

CLBent
9-6-82



STATE OF
WEST

27th
ANNUAL REPORT

VIRGINIA

JULY 1, 1980 - JUNE 30, 1981

**Board
of
Probation
and
Parole**

83411

BOARD OF PROBATION AND PAROLE

27TH ANNUAL REPORT

JULY 1, 1980 - JUNE 30, 1981

NCJRS

APR 6 1982

ACQUISITIONS

83411

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
West Virginia Board of Probation
and Parole

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.



WEST VIRGINIA
BOARD OF PROBATION AND PAROLE
CHARLESTON 25305

JOHN D. ROCKEFELLER IV
GOVERNOR

October 28, 1981

The Honorable John D. Rockefeller IV
Governor of West Virginia
State Capitol
Charleston, West Virginia 25305

Dear Governor Rockefeller:

We have the honor to submit herewith the Twenty-seventh Annual Report by the West Virginia Board of Probation and Parole for the period of July 1, 1980, through June 30, 1981.

Respectfully submitted,

John A. Bailes
Chairman

Janet M. Rader
Member/Secretary

C. Frank LePage
Member

JAB:JMR:CFL:ps

I INTRODUCTION AND BACKGROUND

II SCOPE OF ACTIVITY FOR 1980 - 1981

III STATISTICS AND ANALYSIS FOR 1980 - 1981

IV SUMMARY, CONCLUSION, AND RECOMMENDATION

I Introduction and Background

By action of the West Virginia Legislature (House Bill #607, Chapter 42, Acts of the Legislature, 1965), duties and functions of the West Virginia Board of Probation and Parole were defined and limited to: (1) the determination to release or not release inmates from State penal institutions through the parole process; and (2) subsequent to parole, the determination to continue or revoke the parole granted. (Note: Though the title "Board of Probation and Parole" implies a broader scope and function, the 'Board' has no responsibility for probation, which remains a function of The Judiciary in West Virginia).

Members are appointed without term by the Governor with the advice and consent of the Senate and are directly accountable to him. The three-member Board must have no more than two members of one political party. The Chairman is designated by the Governor and the Member-Secretary is determined by the Board. Administratively, the Board operates in close cooperation with the Department of Corrections. On granting a parole, by the Board the physical release and the supervision of the parolee is performed by the Department of Corrections. Thus, field supervision and guidance of the parolee is under 'Corrections' and not the Board. The office is located at 1116 Quarrier Street, Charleston, West Virginia.

Among other things, the Legislature requires at the time of the parole hearing:

- 1) That the inmate appear in person before the Parole Board.
- 2) That the inmate shall have served the minimum term of his indeterminate sentence, or shall have served one third

of his definite term (If parole is not granted on the first interview, he is entitled to subsequent annual interviews).

- 3) That the inmate shall not be under punishment or in solitary confinement for any infraction of prison rules.
- 4) That the inmate shall have maintained a record of good conduct for a period of at least three months immediately preceeding the date of release on parole.
- 5) That the inmate shall have satisfied the Board that, if released on parole, he will conduct himself in a lawful manner and that his release is not incompatible with the best interest of society generally.
- 6) If parole is denied, the inmate will be notified immediately.
- 7) The Board shall, with the approval of the Governor, adopt rules and regulations governing the procedure in granting parole.

II Scope of Activity

The West Virginia Supreme Court of Appeals recently held that: "...Our parole statute creates a legitimate reasonable expectation that parole will be granted". They also agreed with the United States Supreme Court which held: "The parolee is not the only one who has a stake in his conditional liberty. Society has a stake in whatever may be the chance of restoring him to normal and useful life within the law." The State Court also declared that due process requires that parole release interview processes include the following minimum standards:

- (1) Each prospective parolee must be given timely and adequate notice of the date and hour of his parole release interview;
- (2) An inmate is entitled to access to information in his record which will be used to determine whether he receives parole (absent overriding security considerations which must be recorded in his file);
- (3) Each inmate may personally appear before the parole board and give oral and documentary evidence;
- (4) A record, which is capable of being reduced to writing, must be made of each parole release interview to allow judicial review; and
- (5) Inmates to whom parole has been denied are entitled to written statements of the reasons for denial.

Once an inmate has satisfied the minimum statutory requirements for eligibility and insofar as possible the parole process in West Virginia usually progresses through the following steps:

1. The inmate is notified 30 days in advance of the date and time of his scheduled interview.
2. He is given access to information in his record which will be used in parole consideration (absent overriding security considerations).
3. He appears personally before the Board and is interviewed by the entire Board.
4. The interview is recorded.

5. The Board deliberates and arrives at a decision. (Two favorable votes are required to grant parole).
6. He is informed of the decision. If parole is granted he is told of any special conditions. If parole is denied he is told the reason(s).
7. He receives written reasons for denial.
8. If parole is denied he is entitled to an annual interview thereafter.

The Board conducts interviews at 1) the West Virginia Penitentiary at Moundsville; 2) the Huttonsville Correctional Center at Huttonsville; 3) the West Virginia Prison for Women at Pence Springs; 4) the Board's Charleston office (for Charleston and Beckley Work/Release Centers).

When the Department of Corrections has placed parole violation charges against a parolee, the Board functions as an impartial and detached body to hear the evidence and determine whether or not parole will be revoked. One member, acting as a hearing examiner, conducts a hearing at the county seat where the parolee is being held, causes the record to be transcribed, summarizes the proceeding and recommends to the Board whether parole should be continued or revoked. Two unfavorable votes are required to revoke parole.

The Board at the close of the fiscal year included John A. Bailes, Chairman, and Janet M. Rader, Member/Secretary. The vacancy created by the death of James R. Jarrett in September, 1980, was filled after the close of the year by the appointment of C. Frank LePage.

INTERVIEWS AND DECISIONS GRANTING OR DENYING PAROLE

1980 - 1981 AND 1979 - 1980

	<u>West Virginia Penitentiary</u>		<u>Huttonsville Correctional Ctr.</u>		<u>W. Va. Prison for Women</u>		<u>Total</u>	
	1980-81	1979-80	1980-81	1979-80	1980-81	1979-80	1980-81	1979-80
Interviews Held	253	271	554	392	26	31	833	694
	(%)	(%)	(%)	(%)	(%)	(%)	(%)	(%)
Paroles Granted	(43) 108	(30) 80	(57) 314	(29) 113	(54) 14	(55) 17	(52) 436	(30) 210
Paroles Denied	(54) 177	(65) 177	(43) 239	(69) 272	(46) 12	(39) 12	(47) 389	(67) 461
Placed Under Further Consideration	(3) 7	(14) 5	(0) 1	(2) 7	(0) 0	(6) 2	(1) 8	(3) 23

The data below indicates the Parole Board's activities as to interviews and the decisions granting or denying parole for the 1980-81 fiscal year:

	<u>West Virginia Penitentiary</u>	<u>Huttonsville Correctional Center</u>	<u>West Virginia Prison for Women</u>	<u>Total</u>
Interviews Held	253	554	26	883
Paroles Granted	109	314	14	437
Paroles Denied	144	240	12	396

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1980, THROUGH JUNE 30, 1981

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Forcible Rape	0	1	0	1
Receiving Stolen Goods	1	1	0	2
Attempt to Commit Armed Robbery	0	2	0	2
1st Degree Murder	3	1	0	4
1st Degree Arson	1	0	0	1
Breaking & Entering	27	82	0	109
Enter w/o Breaking	4	26	0	30
Grand Larceny	25	68	1	84
3rd Degree Sexual Assault	0	6	0	6
Forgery	3	10	2	15
Voluntary Manslaughter	5	8	1	14
Embezzlement	0	2	0	2
Unlawful Wounding	4	6	0	10
Uttering	1	9	2	12
Robbery by Violence	1	2	0	3
Forgery & Uttering	0	1	1	2
False Pretense	0	6	1	7
Delivery of Marijuana	0	3	0	3
Escape	3	2	0	5

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1980, THROUGH JUNE 30, 1981

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Transportation of marijuana	0	2	0	2
Armed Robbery	14	17	2	33
Arson	2	4	1	7
Unlawful Assault	1	2	0	3
Felonious Assault	0	1	1	2
Unarmed Robbery	4	8	0	12
Conspiracy to Commit Robbery	0	2	0	2
2nd Degree Murder	9	5	0	14
Nighttime Burglary	0	2	0	2
Delivery of a Controlled Substance	0	9	0	9
Burglary	5	17	0	22
Possession W/Intent to Deliver a Controlled Substance	1	4	0	5
Robbery by Force	0	1	0	1
Assault during the Commission of a Felony	0	1	0	1
Auto Theft	0	1	0	1
Assault during attempt to Commit a Felony	0	1	0	1
1st Degree Sexual Abuse	1	2	0	3
Aiding & Abetting & Assist- ing a B & E	0	2	0	2

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1980, THROUGH JUNE 30, 1981

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Malicious Wounding	0	3	0	3
3rd Offense of Driving Under the Influence	0	2	0	2
Obtaining Money under False Pretense	0	1	0	1
Malicious Assault	0	1	0	1
Aiding & Abetting a Burglary	0	1	0	1
Felonious Use of a Credit Card	0	1	0	1
Aiding & Abetting Felon- ious Assault	0	1	0	1
Worthless Checks	0	2	0	2
Violating UCS Act	0	1	0	1
Accessory Before the Fact to Armed Robbery	0	1	0	1
2nd Offense Carrying a Dangerous & Deadly Weapon	0	1	0	1
Aiding & Abetting Grand Larceny	0	1	0	1
Aiding & Abetting B&E	1	0	0	1
Obtaining Goods under False Pretense	1	0	0	1
Kidnapping	1	0	0	1

PAROLE VIOLATION HEARING CASES

The Chart below indicates the number of parole hearing cases and decisions made by the Parole Board.

FISCAL YEAR 1980 - 1981

Parole Violation Cases conducted during 1980-1981-----	107
Paroles revoked on technical grounds-----	41
Paroles revoked on felony grounds-----	17
Parolees continued under supervision-----	21
Decision not to hold hearing-----	25
Released on bond-----	3

III Statistical Analysis 1980-1981

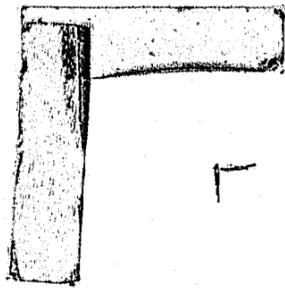
Tables 1 and 3 tabulate parole interview and revocation hearings conducted by the Board and the respective disposition. Of particular significance on Table I, the Board held 832 parole interviews (up from 694 in 1979-80 - a 21% increase) and granted 436 paroles, 57% (up from 210 in 1979-80 - a 175% increase). Even with this increase, only 6 more revocation hearings were held, and 10 less revocations instituted. Revision of methods mandated in part by court decisions has had a very positive effect as reflected by these comparisons. Court cases appear to be on the decline as the Board has gained more consistency with its decisions.

IV Summary, Conclusions, and Recommendations

While the Board operated with only two members during most of the year necessitating additional work loads for the two, the results were good. Sensitive consideration, admittedly subjective judgemental decisions constantly confront each Board member. The positive results with the parole system substantially outweigh the negative.

During the coming year, the Board plans to revise and update its rules and regulations, and the stated policies, with the approval of the Governor. This will be done by the Board with the aid of the legal counsel of the Attorney General's office.

The Board recommends changing the name to: The West Virginia Parole Board.



END