Parole and Criminal Justice, 1975).

In trust violation cases, the concern on the part of the parole board is to avoid seeming too lenient with offenders. Dawson (1966: 293) offers the following example:

> The inmate had been convicted of embezzling $25,000 from a veterans' service group. He had absolutely no prior criminal record. Before the offense he had been a prominent member of the community and was well liked. This was his initial parole hearing. When the parole board learned that as a result of his offense the attitude of the community was very much against the inmate, it voted to deny parole.

Dawson points out the parole boards are likely to view public or private officials who are imprisoned for embezzlement as good parole risks. In these cases, community attitude can be of utmost importance. Dawson states, "If the attitude of the community toward the inmate is good, he is likely to be paroled as soon as he is eligible. When community attitude is negative, parole is likely to be denied" (Dawson, 1966:284).

Parole board members are equally sensitive to cases involving assaultive behavior or particularly notorious crimes like drug-trafficking. In these cases, it is difficult to make a distinction as to when it has a genuine concern for public safety. In some cases, such as the following case reported by the Citizens' Inquiry on Parole in New York (1975:60), board members make it clear what the deciding factors are:

> For example, an inmate who had killed his son had a seven year maximum sentence. Prior to the killing, the inmate had been suspected of child abuse by hospital authorities. The inmate had no prior criminal record and no one on the panel appeared to believe that the inmate would ever commit a similar offense. The case file indicated that he had made a good adjustment to the institution and that he had done especially well in the school program. The inmate, however,

was denied parole. The board member who conducted the interview said to the other panel members, 'He is from a small community and everyone will know his case.'

Moule and Hanft (1976:336) record the following comment during a pre-hearing discussion: "He did well on his vocational training. It is unfortunate that he plans to go back to Tillanook. They won't have forgotten this offense yet."

Recognizing that the parole board is influenced by public opinions, some prisoners may attempt to mobilize public opinion in their favor. Dawson (1966:284-285) notes that this tactic usually backfires:

> In one case a member of the board said that if a lifer who wrote a great number of letters trying to get someone to influence the board would cease writing letters for six months he would be released but so long as he persisted in his present behavior the board member was determined that he 'do it all.' If the board were to grant parole to such an inmate on the merits of his case it would expose itself to the accusation that the parole grant was a result of special influence. The board prefers to keep the inmate in prison rather than incur that risk.

There is ample evidence to suggest that parole boards may be influenced by public opinion to some degree in all cases. In discussing criteria for parole selection, Porter quotes the Advisory Council of Judges of the National Probation and Parole Association (N.P.P.A.): "The judge (and a parole board member is a quasi-judicial officer) must use public opinion constructively as an aid in sentencing but not be dominated by it" (quoted in Finsley, 1958:232). Kastenmeier and Eglit (1973:516) state, "Concern regarding public opinion is...a necessary ingredient in the decision-making mix." Aside from its place as a consideration or criterion of parole, public opinion can affect the overall rates of parole release. According to Wilson, "Public outrage

at a crime committed by a parolee has often resulted in directives to 'toughen up' while over populated prisons and tight budgets prompt increased releases" (Wilson, 1977:54). A case cited by the authors of Prison Population and Policy Choices (1977) makes the point:

> The rise in prison populations in eighteen months after October 1974 coincides with a disturbance in the prison in Anamose (Iowa) and a highly publicized crime in which a few prisoners on furlough from the Riverview Release Center were accused of breaking into a hearby Holiday Inn, robbing three guests and killing three people...A parole board member suggested that, having experienced the backlash to earlier high rates of release, the board was unlikely 'to go that route again'.

Expressions of public opinion can take many forms, but it is most frequently voiced through the news media. Parker (1975, Appendix A) reports that about 8.5 percent of all parole board members surveyed by the National Parole Institutes felt that reaction of the media to a parole decision was among their five most important considerations. More importantly, all board members reported that in a small number of the cases reviewed by them (median 3.5 percent), the reaction of the media was a significant and conscious influence on their decision. This result indicated that boards react more strongly to media influence than do the local police, prison officials, the governor and the legislature.

Porter reports a case of an inmate who had served 32 years for robbery and murder. After a thyroidectomy operation, his behavior changed radically. He had favorable recommendations from prison and psychological staff. "On the day of his release, there in a metropolitan paper for the world to see was a half page cartoon of a hungry

tiger being released from his cage by the parole board with John Q. Public cringing in contemplation of becoming the tiger's first free meal" (quoted in Finsley, 1958:227). A letter printed in the Portland Oregonian accuses the parole board in that state of being too lenient: "How can the parole board justify letting a convicted murdered out of prison after 12 years, regardless of his prison behavior?...How many other paroled murderers and rapists are lurking in the shadows waiting to strike?" (quoted in Moule and Hanft, 1976:304).

Although they comprise only a small segment of the public, the victims of crimes committed by parolees and parole applicants can play a role in influencing parole decision-making. At least three jurisdictions (Washington, D.C., Delaware, and Kansas) surveyed by O'Leary and Hanrahan (1976) reported that they contacted the victim of a parole applicant's crime.

In generaly, however, the main concern of parole boards is not the victims of parole applicants' crimes, but the potential victim of parolee crimes. In at least one instance, the victim of a parolee's crime has taken the parole board to court in a civil suit. The decision in Grimm v. Arizona Board of Pardons and Parole (550 P 2d 637) may have serious implications for parole boards. The parents of a victim shot and killed by a parolee brought suit against the Arizona Board of Pardons and Parole. After lengthy litigation, the Arizona Supreme Court rules, "That there exists a limited immunity for members of the Board of Pardons and Paroles with liability only for grossly negligent or reckless release of a highly dangerous prisoner strikes the proper

balance between competing interests. The public has an interest in holding public officials responsible for outrageous conduct. The Board members have an interest in freedom from suit for reasonable decisions." The most important point in the case was that the parole board had enough information and services at its disposal to make an informed decision. The court stated that in a case where the inmate had exhibited violent tendencies, the parole board must show a reasonable basis for a belief that he had changed.

The effect of the Grimm decision on parole board decision-making was nothing less than dramatic. The decision was handed down by the Arizona Supreme Court in early April 1977. The trend of parole releases in Arizona from January 1977 to June 1977 is shown below. In March of that year, thirty-nine inmates of the Department of Corrections were released. In April there were only two releases, and in May only nine.

Month	Total Paroled
January 1977	34
February	27
March	39
April	2
May	9
June 1977	18

In the period of January-March 1977, growth in the prison system averaged fifteen new inmates a month. In April, it grew from 60-70 new inmates a month as the parole board and the Department of Corrections reduced the number of monthly releases.

It is difficult to determine to which aspects of public influence the parole board should legitimately respond. To those who adhere

strictly to the rehabilitative philosophy of corrections, it would seem that any influences on the board outside the facts of the individual case would be unwarranted. But in most jurisdictions, the concern for public safety is given equal weight with the concern for the individual in prison. Still, some would argue that the board should determine what releases will be consistent with the need for public safety and that there should be no public input into parole decision-making. However, most parole boards feel that public opinion is important in making the release decision. In the individual case, the boards feel that a supportive, or at least, non-hostile, community environment goes a long way in determining parole success or failure. And, in general, the boards feel that public support for the parole system is important to the success of the overall system. Most people would probably see these concerns as legitimate. What might be considered undue public influence occurs when public pressure dominates decision-making because of a singular incident. When this happens, the board has abdicated its responsibility for decision-making. It can be argued that parole boards are granted a substantial degree of autonomy to avoid undue outside influences. Yet it must be accepted by critics and supporters alike that public opinion will always affect, to some degree, parole decision-making. Parole release decisions can have a significant effect on the public. A disturbing explanation for undue public influence is that the parole board may not have enough confidence in its own judgement to override serious public opposition.

Political Pressures

The American Correctional Association considers freedom from political or improper influences to be an essential element of an adequate parole system (California Probation, Parole and Corrections Association, 1978). The system of parole, as it exists today, was created in part to rid the corrections system of undue political influence. Prior to the establishment of parole, gubernatorial pardons were used to release prisoners prior to the end of their sentences. Under this system, wealthy professional criminals could and did use bribery to gain release, leaving the poor and those without political influence to serve longer sentences (Council of State Governments, 1976). Gradually this system was replaced by the creation of parole systems and the addition of "good-time" laws. But that has not ended political influence in release decision-making. The executive and legislative branches of government still wield substantial influence upon the parole board.

Structurally, the parole board is meant to have a high degree of autonomy and be fairly well insulated from political influences. In many states the parole board has complete jurisdiction over parole, either through granting parole itself or serving as the only source of parole recommendations. In Arizona, state law requires that "no reprieve, commutation, parole or pardon may be granted by the governor unless it has first been recommended by the board" (Arizona Revised Statutes 31-402). This arrangement does not close off all avenues through which political influence can be exerted on the parole board.

One way for influence to be felt is through the method of appointment of parole board members. In fifty-two jurisdictions surveyed by O'Leary and Hanrahan (1976), forty jurisdictions had parole board members appointed by the governor of the state. However, O'Leary sees this method of appointment as assuring parole board autonomy from the state corrections department and not creating any political influence on the board. The potential for influence is somewhat reduced by the fact that most parole board members are appointed to a fixed term and generally cannot be removed without cause. Except for one state, the term of service for parole board members are fixed between four and six years on the average (O'Leary and Hanrahan, 1976:21-24).

A 1965 survey of parole boards and parole board members reveals that the influence of executive and legislative officials is low. In response to the statement, "What I thought the consequences of my decision policy might be in getting legislative support for parole system requests", only about 8 percent of board members stated it would be one of five most important considerations and 61 percent said it would not be a consideration in any case (quoted in Parker, 1975, Appendix A). In response to the statement, "What I thought the consequences of my decision policy might be for the governor or for other officials in the executive branch of government", only about 8.5 percent of the parole board members stated it would be one of five most important considerations and nearly half said it would not be a consideration in any case (Parker, 1975, Appendix A). Stanley (1976:68) ascribes a greater role to influence from state executive and legislative

bodies, "Parole boards need to survive and function in a public, and hence political, environment of fear of crime and punitiveness toward criminals, and in a criminal justice system that is sensitive to that environment." He further notes that, "The boards observed in this study kept an eye on newspaper editorial pages and on pronouncements of political leaders" (Stanley, 1976:68).

Stanley (1976:69) relates two instances of political influence on board release policy. In 1971, 92 percent of parolees released by the District of Columbia's parole board were assigned to halfway houses. After a Chief of Police publicly criticized the board and stated that many crimes were being committed by parolees in halfway houses, the proportion of board released parolees assigned to halfway houses dropped to 42 percent. In California, Adult Authority members revealed to Stanley that they had increased denials and revocations as a deliberate policy in response to a "law and order" campaign launched by the state's Attorney General and a prominent member of the California state legislature (Stanley, 1976:69).

Wilson (1977) notes that the accusation that parole boards are subject to political pressures is one of a number of criticisms directed at the parole system. He states that parole board policy fluctuates between tough standards in response to public outrage and base standards in response to overcrowded prisons and tight corrections budgets. An example of this occurred in California. "While prison admissions rose steadily through the late sixties and early seventies, parole releases gyrated from 7,300 in 1967 to 6,600 in 1968, then up

again to over 10,000 in 1971, then down to 5,000 in 1974 then back up to nearly 11,000 in 1975" (Wilson, 1977:54).

In support of Wilson's criticism, Berkeley Law Professor Caleb Foote says, "In California, they (the Parole Board) were told to toughen up by the governor's staff and they did. They were told to loosen up and they did" (Wilson, 1977:54). Procunier, head of the California Adult Authority in 1974, reported a similar situation when he stated that there were "several instances when such pressures affected the parole release policies although nobody admits it" (Wilson, 1977:55).

Few parole boards will readily admit to being influenced by political forces in their decision-making. Many of the political influences exerted upon the board go hand and hand with public pressures. Politicians are likely to join in public criticism of "lenient" board release policies, while simultaneously these same individuals are likely to exert pressure on the parole boards through the corrections department to increase parole releases to reduce corrections expenditures. It is unlikely that political pressure will be exerted in favor of any one parole applicant because most prison inmates are without political influence. For those who do possess some measure of political influence, however, it is likely that the parole board would resist any efforts in that inmate's favor. Boards have shown in the past a deep desire to at least avoid any appearance of undue influence in parole decision-making.

But political pressure is likely to continue having an effect on

parole release decision-making. As we have stated before, parole boards do not make decisions in a vacuum. They are influenced by political leaders through the budget of the correction department or of the parole system. Unlike the judiciary, who belong to an independent branch of government and have recognized powers to assure their own independence, the parole board is an executive branch agency and is subject, at least in part, to the directives of the chief executive. Although the days when political executives would arrange the release of criminals in exchange for bribes have hopefully gone by, political executives will still seek to influence parole board decision-making, not in individual case decisions, but toward broader considerations that are responsive to political goals.

Summary

Research which addresses the influence of external factors in parole board decisions is practically non-existent. What does exist, is either antecdotal or the result of surveys of opportunistic samples of parole board members. There are no clear conclusions in this area which can be reported.

CHAPTER 7

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