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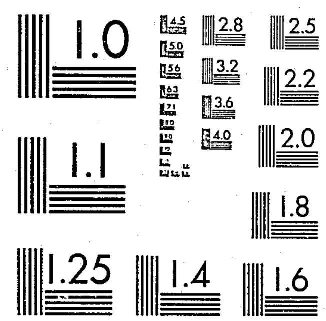

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OFFICE OF PROGRAM DEVELOPMENT & RESEARCH

NEW YORK STATE DIVISION of CRIMINAL JUSTICE SERVICES

POTENTIAL EFFECT ON PRISON POPULATIONS OF CREDITING GOOD TIME AGAINST MINIMUM SENTENCES

June 4, 1982

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DIVISION OF CRIMINAL JUSTICE SERVICES

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POTENTIAL EFFECT ON PRISON POPULATIONS OF CREDITING GOOD TIME AGAINST MINIMUM SENTENCES

June 4, 1982

(Revised February 2, 1983)

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EXECUTIVE SUMMARY

There are currently a number of proposals to reintroduce good time off the minimum in New York State. Good time is normally used to supplement institutional discipline, but it has some potential for reducing prison populations. This makes it an attractive potential alternative for reducing prison overcrowding at this point in time.

This report examines the substance of four proposals for taking good time off minimum sentences: The Coalition for Criminal Justice proposal, the Department of Correctional Services proposal, Assemblyman Arthur O. Eve's proposal, and the Division of Parole's proposal. In addition, the report contains quantitative estimates of the increase in prison releases that would potentially flow from three alternative good time proposals. These are estimates of additional inmates eligible for parole release; the number of actual additional releasees will obviously be mediated by the Parole Board's release policies. The release projections all calculate one-third good time off the minimum.

The Coalition Proposal deducts good time from all minimums and generates the highest number of projected additional releases. In FY 1982-83, there would be 2,978 additional releasees (a 45 percent increase over current practice) and in FY 1983-84 there would be 1,316 additional releasees (a 17 percent increase). The number of projected additional releases dwindles to 42 by FY 1987-88, because releases made in earlier time periods diminish the number of inmates remaining under custody and eligible for release.

A Hypothetical Proposal deducts good time from inmates with minimums greater than five years. In FY 1982-83, this proposal would generate 223 projected additional releases (a 3 percent increase). For the subsequent five years for which projections were made, there were an average of 159 additional releases per year. The number of potential releasees under this proposal is only about 18 percent of the number projected for the Coalition Proposal.

The Corrections Proposal credits good time to the portion of minimum sentences in excess of ten years. The number of projected additional releases under this proposal is small; they average 19 per year for the six years for which projections were made.

The data suggest that for any good time proposal to have a major potential impact on prison populations, it must apply to all minimum sentences. Proposals that exclude short minimums from earning good time exclude the population of potential releasees that could make the largest difference.

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ACQUISITIONS

INTRODUCTION

Recently there has been increasing interest in revising the New York State system for crediting inmates with good time. Certain alternative good time systems offer incentives to inmates for satisfactory institutional conduct and improved program participation, while providing definite release dates. Good time systems have not normally been viewed as mechanisms for controlling the number of inmates under custody. This paper, however, will examine various good time proposals to assess their potential impact upon the growth of the State's inmate population.

"Good time is the name given to correctional policies that permit a reduction in the amount of time toward a sentence inmates must serve in prison. Time reductions are typically based on general adjustment to prison rules (good behavior), on work performance, and program involvement; and, in some states, on special exemplary behavior."[1]

"Historically, good time has served multiple purposes in New York State, as elsewhere. It has been used as a release mechanism in the absence of parole, as a device to mitigate harsh sentences, as a means to deal with overcrowding, as a method to encourage inmates to participate in work details and rehabilitative programs; and for prison officials, as a means for maintaining discipline and order."[2] Varying with sentencing philosophy and practice, it has taken different forms under different administrative mechanisms and has been changed regularly to keep pace with changing laws and policies. In New York, good time legislation has a long history, and has been subjected to frequent revision. Prior to 1967, New York State authorized good time reduction on both the minimum and maximum terms. As part of the penal law revisions that went into effect in 1967, good time off the minimum sentence was eliminated. Two arguments for this revision made in law commentaries were:

1. It was "incongruous" to allow an inmate to reduce the minimum term below the time set by the judge or the Parole Board since the inmate, while serving the minimum, was already working for parole release.[3]

2. The revised sentence lenghts in the new penal code already incorporated the former good time reduction.[3]

Although no major changes have occurred in recent years, a growing number of organizations, agencies, and individuals have been calling for one revision of the current law; in particular, the restoration of earned good time off the minimum sentence.

Under the current indeterminate sentencing system, inmates earn good time credits only against their maximum sentences. Good time is credited at a rate of one day for every two days satisfactorily served (33 percent sentence reduction). Inmates with life sentences do not earn good time. The current system does not provide for earning good time credit on the basis of good behavior, work performance, or program participation. Instead, the present system provides such credit to the inmate automatically as the sentence begins, with the consequent loss of credits in whole or in part, if there are serious disciplinary problems.

EXPERIENCE OF OTHER STATES

Changes in good behavior credit have been most evident in those states that have altered their release-granting functions. Jurisdictions that have recently adopted determinate sentencing have also increased the amount of good time credit awarded, and/or loosened the controls on the awarding of good time. In Indiana and Illinois, good time credits have been increased so that an inmate need serve only one-half of the sentence imposed. Under the Indiana system, inmates may be in one of three time-earning classes (Class I - one day earned for one day served; Class II - one day earned for two days served; and Class III - no earning of credit time). All inmates are initially assigned to Class I. Inmates, however, may be removed from Class I and assigned to a lower earning class due to disciplinary violations. Subsequently, the inmate may be returned to a higher earning class.

In 1981, Connecticut adopted a new determinate sentencing system. The system provides for the release of inmates at the expiration of the maximum term minus good time credit. For crimes committed prior to the effective date of the new legislation, the courts continue to impose indeterminate sentences, and good time credit is applied against both the minimum and maximum terms. The good behavior allowance is calculated at 10 days per month for inmates with minimums of under six years and 15 days per month for the sixth and subsequent years. The good time system also provides for jail time credit of 10 days per month, credit for institutional employment, and extra credit for outstanding conduct.

Maryland has a sentencing system in which inmates must appear before the parole board after a quarter of the sentence has elapsed. Inmates receiving a life sentence are eligible for a parole board appearance at 15 years minus good time. Good time amounts to a one-third sentence reduction. Time is credited for positive conduct, employment and participation in schooling or training programs.

Georgia has adopted an earned good time system. Under the earned good time allowance, an inmate is awarded one day off the end of sentence for each day of satisfactory performance or behavior. This would amount to a potential 50 percent sentence reduction through the accumulation of earned time allowance. All inmates are considered for parole at one-third of their sentence and at least annually thereafter. In addition, an inmate may be assigned to a non-earning status for unsatisfactory performance or violations. Finally, habitual offenders would earn good time at a rate of one day for two days satisfactorily served.

One reason for the alteration in the amount of good time awarded to inmates in the aforementioned states is the need to provide a mechanism that can be used to maintain order in penal institutions. The provision of definite release dates is also believed to enhance Correctional Services' ability to better allocate space. Moving forward the parole eligibility date may also serve to reduce the bitterness experienced by those who are confined, and linking good time with program participation and adjustment may provide for more effective utilization of prison programs.

PROPOSALS IN NEW YORK STATE

Coalition for Criminal Justice Proposal

The New York State Coalition for Criminal Justice, in April, 1982, outlined a proposal for an earned good time system. Their proposal calls for a "reduction of the minimum sentence for paroled release consideration by up to one-third of the court-set minimum and revision of the criteria governing release decisions to include earned good time while deleting review of the nature of the crime and any prior criminal history."[4] The Coalition also recommends that, coupled with good time off the minimum, a ceiling be set at ten years such that no inmate could serve a prison term for ten consecutive years without being considered for parole release. This would provide added incentive for those inmates with extremely long minimum sentences. The system would be retroactive and include all inmates presently confined. Currently, in New York State, inmates are parole eligible at the completion of their minimum sentence.

Under the Coalition recommendations, good time credits would be awarded for good behavior, performance on work assignments, and/or participation in educational, vocational and treatment programs. Each inmate would have an individualized program based on a set of general prescriptive goals established for all inmates. Progress and achievements in this program would become the basis for earning good time credits.

When first admitted into state custody, an inmate would be told how much good time he would be eligible to earn (up to one-third off the minimum) and when the earliest parole board hearing would be. There would be two general reasons an inmate would fail to receive good time credits: if he had disciplinary problems in the institution, or if he failed to progress and achieve the previously prescribed program objectives.

Persons released on parole would be subject to revocation of parole status as before. If a parolee were returned to prison for a technical violation, the effect of earned good time on the amount of time remaining would apply only to the maximum of the sentence. In addition, the Coalition's proposal suggests that good time while on parole become available, meaning inmates could reduce the time they serve on parole.

A technical issue that is related to parole release decisions concerns the length of time an inmate can be held after having earned an early release hearing. Currently, the maximum allowable period of time between parole hearings is two years. However, if good time were awarded at a rate of one-third off the minimum, persons with long minimum sentences could be entitled to more than one apearance before reaching their minimum. The Coalition does not advise permitting parole appearances further apart than two years. They believe any incentive value that parole release possesses for long-termers would be dissipated by delaying subsequent hearings for more than two years.

Another aspect of this question is whether a short-termer can have their parole hearing at the court-set minimum waived because of a denial at an early parole appearance. "For example, a person serving a 4 to 12 year sentence who is denied parole at 2 years, 8 months, could, in theory, be held to 4 years, 8 months, before his second appearance."[5] The Coalition would prefer a provision in the law insisting that regardless of when the first hearing occurs, all inmates must be reviewed for possible parole again (if not parole in the interim) on the date of their court-set minimum.

New York State Department of Correctional Services Proposal

The New York State Department of Correctional Services submitted a proposed legislative amendment (#17-82) for consideration by the Governor's Office and possible introduction during the 1982 Legislative Session. Although this initiative did not become part of the Governor's legislative package for that session, its proposals merit consideration here.

Essentially, the bill was designed to make long-term inmates eligible for parole consideration at a date earlier than they would otherwise have been eligible for release. Specifically, the bill would have made certain inmates eligible for good time allowances credited toward that portion of their minimum sentence in excess of ten years. For example, an inmate with a court-set minimum term of 16 years would be eligible, after serving 10 years of that sentence, to earn good time credit of up to two years (or one-third) of the remaining six years. However, any good time allowance credited against an inmate's minimum sentence could not exceed one-third the maximum sentence. The bill categorically excludes any inmate serving either concurrent or consecutive sentences for two or more A-1 convictions, and those inmates whose minimum terms do not exceed 10 years.

The bill would not alter the criteria currently authorized to determine an inmate's eligibility for good time credit: good behavior, willing performance of assigned duties, and progress or achievement in an assigned treatment program. The parole board could still consider offense severity and criminal history in determining an applicant's suitability for parole. Inmates returned to custody for parole violations, conditional release violations, or new convictions would lose all previously earned good time credit. However, they would be eligible to earn good time credit against the remaining portion of their maximum term.

The Department of Correctional Services would be required to develop rules for determination of such allowance under provisions of this bill within four months of the effective date of this legislation. In addition, the parole board would be required to develop rules governing the appearance of inmates eligible for good time credit off the minimum sentence within eight months. None of the provisions of the bill are intended to limit the discretion of the parole board in its release decision-making authority.

Assemblyman Arthur O. Eve's Proposal

In the regular 1981-82 session of the New York State Legislature Assemblyman Arthur O. Eve submitted a good time allowance proposal. The Eve Bill (A. 6087) recommends amending the Penal Law and Correctional Law in relation to time allowed for good behavior. The intent of the proposed legislation is to provide incentives for inmate rehabilitation by allowing the time earned to be subtracted from both the minimum and maximum term imposed by the court. The time allowance earned would not exceed one-third of the term imposed and would be "vested" on a day-to-day basis. When vested, the earned good time credits could not be taken away. However, the inmate could be denied the opportunity to earn additional credits.

All inmates, including individuals receiving a maximum term of life imprisonment, would be included in the crediting and calculation of the good behavior allowance. In addition, all time spent in custody would be credited. Persons on parole or conditional release would receive good behavior allowances

against the unserved portion of their maximum term if they are returned to custody for violations or new convictions. Inmates returned to custody would be eligible for time allowance credit that they earned while on release. The proposed legislation also requires that inmates meet with the parole board when the unserved portion of the minimum or maximum is equal to the good time earned. For example, an inmate who has accumulated two years of good time credit would be eligible for a parole hearing if the unserved portion of his minimum or maximum term is two years.

The intent of the proposed legislation is to provide a good behavior allowance procedure that would orient inmates toward positive behavior when held in custody. The proposed legislation could have an attendant impact upon prison populations. The inclusion of inmates serving a life maximum term would provide a parole hearing and potential release for this group. These inmates currently do not have good time credit applied to their sentences. In addition, the subtraction of good time from the minimum and maximum term would allow for an earlier release hearing (and a potential earlier release date) for those individuals serving an indeterminate sentence. Furthermore, the crediting of all time spent in local jail custody toward the good behavior allowances would provide an increased accumulation of good time credit. Finally, the mandatory board hearing, for inmates with an unserved portion of the minimum or maximum that is equal to the good time earned, provides an additional area for potential release.

The bill was submitted to the Assembly Codes Committee for consideration in March of 1981 but was not reported out of committee.

New York State Division of Parole Proposal

The State Division of Parole developed a proposal that would modify the minimum time served by certain long-term inmates. The proposal would allow the parole board to discretionarily consider an inmate for parole release before expiration of the court-set minimum, provided that the minimum term was at least 15 years, and that the inmate had served two-thirds of it.

Essentially, this proposal is an early review of certain long-term minimum sentences rather than a comprehensive good time proposal. Rules for inmate eligibility would be jointly developed by the Division of Parole and the Department of Correctional Services.

Table 1

Comparison of Provisions in
Various Good Time Proposals

Proposal	Eligible Population	Exceptions	Computation of Time	Loss of Good Time	Criteria Considered	Administrative Auspices
1. Coalition of Criminal Justice	All inmates; no one excluded; provisions would be retroactive.	None	Inmates may earn up to 1/3 off minimum; time between reviews should not exceed 2 years.	Good time would be vested after periodic review; at those times, the inmate could vest 1/3 or any portion thereof for that period; discipline would result in period of time when good time credit could not be earned; violator of parole or CR loses all good time credit against minimum; however, credits would then be applied to maximum.	Considers program participation and achievement; also institutional behavior; consideration would be given to special categories of inmates, i.e., mentally retarded, aged, etc.	Good time adm. solely by DOCS; however, recommends that parole release hearing consider only the institutional record and discontinue consideration of criminal history and severity of instant offense.
2. A.6807 (Eve)	All inmates	None	Inmates receive up to 1/3 off minimum; all under custody time (jail or prison) would be eligible for good time allowance.	Good time would be vested on a day-to-day basis and could not be lost; however, discipline could result in a period of time when the inmate would not be allowed to earn good time.	Allowance is automatic unless withheld for disciplinary reasons.	Good time adm. solely by DOCS.
3. DOCS #17-82	All inmates whose minimum exceeds 10 years.	Inmates serving concurrent or consecutive terms for 2 or more A-I felonies; not applicable to inmates with minimums of less than 10 years or inmates in mental health facilities.	1/3 off portion of minimum that exceeds 10 years; limited to 1/3 of maximum term; concurrent sentences against respective minimum, consecutive sentences against the aggregate minimum.	• May be withheld, forfeited, or cancelled in whole or in part for: bad behavior; violation of institutional rules; failure to perform properly in assigned duties or program • Inmate return to prison after parole or CR loses all good time; may earn toward maximum from then on.	• Good behavior • Willing performance of assigned duties • Progress or achievement in assigned treatment program	• DOCS establishes rules for determination of good time allowance. • Parole Board establishes rules governing appearance of eligible inmates before the board.
4. Parole #20-82	Discretionary: selected inmates who have served 2/3 of minimum if minimum is at least 15 years; suitability hearing with representatives of DOCS, Parole, D.A. and inmate to determine eligibility.	Determined on individual, case-by-case basis at suitability hearings.	Good time is granted only if inmate will be released to parole supervision prior to expiration of minimum term.	Not addressed	Inmate will have to meet certain conditions in order to be released at time of probable parole date.	Rules to be jointly developed by DOCS and Parole; Parole Board will establish probable parole date following suitability hearing.

PROJECTED PAROLE AND CONDITIONAL RELEASES

In order to assess the potential effect on prison populations of crediting good time against minimum sentences, a method was developed for projecting changes in first time releases to supervision resulting from various modifications in current practice. These releases include those made at the discretion of the parole board and automatic "conditional releases" of inmates who have served their maximum terms less good time. As currently implemented, the projection method accounts only for changes in the timing of parole releases that may result from reductions in minimum sentences. No adjustments have been made to reflect other proposed changes, such as permitting good time to be credited against maximum sentences after revocation of parole.

Projection Technique

Projected releases are derived from historical data, characteristics of inmates currently in custody, and projected admissions for the next six fiscal years. Historical data are used to establish the probability of first parole and the probability of first conditional release. The probability of parole or conditional release is determined separately for each minimum sentence length and for each time period following admission. For example, the probability of being released to parole during the time period 12-18 months after admission is substantial for inmates with one year minimums but negligible for inmates with two year minimums.

The release probabilities for each minimum are applied to both the projected admissions and to the population of inmates currently in custody, in order to estimate the number that will be released during a given time period. Projections based on current practice use release probabilities derived strictly from historical experience. The potential effects of proposed changes in current practice are reflected by making corresponding adjustments in the release probabilities for each combination of minimum sentence and time period following admission. A detailed description of the algorithms by which this is accomplished is presented in Appendix A.

The historical data on which release probabilities are based are derived from analysis of minimum sentences imposed by the courts and actual time served by inmates paroled or conditionally released during 1981. These release cohorts exclude those who have been previously released under supervision, have failed on parole and been returned to custody, and have subsequently been released under supervision again for the original commitment offense. It is unlikely that any good time off the minimum proposal would apply to this specific group. These historical data, minimum sentences and time served-to-date for inmates currently in custody, and projected new admissions for fiscal years 1982-83 through 1987-88 were provided by the Department of Correctional Services. The distribution of minimum sentences for projected new admissions was estimated from 1981 sentences to state prison obtained from the Indictment Statistical System maintained by the Division of Criminal Justice Services.

Assumptions

Before presenting the good time release projections, three limitations on their interpretation must be stressed. First, the projections assume that the decision behavior of the parole board will change so as to operationalize the potential reductions in prison population. Specifically, it is assumed that the parole board will release the same proportion of inmates at the good time minimum as they now do at the court-imposed minimum. It is similarly assumed that the length of time between initial parole hearings and deferral hearings will not change. That is, inmates who received a one year deferral at their court-imposed minimum parole hearings would also receive a one year deferral at their good time minimum hearings.

This assumption is unrealistic because the parole board bases its decisions on factors relating to rehabilitation and public safety. These factors may be largely independent of minimum sentences, with or without good time credits, except as minimums constrain the board from releasing as early as they deem appropriate. The release projections are thus systematically high; they reflect the number of additional releases each year if the parole board systematically shifted its current practice to operationalize the prison population reduction potential of the good time schemes. If, on the other hand, the board continued its current practice, there would be no change. Thus, the true effect of good time off the minimum is probably somewhere between zero and the additional releases projected, and it is not possible to more precisely estimate the magnitude of the effect without further information about the parole board's responses.[6]

A second assumption is that judicial sentencing behavior will not change in response to giving good time off minimum sentences. This is also an unrealistic assumption, for the criminal justice system has proved itself to be homeostatic. Judges will probably begin to increase their sentences to produce the real time minimums they desire. Thus, the projections of additional releases due to good time off the minimum are likely to be systematically high after the first two years.

The third assumption is that awarding good time off the minimum does not affect inmate behavior. Good time is typically justified as a tool that positively augments institutional discipline, and it should thus reduce some inmate misconduct that leads to parole board deferrals. Assuming no improvement in inmate behavior produces projections that are likely to be somewhat conservative. Overall, therefore, the assumptions incorporated in the present projections presume the criminal justice system behavior that would be most favorable for increasing releases to parole, but assumes no change in inmate behavior. This approach may be justified on the grounds that criminal justice system practices are more directly sensitive to such policy changes than is inmate behavior.

Comparisons of Projected Releases for Selected Proposals

Three good time models were estimated. All three were based on good time being awarded at a rate of one day off the minimum for every two days served (one-third good time). One model (hereinafter called the Coalition Proposal) is similar to that proposed by the Coalition for Criminal Justice and to the legislation introduced by Assemblyman Arthur O. Eve. The second is based on the good time legislation recently proposed by the Department of Correctional Services (hereinafter called the Corrections Proposal). The third model was hypothetically constructed to produce estimates between those generated for the Coalition and Corrections proposals (hereinafter called the Hypothetical Proposal).

The Coalition Proposal provides for the most good time. It would credit good time to the minimum sentences of all inmates, regardless of the length of their court-imposed minimums. Thus, there is no floor to the good time credits; inmates with a one year minimum would be eligible for parole after serving eight months.

The Hypothetical Proposal provides intermediate projections. It provides for good time with sentences of more than five years, but places a five year floor on the amount of time served on qualifying inmates. Thus, an inmate with a minimum sentence of more than five years must serve at least five years before being eligible for parole. Without such a floor, an inmate with a five year minimum would be eligible for parole in three and one-third years and an inmate with a four year minimum would be required to serve the entire four years. Such inequities are reduced through the five year floor on time served until parole.

The Corrections Proposal is the most restrictive of those examined. It would allow good time credit for inmates serving more than ten years, but good time would be applied only to the portion of the minimum in excess of ten years. Thus, an inmate with a minimum of 13 years would be credited with good time on the last three years and would be eligible for parole after serving 12 years. It should be noted that the projections of additional releases did not exclude inmates with multiple Class A-1 convictions, and therefore, overestimates the impact of this good time proposal.

Tables I through III in Appendix B compare projected first releases to supervision for each of the three models with projections based on the present practice in which no good time is deducted from the minimum. Salient trends in projected first releases are displayed graphically in Figures 1 through 4.

Figure 1 displays the projected first releases to supervision for each of the competing models during the present fiscal year and the next five fiscal years. Both the Hypothetical Proposal and the Corrections Proposal mirror the projected releases of present practice. These models show a rapidly increasing number of releases through the first three fiscal years. Increases in releases will then slow during the next two periods. Releases will reach their highest points in FY 1986-87 and then decrease during the last fiscal year covered by the projections.

The Coalition Proposal departs significantly from this pattern. It produces an initial surge of projected releases in FY 1982-83 that is substantially greater than projected releases under present practice. Releases are projected to decline during FY 1983-84 and then increase during the next two time periods, reaching a level almost as great as the initial releases of FY 1982-83. From this point to the end of the projection period, the number of releases again declines. The number released each year under the Coalition Proposal is greater than that for any of the other models tested.

The difference in net effects between each of the three models and present practice is illustrated more directly in Figure 2. In each of the first five periods examined, the Coalition Proposal would result in the greatest estimated increase in prison releases. In FY 1982-83 there would be 2,978 additional releases and in FY 1983-84 there would be 1,316. However, the differences in

releases decrease steadily, so that in FY 1987-88 only 42 more inmates are released under the Coalition model than would be released under present practice.

The relatively high proportions of releases in the first two years is to be expected as good time credits are applied to inmates already in the correctional system. As the accumulated inmate queue is reduced, the projected releases begin to stabilize and more directly reflect admissions during the subsequent periods.

The Hypothetical Proposal would have more modest gains than the Coalition Proposal. Two hundred twenty-three (223) additional releases are projected for FY 1982-83, as the queue of eligible inmates from the existing population under custody is reduced. After this point, the difference in releases fluctuates from a low of 120 additional releases in FY 1983-84 to a high of 216 releases in FY 1987-88.

The Corrections Proposal would have a minimal impact during the projection period examined in terms of additional projected releases. Because of the long sentences involved, none of the projected admission groups with ten year minimums would be released under this proposal during the six years covered in this report. Only those inmates presently under custody as of April 1982 have the potential of being released during the projection period.

The introduction of the Violent Felony laws in 1978 and the generally tougher stance on crime has resulted in more inmates with longer minimum sentences entering the correctional system in the last five years. Thus, it is expected that the pool of inmates eligible for good time adjustments under the Correctional Proposal will increase in the time period after the end of the present projection period.

Only about 2,626 of the inmates under custody as of April 1, 1982, had minimum sentences of greater than ten years. Of these, 53 percent had served less than four years in prison up to that point, and thus would not be eligible for release under the Corrections Proposal during the six years for which projections are made. In the first year for which projections are made, approximately 35 inmates would be eligible for good time reductions under the Corrections Proposal.

While Figure 2 displays the projected additional releases during any particular fiscal year, these numbers are dependent in part on the projected releases in the preceding periods. To the extent that one model releases more inmates than another in the early time periods, the number of inmates remaining under custody and eligible for release during later time periods is diminished. To take into account projected releases that would already have occurred in previous time periods, Figure 3 has been constructed to show, for each proposal, the cumulative additional releases across the next six years, relative to those projected assuming continuation of present practice. From Figure 3 it is clear that the Coalition proposal would result in substantial cumulative additional releases, whereas the Hypothetical and Corrections Proposals would result in far fewer additional releases. By the end of FY 1987-88, the Coalition proposal would result in 5,750 additional releases over the entire projection period, while the Hypothetical and Corrections Proposals would result in 1,017 and 115 additional releases, respectively.

The figures presented above have dealt with only one of the factors affecting the prison population, that is, first releases to supervision. Other factors

influencing the prison population include other forms of release (including maximum expiration of term, transfers, deaths, and subsequent releases to supervision) as well as admissions into the correctional system (including new court commitments, returns on violations of parole or conditional release, and other admissions).

To provide a better understanding of the potential effect on prison populations of each good time proposal, Figure 4 has been constructed to take into account the net effects of the projected first releases to supervision and the additions to the prison population provided by projected new court commitments. The projected new court commitments have been provided by the Department of Correctional Services. Figure 4 displays the cumulative changes in prison populations expected to result just from the combination of projected new court commmitments and the different projected first releases associated with each model, assuming all other factors affecting prison population are held constant. Because other factors affecting prison populations are not included, these estimates should not be used to project total increases or decreases in the prison population above the level at the start of FY 1982-83. Rather, these data are best used to compare the relative trends of the alternative proposals.

During the first year of the projections, the Hypothetical and Corrections Proposals, as well as present practice, would each result in increases to the prison population of more than 3,900 inmates. Under the Coalition proposal the increases in the prison population are far less, with approximately 1,200 additional inmates projected to be under custody.

Under all four models, the size of the prison population is projected to increase over the next three fiscal years although less rapidly under the Coalition Proposal. Considering only the factors of new court commitments and first releases to supervision, the prison population can be expected to peak in FY 1985-86 under the Coalition model, when the cumulative net increase in inmates under custody is projected to be 5,464. The prison population peaks in FY 1985-86 as well for the Hypothetical Proposal, when the population is projected to have increased by 10,362 inmates. For present practice and the Corrections Proposal, the prison population can be expected to be at its highest during the projection period considered in FY 1987-88, when the projected cumulative net increases is 11,159 under the Corrections Proposal, and 11,274 under present practice. All four models project increases in the prison population through FY 1985-86, some stability or slight declines in prison populations during the next year, and then a moderate upturn in addition to the prison population during the final year of the projection period. If present practices continued to the end of the FY 1987-88, the additions to the population of inmates under custody is expected to be 11,274. The Corrections proposal would reduce this figure by only 115 cases. The Hypothetical Proposal would result in a reduction of 1,017 individuals below the population expected at the end of FY 1987-88 if present practice continues. The Coalition proposal can be expected to have the greatest impact on prison populations. By the end of FY 1982-83, this proposal would result in a reduction of 5,750 inmates in the prison population below what is projected for present practice. Similar differences in prison population may be expected in the earlier years as well.

SUMMARY AND RECOMMENDATIONS

Projections of the number of first releases to supervision were generated for each of three proposals for crediting good time against minimum sentences. The combined effects of projected first releases and projected new court commitments clearly indicate that to have a major impact on prison populations, good time must be credited to the minimum sentences of all inmates. The large number of inmates with short minimums make this the group with the greatest potential for impact on prison populations, (and excluding them as under the Hypothetical and Corrections Proposals) greatly reduces the number of those eligible for early parole. Again, it must be emphasized that making inmates eligible for parole at an earlier date does not mean they will receive parole. The actual effect of any proposal on prison populations will be mediated by the release policies of the parole board.

FIGURE 1
PROJECTED FIRST RELEASES TO SUPERVISION
FOR THE MODELS TESTED

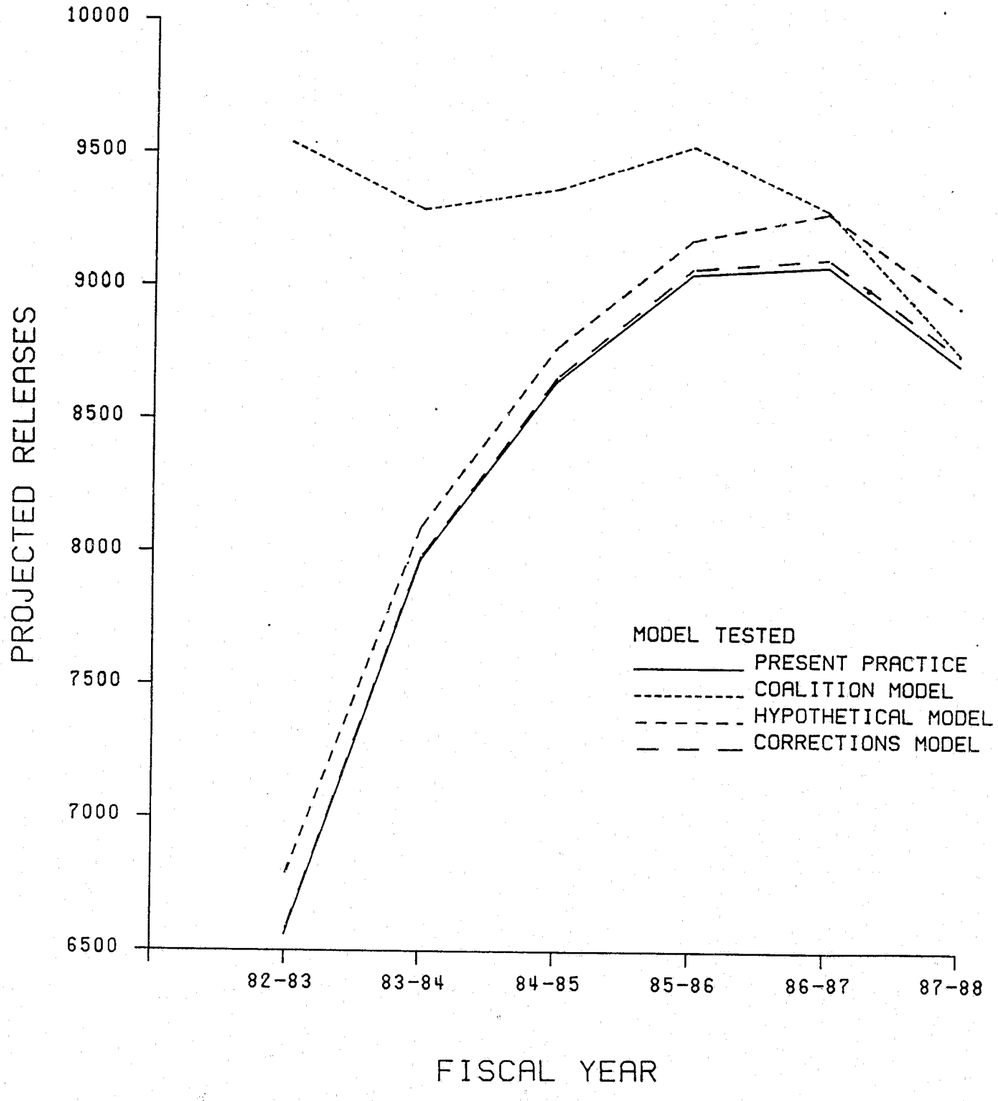


FIGURE 2
DIFFERENCE IN PROJECTED RELEASES BETWEEN
ALTERNATIVE MODELS AND PRESENT PRACTICE

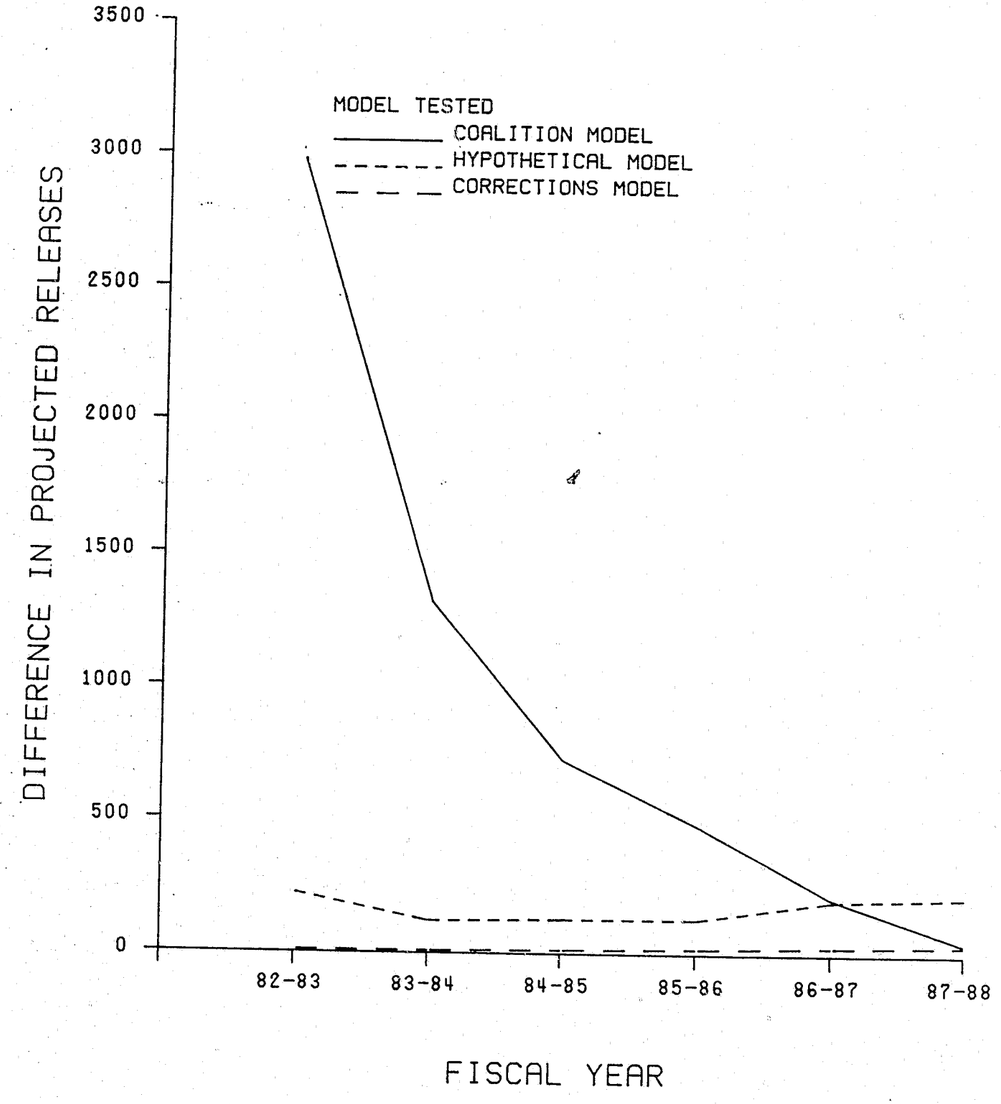


FIGURE 3
CUMULATIVE DIFFERENCE IN PROJECTED RELEASES
BETWEEN ALTERNATIVE MODELS AND PRESENT PRACTICE

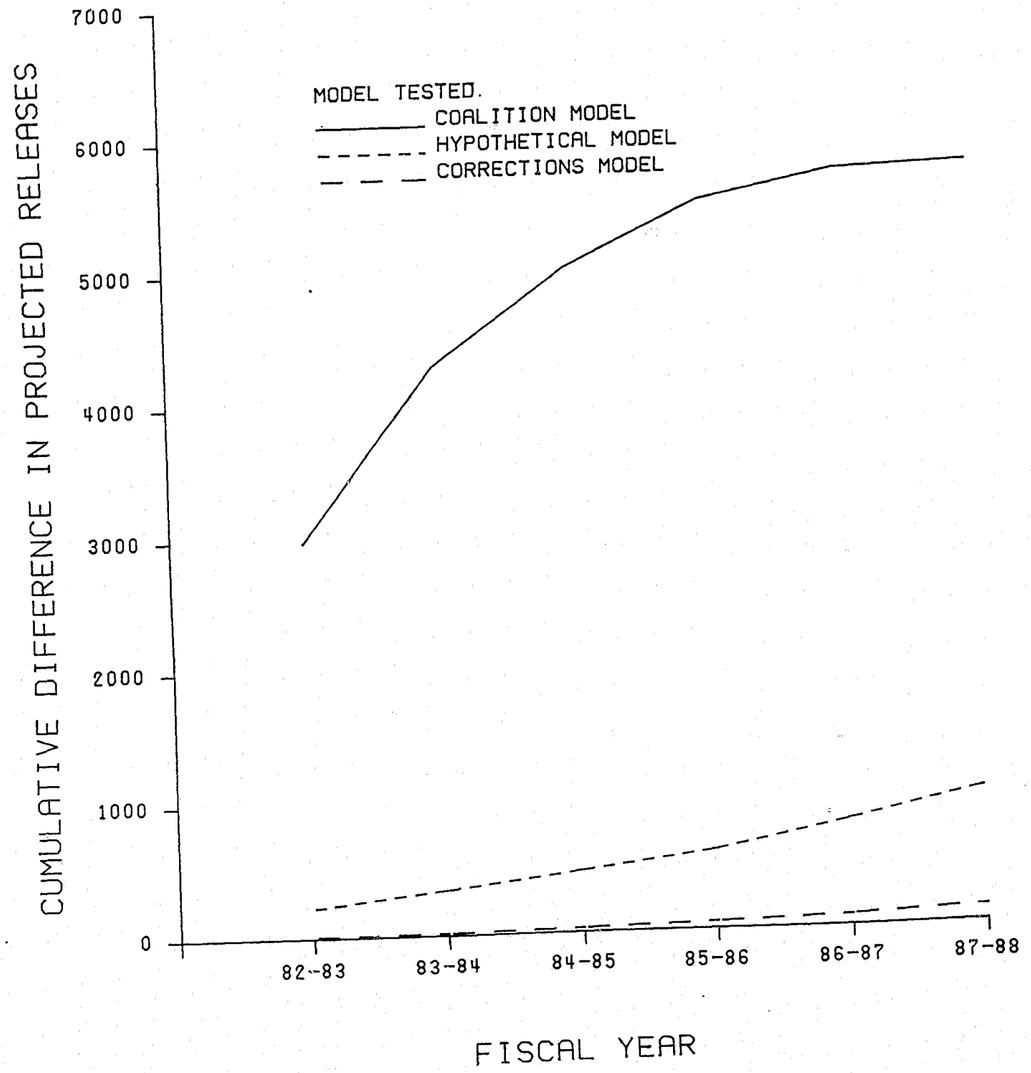
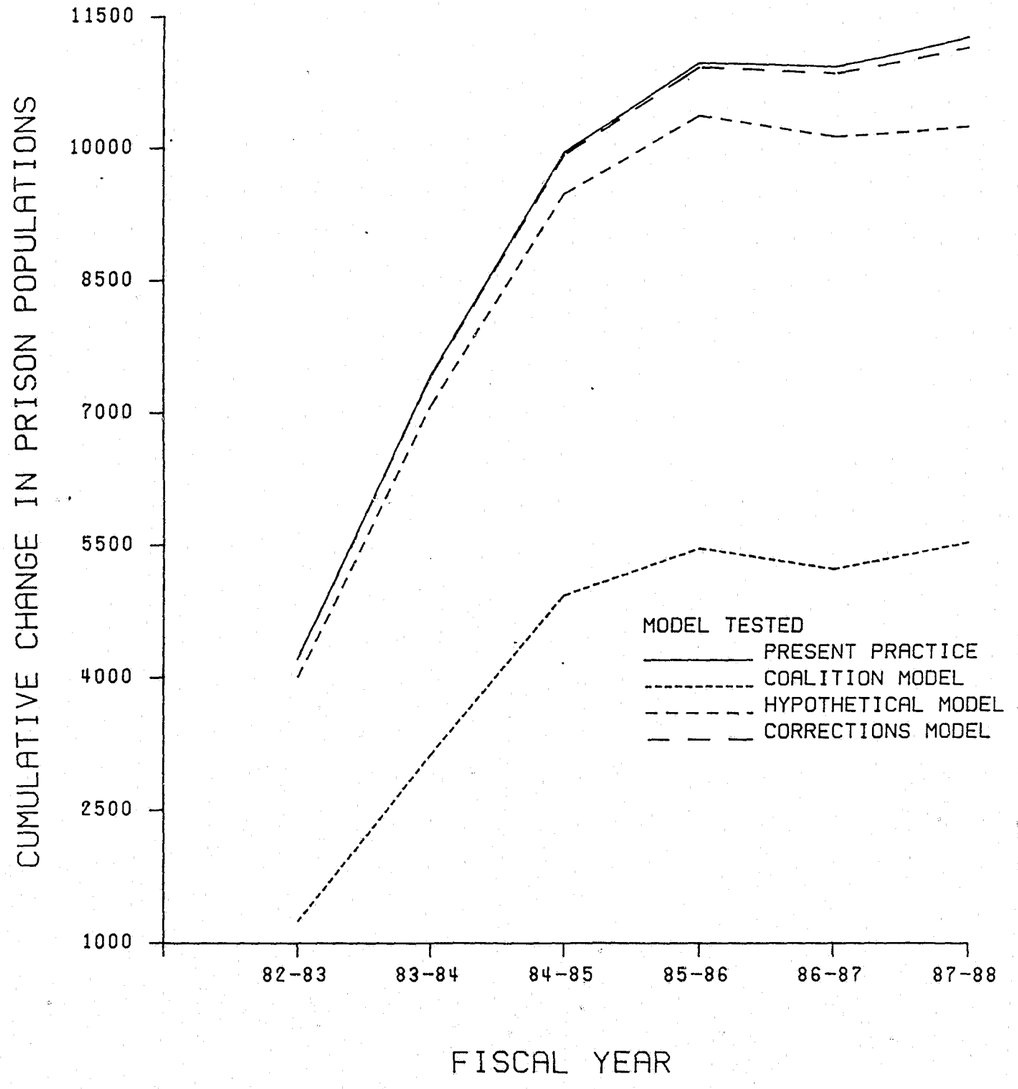


FIGURE 4
CUMULATIVE CHANGE IN PRISON POPULATIONS
FOR THE MODELS TESTED



FOOTNOTES

[1]"Earned Good Time...A Concept Whose Time Has Returned," New York State Coalition for Criminal Justice, April, 1982, p. I.

[2]Ibid., P. 33.

[3]As cited in "Earned Good Time...A Concept Whose Time Has Returned," New York State Coalition for Criminal Justice, April, 1982, p. 8.

[4]Ibid., p. 40.

[5]Ibid., p. 45.

[6]If one were to assume an effect only at the initial hearing and no effect on deferrals (i.e., that those paroled at first hearing are parolable, and those deferred are not good parole risks), the projections would look much like current practices.

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APPENDIX A

Projection Procedure

For this assignment, a procedure was devised to project future conditional releases and releases to parole under various assumptions regarding the calculation and application of good time credits. Although the procedure is based on general principles drawn from existing prison population projection techniques, it is essentially untested and there is no prior experience on which to base judgments about the empirical validity of the resulting projections. Therefore, the actual estimation procedures are described in some detail to permit independent assessment of their logical validity.

Given the limited baseline data that could be obtained in the short time allocated for this project, it was also necessary to make a number of more or less arbitrary (though perhaps reasonable) assumptions regarding the applicability of particular data, the practices likely to be followed by the parole board, and the responses of inmates in custody. The particular assumptions adopted for the purpose of these projections are highlighted where applicable in the step-by-step descriptions given below.

The authors welcome suggestions and commentary regarding this and other methods for projecting conditional releases and releases to parole.

STEP 1: Define a Series of Admissions Cohorts

Dates of admission to prison are grouped into a series of convenient time intervals. Although the method could be applied to any convenient time periods (months, quarters, years, etc.), admissions are grouped in six-month intervals for the present project to correspond with the grouping of data readily obtainable from the Department of Correctional Services (DOCS). Cohorts used in these analyses fall into two categories: "projected admissions" during future six-month intervals; and "in-custody admissions" cohorts, consisting of inmates currently in custody for whom time served-to-date falls within a particular six-month range, and, therefore, who were admitted during a specifiable six-month interval in the past. Only admissions based on new court commitments are included under either admission cohort since it can be expected that these good time proposals would only be applied to these commitments.

The number of projected admissions during each future six-month interval is estimated from existing DOCS projections by evenly distributing the projections for each fiscal year across the two corresponding six-month intervals.

Time served-to-date by inmates in custody was used to establish prior admission cohorts in order to take advantage of the more detailed information readily available for inmates in custody.

Because different types of information are available for in-custody and projected admissions, the two types of admission cohorts are treated differently in some of the subsequent steps.

STEP 2: Create Admissions Matrix

Each row of this matrix corresponds to a minimum sentence length or range of minimum sentence lengths, each column corresponds to an in-custody cohort or projected admissions cohort, and each table entry is the number of in-custody or projected admissions carrying a particular minimum sentence or range of minimum sentences.

The allocation of admissions to minimum sentence rows is somewhat different for in-custody admissions and projected admissions. For in-custody admissions, the actual minimum sentences have been provided by the DOCS Division of Program Planning, Research and Evaluation. For the projected admissions, the proportions of admissions carrying each minimum have been obtained for a group of recent admissions, and these proportions are applied to each projected admissions cohort to distribute those admissions across the range of minimum sentences. Unspecified minimum sentences are treated as minimums of 1 year 6 months since their distribution on time served closely follows the latter's proportional distribution.

ASSUMPTION: It is assumed that the proportion of admissions carrying each minimum sentence will be similar for each of the ensuing years. Some support for this assumption is provided by the fact that the distributions of minimum sentences in 1980 and 1981 were essentially equivalent.

STEP 3: Create Parole Probability Matrix

Each row of this matrix corresponds to a minimum sentence length or range of minimum sentence lengths, each column corresponds to a six-month time period since admission to prison, and each table entry is the estimated proportion of new court commitment admissions with a particular minimum sentence for which a first time release to parole would typically be granted during the specified time period.

The probabilities in this matrix are used as weighting factors to be applied to the admissions matrix, in order to project the number in a particular admissions cohort that would be released to parole during a particular time period. The weighting factors are estimated from analyses of a 1981 release cohort provided by DOCS. The analyses consist of crosstabulations of minimum sentence by actual time served, separately for first conditional releases and first releases to parole, among inmates released in calendar year 1981. Because of the relatively small number of releases in 1981 for inmates having minimum sentences of five years or greater, the parole probability distributions for these minimums were estimated using the five year minimum information and adjusting the distribution for the different minimum terms and the likelihood of being released as a function of parole board actions. A more detailed explanation of this estimation procedure is available from the authors.

ASSUMPTION: It is assumed the characteristics of a 1981 release cohort can be safely generalized to admissions cohorts spanning several years. Although the distribution of minimum sentences could be systematically different for release and admissions cohorts, it is hoped that controlling for minimum sentence has adjusted adequately for these differences. Nevertheless, the analysis will still be contaminated to an unknown degree by historical changes in law, parole policies, and inmate characteristics.

Varying assumptions regarding the calculation of good time and parole board practices can be introduced by making corresponding adjustments to this parole probability matrix. For example, suppose that earned good time could reduce the time to an inmate's first parole hearing by up to one-third off the minimum sentence, that such reductions would be permitted only for minimum sentences of three years or more, and that the parole board would continue to parole the same proportion at first hearing, second hearing, etc., even though those hearings would be taking place earlier than currently is the case. These assumptions would be reflected in the parole probability matrix by leaving unchanged the rows corresponding to minimum sentences of less than three years and shifting the entire probability distribution in each of the remaining rows (toward shorter times served) by an amount equal to one-third of the associated minimum sentence.

The current version of the computer program that calculates parole probability matrices permits one to incorporate any of the following practices:

a. Lower limit. One may specify any one of twenty-four common minimum sentences (ranging from 1 year to 25 years) as a lower limit below which good time could not be subtracted from the minimum.

b. Earning fraction. One may specify the maximum of good time that could be earned for each day in custody.

c. Inmates affected.

Model 1. Good time is subtracted from the minimum, up to a fraction of the difference between the minimum and the lower limit. Assumes earlier releases at first parole hearing and subsequent hearings.

Model 2. Same as 1, but assuming that only the first parole hearing is affected.

Model 3. Good time reductions are calculated as a fraction of the total minimum, but release would not be permitted any earlier than the lower limit specified in "a." Assumes earlier releases at first parole hearing and subsequent hearings.

Model 4. Same as 3, but assuming that only the first parole hearing is affected.

Model 5. Good time is permitted to reduce all minimums by the fraction specified in "b", without regard to lower limits.

Model 6. Present practice (no good time off the minimum).

ASSUMPTION: In shifting these distributions, the frequency within any given time period on which the probability is based is treated as though it were evenly distributed across the time period. This assumption is less problematic the shorter the time periods involved. Unfortunately, it was not feasible for this project to obtain sufficient data for aggregate time intervals shorter than six months.

STEP 4: Create Conditional Release Probability Matrix

Each row of this matrix corresponds to a minimum sentence length or range of minimum sentence lengths, each column corresponds to a six-month time period since admission to prison, and each table entry is the estimated proportion of new court commitment admissions with a particular minimum sentence for which first time conditional release would typically be granted during the specified time period.

The construction of this matrix is identical to the construction of the parole probability matrix described in STEP 3, except that it is based on analyses of conditional releases in 1981, and there is no need to adjust the conditional release probability matrix for any of the good time proposals studied in this report. Probabilities of conditional release for inmates with minimum terms of five years or greater have been estimated because of lack of data in the 1981 release cohort.

ASSUMPTIONS: It is assumed that good time credits may change the timing of parole, but not the likelihood of parole. That is, it is assumed that essentially the same inmates would be paroled (perhaps earlier) and that most of the remaining inmates would continue to be held until the normal conditional release date. It is also assumed that the behavior of inmates does not change appreciably as a result of modifications in good time incentives. This is directly counter to the avowed goals of these proposals, which are supported primarily for their potential impact on inmate behavior. If a given good time incentive, in fact, improves inmate behavior, resulting in increased accumulation of good time credits, this projection method will underestimate the impact of that incentive on prison population. It is also assumed that good time is earned only for the period actually spent in prison, and that the number of parole releases and conditional releases occurring more than 20 years after admission will constitute a negligible proportion of the total annual number of releases.

STEP 5: Calculate Projected Releases to Parole for Each Time Period

The procedures for calculating projected releases are slightly different for releases based on projected admissions and releases based on in-custody admissions. Because the in-custody cohorts exclude those who were originally admitted in the same time period but who have already been released, certain adjustments are necessary for the in-custody cohorts. These adjustments are described in STEP 5d, below.

a. Establish a "vector" of projected releases to parole for each six-month period, beginning with the last half of 1982. Set the entries initially to zero: the vector will serve as an "accumulator" to store running totals based on subtotals calculated in STEPS 5b-5d.

b. Project parole releases from projected admissions cohorts. Each column of the admissions matrix contains the number of new court commitment admissions anticipated in a given time period, estimated separately for each range of minimum sentence length. To calculate estimated parole releases during subsequent time periods, each entry in a column of the admissions matrix is distributed across time periods using the weighting factors in the corresponding row of the parole probability matrix.

This process creates one projected parole matrix for each projected admissions cohort, that is, for each projected admissions column in the admissions matrix. Each row of this projected parole matrix corresponds to a minimum sentence length, each column corresponds to a particular six-month time period (expressed as time since admission), and each table entry is the estimated number of releases to parole in the specified time period resulting from admissions with a particular minimum sentence length.

The entries in each column of a cohort-specific projected parole matrix are then summed, yielding subtotals of projected releases from projected admissions for a given projected admissions cohort, separately for each range of time served since admission.

c. Add subtotals to corresponding running totals in the parole release accumulator. Subtotals from STEP 5b are added to the appropriate time periods in the accumulator. For example, for a cohort of admissions projected for the last six months of 1982, paroles projected for the period 12-17 months after admission would be added to the running total of paroles projected for the first half of Fiscal Year 1984.

STEPS 5b and 5c are repeated for each projected admissions cohort, that is, for each projected admissions column in the admissions matrix.

d. Project parole releases from in-custody admissions cohorts. The in-custody admissions cohorts are "incomplete" in the sense that some inmates originally admitted during the specified time period have since been released and are no longer in custody. Therefore, different conditional probabilities need to be used as weighting factors, and the parole release probabilities need to be adjusted to account for this. For example, rather than the probability of parole during the period 18-24 months after admission among all inmates admitted 18 months ago with one year minimums, one needs the probability of parole during the period 18-24 months after admission among just those inmates admitted 18 months ago with one year minimums who serve 18 months or more, and are therefore still in custody. Clearly, these two probabilities will generally be different, since many of the most "paroleable" inmates with one year minimums would have been already released during the period 12-18 months after admission.

In order to account for the special character of the in-custody cohorts, the parole probability matrix is adjusted separately for each in-custody cohort prior to calculating the corresponding projected parole matrices. The adjusted probabilites are estimated as follows:

-- For a given in-custody cohort, determine the time from admission to the present.

-- Ignore a corresponding number of six-month periods (columns) in the parole probability matrix.

-- Recalculate anticipated proportions paroled in each time period on the basis of the remaining entries.

For the example given above, this would involve ignoring entries in the first three columns (0-6 months, 7-12 months, and 13-18 months) of the parole probability matrix, and would yield probabilities of parole during subsequent time periods among inmates with one year minimums who serve 18 months or more, that is, who were not paroled during the first 18 months.

After adjustment of the parole probability matrix, STEPS 5b and 5c are repeated for each in-custody admission cohort.

STEP 6: Calculate Projected Conditional Releases for Each Time Period.

Identical to STEP 5, but using the conditional release probability matrix for weighting rather than the parole probability matrix. STEP 6 yields a vector of projected conditional releases containing a separate projection for each six-month period, beginning with the last half of 1982.

STEP 7: Combine Projected Parole Releases and Projected Conditional Releases.

In order to test the potential impact of various good time procedures relative to current practice, modifications in the parole probability matrix are made as outlined in STEP 3, and the entire process (STEPS 1 - 7) is repeated. For the proposals studied in this report, no changes are assumed in conditional release probabilities, as explained in STEP 4.

STEP 8: Compare Projections Assuming Good Time Off the Minimum with Projections Assuming Current Practice.

TABLE I

DIFFERENTIAL EFFECTS OF PROJECTED RELEASES TO SUPERVISION FOR THE COALITION MODEL AND PRESENT PRACTICE BY FISCAL YEAR

Fiscal Year	DOCS Projected New Court Commitments (A)	Projected First Releases To Supervision: Present Practice (B)	Projected First Releases To Supervision: Coalition Model (C)	Difference In Projected Releases (B - C)	Cumulative Difference In Projected Releases	Net Change In Prison Population: Present Practice (A - B)	Net Change In Prison Population: Coalition Model (A - C)	Cumulative Change In Prison Population: Present Practice	Cumulative Change In Prison Population: Coalition Model
1982-83	10,779	6,560	9,538	2,978	2,978	4,219	1,241	4,219	1,241
1983-84	11,173	7,971	9,287	1,316	4,294	3,202	1,886	7,421	3,127
1984-85	11,173	8,642	9,365	723	5,017	2,531	1,808	9,952	4,935
1985-86	10,056	9,046	9,527	481	5,498	1,010	529	10,962	5,464
1986-87	9,050	9,078	9,288	210	5,708	-28	-238	10,934	5,226
1987-88	9,050	8,710	8,752	42	5,750	340	298	11,274	5,524

TABLE II

DIFFERENTIAL EFFECTS OF PROJECTED RELEASES TO SUPERVISION FOR THE HYPOTHETICAL MODEL AND PRESENT PRACTICE BY FISCAL YEAR

Fiscal Year	DOCS Projected New Court Commitments (A)	Projected First Releases To Supervision		Difference In Projected Releases (B - C)	Cumulative Difference In Projected Releases	Net Change In Prison Population		Cumulative Change In Prison Population	
		Present Practice (B)	Hypothetical Model (C)			Present Practice (A - B)	Hypothetical Model (A - C)	Present Practice	Hypothetical Model
1982-83	10,779	6,560	6,783	223	223	4,219	3,996	4,219	3,996
1983-84	11,173	7,971	8,091	120	343	3,202	3,082	7,421	7,078
1984-85	11,173	8,642	8,770	128	471	2,531	2,403	9,952	9,481
1985-86	10,056	9,046	9,175	129	600	1,010	881	10,962	10,362
1986-87	9,050	9,078	9,279	201	801	-28	-229	10,934	10,133
1987-88	9,050	8,710	8,926	216	1,017	340	124	11,274	10,257

TABLE III

DIFFERENTIAL EFFECTS OF PROJECTED RELEASES TO SUPERVISION FOR THE CORRECTIONS MODEL AND PRESENT PRACTICE BY FISCAL YEAR

Fiscal Year	DOCS Projected New Court Commitments (A)	Projected First Releases To Supervision: Present Corrections Practice (B)	Projected First Releases To Supervision: Corrections Model (C)	Difference In Projected Releases (B - C)	Cumulative Difference In Projected Releases	Net Change In Prison Population: Present Corrections Practice (A - B)	Net Change In Prison Population: Corrections Model (A - C)	Cumulative Change In Prison Population: Present Corrections Practice	Cumulative Change In Prison Population: Corrections Model
1982-83	10,779	6,560	6,568	8	8	4,219	4,211	4,219	4,211
1983-84	11,173	7,971	7,979	8	16	3,202	3,194	7,421	7,405
1984-85	11,173	8,642	8,656	14	30	2,531	2,517	9,952	9,922
1985-86	10,056	9,046	9,066	20	50	1,010	990	10,962	10,912
1986-87	9,050	9,078	9,107	29	79	-28	-57	10,934	10,855
1987-88	9,050	8,710	8,746	36	115	340	304	11,274	11,159

END