HOUSE JUDICIARY COMMITTEE

PUBLIC HEARING: HOUSE BILL NO. 239

TUESDAY, FEBRUARY 26, 1991

TESTIMONY PRESENTED BY
THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE

FRED W. JACOBS
CHAIRMAN

DAHLE D. BINGAMAN, ED.D.
BOARD MEMBER

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BOARD MEMBER

MARY ANN STEWART
BOARD MEMBER

98 pages

MR. CHAIRMAN, AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE, OUR BOARD APPRECIATES THE FACT THAT THE COMMITTEE HAS DECIDED TO CONDUCT THIS PUBLIC HEARING SO THAT THE SIGNIFICANT ISSUES IN HOUSE BILL NO. 239 ARE UNDERSTOOD PRIOR TO ANY ACTION BEING TAKEN.

ONE PURPOSE OF THIS TESTIMONY IS TO RAISE ISSUES CONCERNING THE DEBATE ABOUT DETERMINATE VERSUS INDETERMINATE SENTENCING. ALSO PROVIDED IS INFORMATION ABOUT OUR CURRENT SYSTEM OF DISCRETIONARY PAROLE DECISION MAKING,AND THE FLEXIBILITY OF THE SYSTEM TO ADDRESS PRISON OVERCROWDING ISSUES WITH SPECIFIC EMPHASIS ON POLICY ADJUSTMENTS SINCE THE RIOTS AT THE STATE CORRECTIONAL INSTITUTION AT CAMP HILL. SUGGESTED AMENDMENTS TO HOUSE BILL NO. 239 ARE ALSO OFFERED, AS ARE ATTACHMENTS FOR SUPPLEMENTARY INFORMATION PURPOSES.

IT IS THE HOPE OF OUR BOARD THAT THIS TESTIMONY PROVIDES ALL COMMITTEE MEMBERS FULL AND COMPLETE INFORMATION ON THESE IMPORTANT ISSUES BEFORE THE DIRECTION OF OUR SENTENCING AND PAROLE SYSTEM IS DECIDED. THE BOARD MEMBERS AND I HAVE DISCUSSED THESE ISSUES IN SIGNIFICANT DETAIL AND MY TESTIMONY TODAY REFLECTS OUR COLLECTIVE AND CONSIDERED PROFESSIONAL JUDGMENT. WE ARE COMMITTED TO CARRYING OUT OUR RESPONSIBILITIES CONSISTENT WITH ALL APPLICABLE LAWS WHICH GOVERN OUR SYSTEM OF JUSTICE. THE DECISION OF THE GENERAL ASSEMBLY WILL GUIDE THAT SYSTEM. THE SUGGESTED ABOLITION OF DISCRETIONARY PAROLE RELEASE IN PENNSYLVANIA HAS GOTTEN NATIONAL

ATTENTION. SEVERAL CRIMINAL JUSTICE PROFESSIONALS AND WELL KNOWN EXPERTS HAVE VOICED THEIR OPINIONS ON THE ISSUES IN LETTERS TO CHAIRMAN CALTAGIRONE. SOME HAVE FORWARDED COPIES TO ME, WHICH I HAVE INCLUDED IN ATTACHMENTS FOR YOUR INFORMATION (ATTACHMENT "A").

AT THE BEGINNING OF THIS CENTURY, PAROLE WAS PROPOSED FOR THE PURPOSE OF STRENGTHENING THE REHABILITATIVE INTENT OF INCARCERATION. INDETERMINATE SENTENCING WAS CREATED TO REPLACE DETERMINATE SENTENCING AT THAT TIME. THESE ARE VERY BROAD SENTENCING PHILOSOPHIES AND RELATIVELY FEW STATES HAVE WHAT COULD BE CONSIDERED "PURE" DETERMINATE OR INDETERMINATE SENTENCING SYSTEMS. IN PENNSYLVANIA, OUR INDETERMINATE SENTENCING IS A HYBRID STRUCTURE THAT DIVIDES THE RESPONSIBILITY FOR THE ACTUAL TERM OF INCARCERATION AMONG THE LEGISLATURE (SENTENCING GUIDELINES), THE JUDGE, AND THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE. PAROLE ELILGIBILITY FOR SENTENCES OF TWO (2) YEARS OR MORE OCCURS AT THE EXPIRATION OF THE MINIMUM SENTENCE WHICH CURRENTLY CANNOT EXCEED ONE-HALF THE MAXIMUM SENTENCE. THERE IS NO DISCRETIONARY PAROLE RELEASE AS PART OF A DETERMINATE SENTENCING SYSTEM. A REVIEW OF THE SO-CALLED DETERMINATE SENTENCING STATES IS ATTACHED FOR YOUR INFORMATION (ATTACHMENT "B").

HISTORICALLY, DISCRETIONARY PAROLE RELEASE REPLACED GOOD TIME IN PENNSYLVANIA. IT, THEREFORE, IS QUITE INTERESTING THAT MANDATORY RELEASE AT THE EXPIRATION OF THE MINIMUM SENTENCE, LESS EARNED TIME CREDITS, IS NOW BEING CONSIDERED TO REPLACE DISCRETIONARY

PAROLE RELEASE. THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE , IN EXERCISING THIS DISCRETIONARY PAROLE RELEASE FUNCTION, IS CONCERNED WITH THE OFFENDER CHANGING HIS/HER BEHAVIOR THROUGH TREATMENT, EDUCATIONAL, AND VOCATIONAL PROGRAMS TO REDUCE THE POTENTIAL FOR FUTURE CRIMINAL ACTS PRIOR TO PAROLE RELEASE. CONCERN WITH THE RISK TO PUBLIC SAFETY RESULTS IN SOME OFFENDERS BEING INCAPACITATED FOR LONGER PERIODS OF TIME THAN THE MINIMUM SENTENCE DICTATES. THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE IS LESS CONCERNED WITH THE ISSUES OF DETERRENCE AND DESERTS THAT ARE MORE APPROPRIATELY CONSIDERED BY THE SENTENCING JUDGE. THE ABOLITION OF DISCRETIONARY PAROLE BASICALLY SAYS THAT TREATMENT AND INCAPACITATION ARE NO LONGER LEGITIMATE CONCERNS FOR THE PAROLE SYSTEM TO CONSIDER IN THE OVERALL MANDATE TO PROTECT THE PUBLIC.

THE ABOLITION OF PAROLE DISCRETION IN PENNSYLVANIA WAS FIRST ADVOCATED IN 1979 AND AGAIN IN 1981 BECAUSE IT WAS FELT THAT TOO MANY OFFENDERS WERE BEING PAROLED AT THE MINIMUM SENTENCE (80%, AT THAT TIME), AND NOW THE ABOLITION OF PAROLE DISCRETION IS AGAIN BEING CONSIDERED BECAUSE NOT ENOUGH OFFENDERS ARE BEING PAROLED AT THE MINIMUM SENTENCE (75.4% FOR 1990). THE DIFFERENCE NOW IS PRISON OVERCROWDING. HOWEVER, IN 1982, I TESTIFIED BEFORE THE HOUSE SUB-COMMITTEE ON CRIME AND CORRECTIONS AND STATED THE CONCERN OF THE BOARD AS FOLLOWS:

"IN SUMMARY, I WISH TO DRAW TO YOUR ATTENTION WHAT I CONSIDER TO BE AN EXTREMELY VOLATILE

SITUATION. AS YOU KNOW, BOTH THE STATE AND COUNTY PRISON SYSTEMS ARE SERIOUSLY OVERCROWDED. JUDGES, IN MANY INSTANCES, HAVE HEARD THE PUBLIC OUTCRY CONCERNING LENIENT SENTENCES AND HAVE BEGUN TO GIVE MUCH TOUGHER SENTENCES THAN EVER BEFORE. THIS WILL CONTINUE TO BE THE CASE WITH THE RECENTLY ENACTED MANDATORY SENTENCING BILL. IF THE PROPOSAL OF THE SENTENCING COMMISSION IS ENACTED, FURTHER OVERCROWDING WILL OCCUR AS, ON THE AVERAGE, THE SENTENCES RECOMMENDED ARE FORTY-NINE PERCENT (49%) TOUGHER THAN ACTUAL AVERAGE PRACTICE DURING 1980. THE BOTTOM LINE IS THAT WHILE CELL SPACE IS BEING PLANNED FOR, SOME IMMEDIATE CONSIDERATION MUST BE GIVEN TO DEAL WITH THE OVERCROWDING SITUATION AT PRESENT. I WOULD URGE THE COMMITTEE TO LOOK AT THE ALTERNATIVES DEVELOPED AT A RECENT FORUM SPONSORED BY THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY, AS WELL AS EVALUATING THE RECENTLY ENACTED "ROLLBACK LAWS" IN MICHIGAN AND IOWA. ALTERNATIVES MUST BE DEVELOPED WHICH WILL NOT ADVERSELY AFFECT THE PUBLIC INTEREST OR THE PROTECTION OF SOCIETY".

OVER THE PAST FOURTEEN (14) YEARS, WE HAVE DEVELOPED THE EXPERTISE TO SCREEN OFFENDERS FOR RISK OF RECIDIVISM AND VIOLENCE. THIS IS DESIGNED TO PROTECT THE PUBLIC, NOT TO CONTROL PRISON OR PAROLE POPULATIONS, BUT IT CAN ADAPT TO ACCOMMODATE THAT PURPOSE. RESEARCH BY PETER HOFFMAN SHOWS THAT PAROLEES DO SUBSTANTIALLY BETTER ON SUPERVISION THAN DO MANDATORY RELEASES. HOFFMAN NOTED, AS DOES THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE, THAT PAROLE BOARD MEMBERS WITH THE PROPER SCREENING INSTRUMENTS CAN IDENTIFY THOSE FACTORS WHICH TEND TO BE ASSOCIATED WITH BOTH SUCCESS AND FAILURE ON PAROLE. THIS WAS ALSO FOUND BY O'LEARY AND GLASER IN THEIR RESEARCH.

OUR RESEARCH DEMONSTRATES THAT WE CAN PREDICT FOR GROUP

BEHAVIOR AND CLASSIFY INTO GROUPS FOR RISK. FOR EXAMPLE, WE KNOW THAT OFFENDERS WE HAVE CLASSIFIED AS "HIGH RISK" VIOLATE MORE FREQUENTLY THAN THOSE CLASSIFIED AS "MEDIUM" OR "LOW" RISK.

THE ASSESSMENT OF RISK TO THE COMMUNITY IS ONE OF THE PRIMARY FUNCTIONS OF THE BOARD'S DECISION MAKING GUIDELINES. PAST RESEARCH ON BASE EXPECTANCY OF PAROLE SUCCESS AND FAILURE HAS DEVELOPED A HIGHLY EFFECTIVE CLASSIFICATION INSTRUMENT. BASED UPON KNOWN FACTS ABOUT A CASE, I.E., AGE, PRIOR CONVICTIONS, INSTANT OFFENSE, AND PRIOR REVOCATIONS, AN INMATE IS CLASSIFIED INTO ONE (1) OF THREE (3) RECIDIVISM RISK CATEGORIES; THE LOWEST RISK CATEGORY REPRESENTS ALL PAROLE ELIGIBLE INMATES WITH GREATER THAN AN 80% CHANCE OF SUCCEEDING DURING THE FIRST TWO (2) YEARS OF PAROLE. THE HIGHEST RISK GROUP HAS ABOUT A 50% CHANCE RECIDIVISM, WHICH MEANS THAT ABOUT ONE (1) OUT OF EVERY TWO (2) INMATES IN THIS RISK GROUP SUCCEEDS ON PAROLE. BECAUSE WE CANNOT PREDICT INDIVIDUAL BEHAVIOR WITHOUT ERROR, IN ADDITION TO THE RISK OF RECIDIVISM, A SEPARATE ANALYSIS OF THE POTENTIAL FOR VIOLENT OR DANGEROUS BEHAVIOR, COUPLED WITH A CLINICAL INTERVIEW, IS UNDERTAKEN IN PAROLE DECISION MAKING. RECENT RESEARCH INDICATES THAT 24% OF THE TOTAL PAROLE ELIGIBLE POPULATION HAD POTENTIAL FOR ASSAULTIVE OR DANGEROUS BEHAVIOR, WHILE 66% OF THOSE REFUSED PAROLE WERE INCARCERATED FOR ASSAULTIVE OFFENSES. A COMPLETE DESCRIPTION CONCERNING THE POLICY, PROCEDURE, AND PHILOSOPHY OF OUR BOARD'S PAROLE DECISION MAKING GUIDELINES IS ATTACHED FOR YOUR INFORMATION (ATTACHMENT "C"). IN DEVELOPING THESE GUIDELINES, WE TOOK

GREAT CARE IN RECOGNIZING THE LIMITATIONS OF SUCH A PROCESS. SUCH PREDICTION INSTRUMENTS HAVE TWO MAIN ADVANTAGES: FIRST, THEY IMPROVE THE RELIABILITY OF DECISIONS MADE ABOUT OFFENDERS - THEY MAKE US MORE PREDICTABLE. SECOND, THEY PROVIDE A SOUND AND SCIENTIFIC BASIS ON WHICH WE CAN PUBLICLY JUSTIFY BOTH INDIVIDUAL DECISIONS AND DECISION MAKING POLICIES.

HAVING SAID ALL OF THE ABOVE, THE TESTIMONY OF THE BOARD TODAY IS DESIGNED TO FOCUS ON THE ISSUES RESULTING FROM THE DIFFERING SENTENCING PHILOSOPHIES. THE GOVERNOR HAS ANNOUNCED HIS SUPPORT FOR A MORE DETERMINATE PHILOSOPHY PRIMARILY BECAUSE OF THE PRISON OVERCROWDING PROBLEM WE ARE FACING. WHETHER THAT SUPPORT EXTENDS TO THIS HOUSE BILL, I DO NOT KNOW. HOWEVER, I'D LIKE TO DISCUSS WITH YOU THE BOARD'S OBSERVATIONS ON HOUSE BILL NO. 239.

INITIALLY, THE PREAMBLE TO HOUSE BILL NO. 239 DOES NOT CONTAIN ANY LANGUAGE TO DEAL WITH THE ISSUE OF PUBLIC SAFETY AS A RESPONSIBILITY OF THE PROPOSED SYSTEM.

SECTION 501(a) L. 21 CONTAINS THE WORD "HERETOFORE" WHICH IS NECESSARY IN TERMS OF THE PAROLE VIOLATION ISSUE, BUT PROBLEMATIC WHEN READ WITH THE REPEALER ON P. 28, LL. 16-17, WHICH IS THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE LAW. THIS OPENS THE POSSIBILITY OF RETROACTIVITY OF THE BILL, SINCE THERE IS NO CLEAR LANGUAGE WHICH RETAINS PAROLE DISCRETION FOR THOSE OFFENDERS IN THE

SYSTEM PRIOR TO THE EFFECTIVE DATE. AN ADDITION TO THE REPEALER FOR CLARITY IS OFFERED FOR CONSIDERATION AS:

> "...EXCEPT THAT THE PAROLING, REPAROLING AND REVOCATION POWERS, AND ALL POWERS INCIDENTAL THERETO, HELD BY THE BOARD OF PROBATION AND PAROLE WITH RESPECT TO SENTENCES IMPOSED BEFORE THE EFFECTIVE DATE OF THIS ACT SHALL BE TRANSFERRED TO THE BOARD OF PAROLE..."

SECTION 501(b) IS INCONSISTENT WITH THE STATED INTENT OF THE GENERAL ASSEMBLY THAT THE "SENTENCING POLICY OF THE COMMONWEALTH SHALL BE READILY UNDERSTANDABLE BY THE CITIZENS OF THIS COMMONWEALTH AND SHALL PROVIDE FOR INCREASED CERTAINTY, PROPORTIONALITY AND FAIRNESS IN CRIMINAL SENTENCING". IF THE PUBLIC IS TO UNDERSTAND THAT THE MINUMUM DATE IS THE RELEASE DATE, LESS WORK-RELATED AND EARNED TIME, THAT SHOULD BE TRUE FOR ALL CRIMINAL SENTENCES, NOT JUST SENTENCES OF TWO (2) YEARS OR MORE.

SECTION 503(a) AND THE REPEALER ON P. 28, L. 11 WILL ALLOW FOR SIGNIFICANTLY LONGER MINIMUM SENTENCES WHICH COULD RESULT IN MORE OVERCROWDING THAN WE NOW HAVE. INDEED, THE DECEMBER NEWS RELEASES ANNOUNCING THIS INITIATIVE STATED A NEED TO FOCUS "...THE ATTENTION OF THE 1991-92 GENERAL ASSEMBLY ON PENNSYLVANIA'S PRISON OVERCROWDING PROBLEM..." THIS COULD CERTAINLY DRIVE UP THE PRISON POPULATION.

SECTION 503(b) SHOULD BE AMENDED TO REQUIRE THAT THE

PAROLE PLAN TO BE INVESTIGATED BY DEPARTMENT STAFF SHOULD BE APPROVED BY THE DEPARTMENT STAFF PRIOR TO ANY RELEASE FROM PRISON. TO DO OTHERWISE WOULD CREATE HAVOC FOR THE PAROLE SUPERVISION STAFF TO THE EXTENT THAT THEY WOULDN'T BE ABLE TO LOCATE THE OFFENDERS FOR SUPERVISION PURPOSES. WITHOUT PRIOR APPROVAL AS A REQUIREMENT, OFFENDERS WOULD HAVE NO INCENTIVE TO EVEN DEVELOP A PAROLE PLAN IF RELEASE AT MINIMUM IS GOING TO OCCUR ANYWAY.

SECTION 504 SHOULD INCLUDE LANGUAGE WHICH WOULD ALLOW OFFENDERS TO EARN TIME OFF OF THE ACTIVE PAROLE SUPERVISION PERIOD. THIS WOULD FREE UP SOME SUPERVISION RESOURCES TO FOCUS ON THE MORE DANGEROUS OFFENDERS, WHICH WOULD HELP TO PROTECT THE PUBLIC. SENATOR FISHER PROPOSED THIS LEGISLATION LAST SESSION.

SECTION 504(b), P. 13, L. 1 TALKS ABOUT "...RESANCTIONING THE OFFENDER". BY WHOM, THE BOARD OF PAROLE, THE SENTENCING COMMISSION, OR THE COMMONWEALTH COURT?

SECTION 505(a) PROVIDES FOR THE DEPARTMENT TO PETITION THE BOARD TO PROHIBIT THE RELEASE OF AN OFFENDER UNDER CERTAIN BEHAVIORAL CIRCUMSTANCES. THERE IS NO SUCH PROVISION TO PROHIBIT THE RELEASE OF AN INMATE SERVING A STATE SENTENCE IN A COUNTY JAIL. SENATE BILL NO. 341 IS PREFERABLE TO HOUSE BILL NO. 239 ONLY WITH RESPECT TO PROVIDING MORE GROUNDS TO PROHIBIT RELEASE OF POTENTIALLY DANGEROUS PEOPLE. THIS COMES CLOSE TO BEING A PRESUMPTIVE PAROLE POLICY, HOWEVER, THE

DISCRETION IS TAKEN FROM THE BOARD AND IS GIVEN TO THE DEPARTMENT - IT IS NOT ELIMINATED FROM THE SYSTEM. I HAVE ATTACHED A COPY OF THE PRESUMPTIVE PAROLE LAW IN NEBRASKA FOR YOUR INFORMATION. (ATTACHMENT "D").

BOTH SECTION 505(a) AND (b) RAISE LIBERTY INTEREST QUESTIONS. OUR BELIEF IS THAT THE COURTS WOULD REQUIRE FULL DUE PROCESS PROCEEDINGS CONSISTENT WITH THE UNITED STATES SUPREME COURT DECISION IN MORRISSEY V. BREWER AND THE PENNSYLVANIA SUPREME COURT RAMBEAU DECISION. IN ANY EVENT, THE DISPOSITION RESULTING FROM THESE HEARINGS SHOULD BE CONSISTENT WITH GUIDELINES PROMULGATED BY THE SENTENCING COMMISSION, NOT ON A RECOMMENDATION BY THE DEPARTMENT OF CORRECTIONS. THE SENTENCING COMMISSION THEN WOULD HAVE RESPONSIBILITY FOR DEVELOPING GUIDELINES FOR SENTENCING, FOR EXTENDING THE MINIMUM SENTENCE, AND FOR PAROLE REVOCATIONS AS IN SECTION 508. SECTION 505(b), L. 16 SPEAKS OF A PAROLE VIOLATION; THIS IS CLEARLY NOT A PAROLE VIOLATION. IT IS AN EXTENSION OF THE RELEASE DATE. LINE 21 SPEAKS OF "AGENTS", WHILE THE BOARD OF PAROLE CLEARLY WOULD HAVE NO "AGENTS" UNDER THIS PROPOSAL SINCE THEY WOULD BE TRANSFERRED TO THE DEPARTMENT.

SECTION 506 DEALS WITH VICTIMS OF CRIME, BUT IT ELIMINATES A VERY IMPORTANT VICTIM INPUT PROCESS IN RELEASE DECISION CONSIDERATIONS. SINCE 1986, THE GENERAL ASSEMBLY PASSED TWO SIGNIFICANT LAWS DEALING WITH THIS ISSUE. THE BOARD CURRENTLY IS

REQUIRED TO PROVIDE AN OPPORTUNITY FOR CRIME VICTIMS TO PROVIDE ORAL OR WRITTEN TESTIMONY CONCERNING THE CONTINUING EFFECT OF THE CRIME ON THE VICTIM OR THE VICTIM'S FAMILY IN THE EVENT THE VICTIM IS A CHILD OR IS DECEASED. THE WEAKNESS IN THIS SECTION OF HOUSE BILL NO. 239 IS OBVIOUS; YOU'VE PREVIOUSLY GIVEN RIGHTS TO CRIME VICTIMS WHICH YOU NOW PROPOSE TO TAKE AWAY. VICTIM INPUT SHOULD BE CONSIDERED PRIOR TO ANY PRISON RELEASE DECISION WHETHER IT BE PAROLE, MANDATORY RELEASE, FURLOUGH, OR HALF-WAY HOUSE PLACEMENT. WHILE EXTREMELY IMPORTANT, THE PROVISIONS REGARDING NOTICE OF RELEASE AND SPECIAL CONDITIONS FOR SUPERVISION PROVIDE NOTHING NEW FOR CRIME VICTIMS. HOW TO ENROLL IN THE VICTIM'S PROGRAM IS ALSO UNCLEAR. CURRENTLY, THE BOARD PROVIDES ENROLLMENT INFORMATION TO EVERY DISTRICT ATTORNEY'S OFFICE. THE DISTRICT ATTORNEY IS NOW STATUTORILY RESPONSIBLE TO PROVIDE THIS INFORMATION TO VICTIMS OF CRIME AT THE TIME OF SENTENCING, AND THE PROCESS FROM THERE IS CLEARLY OUTLINED IN STATUTE, INCLUDING TIME FRAMES. THIS BILL FALLS SHORT IN THAT AREA.

SECTION 508 DISCUSSES CONVICTED PAROLE VIOLATORS. (a)(1), P. 15, LL. 4-7 DEAL WITH TIME COMPUTATION. COURT DECISIONS WITH REGARD TO BAIL STATUS DICTATE WHETHER THE TIME CREDITED DUE TO DETAINER GOES TO BACK-TIME OR TOWARD NEW SENTENCE. (2), P. 15, LL. 8-16 DISCUSSES HOW THE TIME SHOULD RUN. FOR MANY YEARS, WE HAVE BEEN RECOMMENDING THAT THE SENTENCE BEING SERVED SHOULD BE COMPLETED BEFORE BEGINNING ANY NEW SENTENCE RATHER THAN BEING DRIVEN BY WHERE THE OFFENDER WAS PAROLED FROM AND WHERE THIS NEW SENTENCE IS TO BE SERVED.

THIS RECOMMENDATION TO REQUIRE SERVICE OF PAROLE VIOLATION BACK-TIME PRIOR TO THE SERVICE OF ANY NEW SENTENCE WOULD GREATLY SIMPLIFY THE ORDER OF SERVICE ISSUE AND CAUSE A CORRESPONDING DECREASE IN APPEALS BASED ON TIME ALLOCATION ISSUES. THE REQUIREMENT OF SERVING BACK-TIME FIRST WOULD ALLOW THE DEPARTMENT TO AVOID PRISONER TRANSPORTATION COSTS ASSOCIATED WITH BRINGING A PAROLE VIOLATOR BACK FROM ANOTHER JURISDICTION WHERE THE VIOLATOR HAS A NEW OUT-OF-STATE SENTENCE THAT IS SERVED PRIOR TO THE SERVICE OF PAROLE BACK-TIME. PERHAPS, ALSO, YOU WOULD WANT TO GIVE THE SENTENCING JUDGE DISCRETION TO ALLOW PAROLE BACK-TIME TO RUN CONCURRENT TO ANY NEW SENTENCE FOR NON-VIOLENT OFFENSES. CURRENTLY, PAROLE BACK-TIME AND NEW SENTENCES MUST RUN CONSECUTIVE TO EACH OTHER.

SECTION 509 PROVIDES APPEAL RIGHTS TO SANCTIONS IMPOSED IN SECTION 508. IT SHOULD BE STATED THAT PRIOR TO FILING A PETITION FOR ALLOWANCE OF APPEAL TO THE APPELLATE COURT, THAT ADMINISTRATIVE REMEDIES MUST BE EXHAUSTED. REQUESTS FOR ADMINISTRATIVE REVIEW WHICH CLEARLY STATE THE ISSUES WOULD BE DIRECTED TO THE BOARD OF PAROLE.

SECTION 701 GIVES THE DEPARTMENT THE POWER TO SUPERVISE OFFENDERS ON PAROLE. THIS PROVISION REMOVES YET ANOTHER CHECK AND BALANCE FROM THE SYSTEM. THE PAROLE SUPERVISION ASPECT OF THE BOARD'S OPERATION HAS BEEN ACCREDITED BY THE COMMISSION ON ACCREDITATION OF THE AMERICAN CORRECTIONAL ASSOCIATION SINCE 1982. IT CLEARLY IS ONE OF THE BEST FIELD SERVICES AGENCIES IN THE COUNTRY. THIS PORTION OF

THE AGENCY REPRESENTS ABOUT 80% OF THE BOARD'S OPERATING BUDGET, AND THUS HAS HIGH VISIBILITY AND POLICY DEVELOPMENT IS VERY FLUID. TRANSFER TO THE DEPARTMENT WOULD BE ABOUT 5% OF THEIR HUGE BUDGET, AND COULD DEVELOP INTO A STEPCHILD RELATIONSHIP. TO PROTECT THE INTEGRITY OF THE PAROLE SUPERVISION PROCESS AS PART OF THE DEPARTMENT OF CORRECTIONS, A NUMBER OF SAFEGUARDS SHOULD BE MANDATED. SUCH SAFEGUARDS INCLUDE:

1) A LINE ITEM BUDGET,
2) ORGANIZATIONAL STATUS EQUAL TO INSTITUTIONAL OPERATIONS ON A DEPUTY COMMISSIONER LEVEL,
3) A PROFESSIONAL PAROLE PERSON AS DEPUTY COMMISSIONER,
4) A REQUIREMENT TO MAINTAIN ACCREDITATION STATUS, AND
5) A CLEAR MANDATE TO PROTECT THE COMMUNITY AND ASSIST THE OFFENDER IN THE REINTEGRATION PROCESS.

A RECENT SURVEY PUBLISHED BY THE AMERICAN CORRECTIONAL ASSOCIATION INDICATES THAT INCORPORATING PAROLE SUPERVISION UNDER THE PAROLING AUTHORITY "...HELPS ENSURE THAT ENFORCEMENT OF THE CONDITIONAL RELEASE ACTUALLY OCCURS, INCREASES THE LEVEL AND FREQUENCY OF COMMUNICATION BETWEEN FIELD SERVICES AND THE BOARD AND PROVIDES ACCOUNTABILITY AS A CASE MOVES FROM RELEASE TO SUPERVISION TO DISCHARGE OR REVOCATION". THIS SAME SURVEY SHOWS THAT SOCIETAL

PROTECTION AND REHABILITATION ARE LEGITIMATE GOALS OF PAROLE SUPERVISION.

SECTION 701(a)(2) RELATES TO THE ACCEPTANCE OF CASES FOR SUPERVISION OR PRE-SENTENCE INVESTIGATIONS FROM COUNTIES. DURING THE BOARD'S SUNSET REVIEW IN 1985 AND 1986, THE GENERAL ASSEMBLY TOOK GREAT PAINS IN "GRANDFATHERING IN" MERCER AND VENAGO COUNTIES WHO RELIED ON THE BOARD TO PROVIDE ALL ADULT PROBATION AND PAROLE SERVICES FOR THEM. THIS SECTION, AS WRITTEN, ELIMINATES THAT AND WOULD REQUIRE EACH OF THE COUNTIES TO DEVELOP THEIR OWN ADULT PROBATION AND PAROLE PROGRAMS. I'M UNCLEAR AS TO YOUR INTENT IN THAT REGARD.

SECTION 702(6) DEALS WITH THE GRANT-IN-AID PROGRAM TO BE ADMINISTERED BY THE DEPARTMENT. WITH THE REPEAL OF THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE LAW, THIS COULD BE INTERPRETED AS A NEW PROGRAM WITH A BASE YEAR OF 1991, RATHER THAN A CONTINUATION OF THE PROGRAM ADMINISTERED BY THE BOARD WITH A BASE YEAR OF 1965. USING THE 1965 BASE YEAR, CURRENTLY ONE THOUSAND (1,000) POSITIONS ARE ELIGIBLE FOR FUNDING. THE GOVERNOR'S BUDGET NOW INTRODUCES A SUPERVISION FEE OF TWENTY-FIVE DOLLARS ($25) PER MONTH AS A METHOD OF FUNDING A LARGE PORTION OF THIS PROGRAM.

SECTION 704(b)(2) REQUIRES PAROLEES TO PAY FOR THE COSTS OF RANDOM URINALYSIS TESTS FOR DRUG USAGE. THIS IS A CARRY OVER OF A CURRENT REQUIREMENT MANDATED AS ACT 97 OF 1989 BY THE GENERAL

ASSEMBLY. THE COLLECTION OF THIS FEE IS PROBLEMATIC AND WILL REMAIN THAT WAY AS LONG AS PRISON OVERCROWDING TENDS TO PROHIBIT THE POSSIBILITY OF REINCARCERATION AS A SANCTION FOR NON-PAYMENT. AS OF THE END OF DECEMBER, 1990, A TOTAL OF $45,565.36 HAS BEEN BILLED WITH A COLLECTION RATE OF ONLY 5.6%, OR $2,573.00. THIS FEE, ALONG WITH THE ABOVE-NOTED SUPERVISION FEE, WILL BE VERY DIFFICULT TO COLLECT UNLESS RECALCITRANTS UNDERSTAND THE POSSIBILITY OF REINCARCERATION FOR NON-PAYMENT. THIS WOULD BE COUNTER PRODUCTIVE BECAUSE REINCARCERATION WOULD COST SIGNIFICANTLY MORE THAN THE FEE WE ARE TRYING TO COLLECT.

SECTION 705 LIMITS THE NUMBER OF DISTRICT OFFICES TO TEN (10) FOR ADMINISTRATIVE PURPOSES. THIS IS A CARRY OVER FROM CURRENT LAW, AND IS OUTDATED IN TERMS OF USEFULNESS. THE DEPARTMENT COULD EASILY USE FIVE (5) OR SIX (6) ADDITIONAL DISTRICT OFFICES FOR THE SUPERVISION OF OVER TWENTY THOUSAND (20,000) PAROLEES AND PROBATIONERS. THE LIMIT OF TEN (10) PAROLE DISTRICTS, WHICH DATES BACK TO 1941, IS NO LONGER VALID IN VIEW OF CHANGING DEMOGRAPHICS AND EXPANDING DUE PROCESS RIGHTS OF PAROLEES.

SECTION 708 PROVIDES AUTHORIZATION TO SUPERVISE PAROLEES AND PROBATIONERS OF OTHER STATES THROUGH THE INTERSTATE COMPACT. IT SHOULD ALSO AUTHORIZE THE DETENTION OF THOSE PEOPLE IF THE NEED ARISES. OVER THE YEARS, THE DEPARTMENT HAS DONE THIS AS A COURTESY AS HAVE COUNTIES WITHOUT ANY CLEAR LEGAL AUTHORITY TO DO SO. THIS IS ANOTHER CHANGE IN LAW WE'VE BEEN TRYING TO GET FOR AT LEAST TEN (10)

YEARS. THE DEPARTMENT SHOULD ALSO HAVE UNQUESTIONED AUTHORITY TO TRANSFER SUPERVISION OF ANY PRISONER UNDER ITS JURISDICTION TO THE APPROPRIATE FEDERAL AUTHORITIES FOR THE PURPOSE OF PERMITTING THAT PRISONER TO PARTICIPATE IN THE FEDERAL WITNESS PROTECTION PROGRAM UNDER THE WITNESS SECURITY REFORM ACT OF 1984 (18 U.S.C. § 3521-3528). ALLOWING PAROLEES TO PARTICIPATE IN THE WITNESS PROTECTION PROGRAM WOULD FOSTER COOPERATION BETWEEN COMMONWEALTH AND FEDERAL AUTHORITIES AND INCREASE THE EFFECTIVENESS OF LAW ENFORCEMENT EFFORTS.

SECTIONS 901 AND 902 DEAL WITH WORK-RELATED AND EARNED TIME AND HOW IT CAN BE EARNED, AS WELL AS LOST, AS A RESULT OF MISCONDUCTS IN PRISON. IT WOULD APPEAR, SIMILAR TO SECTION 505 THAT THIS MIGHT CONSTITUTE A LIBERTY INTEREST. WHETHER IT DOES OR NOT, GUIDELINES FOR THE LOSS OF WORK-RELATED OR EARNED TIME SHOULD BE DEVELOPED BY THE SENTENCING COMMISSION FOR CONSISTENCY WITH OTHER PORTIONS OF THE BILL. ALSO, IT SHOULD BE REQUIRED THAT ALL ACCUMULATED WORK-RELATED AND EARNED TIME SHOULD BE EXHAUSTED PRIOR TO ANY PETITION TO THE BOARD OF PAROLE UNDER SECTION 505 FOR AN EXTENSION OF TIME IN PRISON.

EARNED TIME AT FOUR (4) DAYS PER MONTH AND WORK-RELATED TIME AT ONE (1) DAY PER MONTH SEEM CONSISTENT WITH AN INDETERMINATE SENTENCING SYSTEM, BUT INCONSISTENT WITH THE PROPOSED DETERMINATE SENTENCING SYSTEM. THOSE WHO PROFESS THAT INMATES ONLY GET INTO PROGRAMS NOW TO PLEASE THE BOARD OR AS A RESULT OF COERCION BY THE

BOARD WILL SEE THE SAME MOTIVATION BY INMATES TO EARN TIME OFF OF THEIR SENTENCES. THE LACK OF PROGRAM OPPORTUNITIES FOR THE HUGE POPULATION IN THE DEPARTMENT COULD CREATE SUCH COMPETITION AMONG INMATES THAT PRISON MISCONDUCTS AND UNREST COULD GROW RATHER THAN DIMINISH. IN THIS CONNECTION, IT IS ALSO INTERESTING TO NOTE THAT RESEARCH IN CALIFORNIA AND OREGON BY MARTIN FROST AND JAMES BRADY REVEALS A DRAMATIC INCREASE IN PRISON MISCONDUCTS AFTER GOING TO DETERMINATE SENTENCING. THE INCREASE IN CALIFORNIA ALMOST DOUBLED DUE TO BOTH A TREMENDOUS RISE IN NARCOTICS INCIDENTS SINCE THE DETERMINATE SENTENCING LAW WAS PASSED. THE NUMBER OF ASSAULTS BY PRISONERS ON STAFF ALSO ROSE DRAMATICALLY.

SECTION 902(e) AND (f) LIMITS THOSE OFFENDERS WHO WOULD BE ELIGIBLE TO REDUCE THEIR MINIMUM SENTENCES THROUGH EARNED TIME CREDITS. IT IS UNCLEAR WHETHER THIS RESTRICTION ALSO APPLIES TO WORK-RELATED TIME. ONE OF THE RESTRICTIONS DEALS WITH MANDATORY MINIMUM SENTENCES. ALTHOUGH I AGREE WITH THIS RESTRICTION, I THINK IT IS IMPORTANT TO POINT OUT THE PREVALENCY OF MANDATORY SENTENCES IN THE SYSTEM. ACCORDING TO THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY, STRICTER ENFORCEMENT OF DRUG LAWS AND NEW MANDATORY SENTENCES FOR DRUG VIOLATIONS HAS DRAMATICALLY INCREASED THE PRISON POPULATION OF THE DEPARTMENT. IT STATES: "THERE WERE 436 DRUG COMMITMENTS TO THE DEPARTMENT OF CORRECTIONS IN 1987, 610 IN 1988, AND BASED ON THE FIRST HALF OF THE YEAR, 1520 EXPECTED in 1989". IT SEEMS IMPORTANT THAT THIS INFORMATION BE UPDATED TO DETERMINE ACTUAL IMPACT

ON THE EARNED TIME SYSTEM AND THE ELIGIBLE POPULATION. PART (f) OF THIS SECTION ALSO ELIMINATES PAROLE VIOLATORS FROM EARNED TIME DURING THE SERVICE OF ANY NEW SENTENCE IMPOSED. IT SEEM MORE APPROPRIATE TO DISALLOW EARNED TIME DURING THE SERVICE OF PAROLE VIOLATION BACK-TIME, AND LET WHATEVER CRITERIA YOU DECIDE APPLY TO THE NEW SENTENCE.

SECTION 902(h) STATES THAT "THE PURPOSE OF EARNED TIME PROGRAMS IS TO PROVIDE AN INCENTIVE FOR OFFENDERS..." THIS SIMPLY REPLACES PAROLE AS THE INCENTIVE AND IS NO LESS COERCIVE THAN PAROLE.

SECTION 903 REQUIRES THE DEPARTMENT TO REPORT TO THE JUDICIARY COMMITTEES OF BOTH THE HOUSE AND THE SENATE REGARDING THE EARNED AND MERITORIOUS TIME CREDIT SYSTEMS. PART (6) OF THE REPORT ALLOWS FOR RECOMMENDATIONS FOR STATUTORY CHANGES IN THE TIME CREDIT SYSTEM. WITH THE AVAILABILITY OF LONGER MINIMUM SENTENCES, THE CONTINUAL PASSAGE OF MANDATORY SENTENCES THAT SUPERCEDE SENTENCING GUIDELINES, AND THE RELATIVELY SMALL AMOUNTS OF EARNED AND WORK-RELATED TIME AVAILABLE, RECOMMENDATIONS FOR SUBSTANTIAL INCREASES IN TIME CREDIT PROGRAMS AND WIDER ELIGIBILITY FOR INMATES SEEMS INEVITABLE IN OUR PRISON SYSTEM WHICH WILL CONTINUE TO BE SEVERELY OVERCROWDED.

WE HAVE ONE RECOMMENDATION TO MAKE WITH REGARD TO SECTION 1501. WE RECOMMEND THAT ONE (1) OF THE SEVEN (7) APPOINTMENTS TO THE ADVISORY COMMITTEE ON PROBATION, WHICH REQUIRES SENATE CONFIRMATION,

BE SPECIFIED FOR A CHIEF PROBATION OFFICER OF A COUNTY ADULT PROBATION DEPARTMENT.

FINALLY, WITH REGARD TO THE BILL, THERE ARE TWO (2) ISSUES IN SECTION 1503 WHICH DEALS WITH REPEALS. PAGE 27, LL. 19-22, REPEALS THE ACT AT 61 P.S. §314 WHICH GIVES THE JUDGES THE AUTHORITY TO PAROLE. ALTHOUGH EARLIER IN THE PROPOSED ACT IT STATES THAT NOTHING HEREIN SHALL PREVENT A JUDGE FROM PAROLING AN INMATE TO A TERM OF LESS THAN TWO (2) YEARS, IT DOES NOT GIVE THE JUDGE THAT AUTHORITY. PAROLE IS A STATUTORY AUTHORITY, NOT COMMON LAW. A STATUTE WHICH SIMPLY STATES THAT IT DOES NOT PREVENT A JUDGE FROM PAROLING, DOES NOT SEEM, IN AND OF ITSELF, TO GIVE THE JUDGE THAT AUTHORITY. PAGE 28, L. 16, IS A TOTAL REPEAL OF THE PAROLE ACT WHICH DRAWS INTO QUESTION THE RETROACTIVENESS OF THE ACT. AS FOR SENTENCES IMPOSED BEFORE THE EFFECTIVE DATE OF THE ACT, IT SEEMS THAT THE BOARD HAS THE POWER TO PROHIBIT THE RELEASE OF AN INMATE, BUT NO AUTHORITY TO PAROLE. IT IS OUR UNDERSTANDING THAT THIS IS NOT THE INTENT, BUT THE LANGUAGE SHOULD BE CLARIFIED AS SUGGESTED EARLIER IN THIS TESTIMONY IN DISCUSSION UNDER SECTION 501(a).

OUR BOARD FEELS OBLIGATED TO SHARE WITH YOU TANGIBLE EVIDENCE OF WHAT WE'VE DONE SINCE THE 1989 STATE CORRECTIONAL INSTITUTION AT CAMP HILL RIOTS TO HELP CONTROL THE PRISON POPULATION THROUGH SYSTEMATIC REDUCTION IN TECHNICAL PAROLE VIOLATORS AND AN INCREASE IN PAROLE RELEASES MADE POSSIBLE BY SHIFTING AGENCY RESOURCES

AND IMPLEMENTING NEW INITIATIVES, WHICH HAVE THE GOVERNOR'S SUPPORT. I HAVE ATTACHED SEVERAL CHARTS AND GRAPHS WHICH DEPICT THIS ACTIVITY. (ATTACHMENT "E"). YOU WILL NOTE THAT THE TOTAL GRANTED PAROLE AT FIRST CONSIDERATION INCREASED FROM 3,364 IN 1989 TO 4,503 IN 1990, AN INCREASE FROM 70.4% IN 1989 TO 75.4% IN 1990. OUR TOTAL SUPERVISION CASELOAD INCREASED TO 19,723 BY DECEMBER 31, 1990. THIS IS AN INCREASE OF 2,107 OVER 1989. BETWEEN THE YEARS OF 1985 AND 1989, THE TOTAL CASELOAD GREW BY 1,334. AS OF THE END OF THE FOURTH QUARTER OF 1990, WE HAVE 1,283 PAROLEES IN VARIOUS INTENSIVE SUPERVISION PROGRAMS. MANY OF THESE PAROLEES WOULD HAVE BEEN REINCARCERATED IF IT WERE NOT FOR THE AVAILABILITY OF INTENSIVE SUPERVISION. AT THE SAME TIME, YOU WILL NOTE ON ANOTHER CHART THAT OUR PAROLE SUPERVISION OVERCAPACITY PROBLEM IS PROJECTED TO GROW TO 4,663 CLIENTS BY THE END OF THE 1991-92 FISCAL YEAR. THE FINAL GRAPH DEPICTS TRENDS IN RECOMMITMENT DATA FROM 1988 THROUGH 1990.

ALSO, IN SUPPORT OF THE GOVERNOR'S INITIATIVE TO REDUCE PRISON CROWDING, THE BOARD EXPANDED THE USE OF SANCTIONS TO CONTROL CLIENTS WHO ARE HAVING DIFFICULTY, OR HAVE NOT ADHERED TO, THE CONDITIONS OF PAROLE. AS A DIRECT RESULT, THE NUMBER OF RECOMMITMENTS DECLINED BY 15.1% IN CALENDAR YEAR 1990 WHEN COMPARED TO 1989. AN ESTIMATED 542 CLIENTS WERE DIVERTED FROM PRISON AS A RESULT OF THIS INITIATIVE FOR CALENDAR YEAR 1990, SAVING THE COMMONWEALTH APPROXIMATELY $6,646,000. THIS IS BASED ON THE ASSUMPTION THAT THE RECOMMITMENT RATE FOR CALENDAR YEAR 1989 WOULD HAVE BEEN THE SAME IN

1990, HAD NOT THE INITIATIVES BEEN IMPLEMENTED. THESE IMPACTS ARE ATTRIBUTABLE TO DELIBERATE BOARD EFFORTS TO ABSORB MORE OFFENDERS INTO COMMUNITY CORRECTIONS WITH APPROPRIATE CONTROLS FOR RISK WHILE REDUCING SOME OF THE PRESSURE ON INSTITUTIONAL POPULATIONS.

UNDER CURRENT LAW, PENNSYLVANIA'S QUASI-INDETERMINATE SENTENCING STRUCTURE PROVIDES THE SENTENCING JUDGE AN OPPORTUNITY FOR "JUST DESERTS" IN SETTING THE MINIMUM SENTENCE TO ASSURE THAT THE PUNISHMENT IS CERTAIN, PROPORTIONAL, AND FAIR. THE POLICY OF THE BOARD IS TO INTERVIEW INMATES FOR PAROLE TWO (2) MONTHS PRIOR TO THE EXPIRATION OF THE MINIMUM SENTENCE SO THAT A TIMELY RELEASE ON PAROLE IS POSSIBLE. ALL INMATES ARE NOT RELEASED ON PAROLE AT THE MINIMUM SENTENCE, HOWEVER. THE PAROLE ACT REQUIRES THE BOARD TO CONSIDER THE POTENTIAL RISK TO THE COMMUNITY, THE SERIOUSNESS OF THE CRIME, THE CONTINUING EFFECT OF THE CRIME ON THE VICTIM OR THE VICTIM'S FAMILY, BEHAVIOR WHILE IN PRISON, HISTORY OF FAMILY VIOLENCE, RECOMMENDATIONS OF THE TRIAL JUDGE, DISTRICT ATTORNEY, AND SUPERINTENDENT OF THE CORRECTIONAL INSTITUTION, AND OTHER RELEVANT INFORMATION. THE PAROLE BOARD, THEREFORE, HAS A MAJOR RESPONSIBILITY FOR RISK MANAGEMENT IN CASE DECISION MAKING TO ASSURE THAT THE SAFETY OF THE PUBLIC IS NOT UNDULY JEOPARDIZED.

CONSIDERING ALL OF THE ABOVE, THE PAROLE RATE AT THE MINIMUM SENTENCE FOR CALENDAR YEAR 1989 WAS 70.4%, AND FOR 1990 WAS 75.4%. THEREFORE, THE 25% NOT PAROLED AT THE MINIMUM SENTENCE IN 1990

WERE CONSIDERED BY THE BOARD TO PRESENT TOO MUCH OF A RISK TO THE PUBLIC TO BE RELEASED AT THAT TIME. MANY OF THOSE, ALSO, WERE NOT BEING RECOMMENDED FOR PAROLE BY THE DEPARTMENT OF CORRECTIONS DUE TO LACK OF PROGRAM INVOLVEMENT, MISCONDUCTS, ETC. THERE IS ABSOLUTELY NO LANGUAGE IN THE PAROLE ACT THAT REQUIRES PAROLE AT THE MINIMUM SENTENCE.

FOR SOME INMATES, PAROLE CAN ONLY BE EFFECTIVE IF RELEASE IS TO A WELL-STRUCTURED PAROLE PLAN, SUCH AS AN INPATIENT DRUG OR ALCOHOL TREATMENT PROGRAM, MENTAL HEALTH PROGRAM, OR SPECIALIZED SERVICES FOR SEX OFFENDERS. SOME DELAY IS FREQUENTLY OCCASIONED BY THE LACK OF IMMEDIATE AVAILABILITY OF THOSE PROGRAMS. (61 P.S. §331.23). BUDGET CUTBACKS AT THE STATE AND LOCAL LEVELS WILL FURTHER COMPOUND THIS PROBLEM. IN OTHER CASES, INMATES MAY HAVE DIFFICULTY IN SECURING EVEN A RESIDENCE. THIS HAS PROMPTED A NEW INITIATIVE THAT WE BEGAN IN NOVEMBER, 1990, TO INCREASE THE NUMBER OF PAROLE STAFF WITHIN THE STATE CORRECTIONAL INSTITUTIONS TO ASSIST INMATES IN SECURING ACCEPTABLE PAROLE PLANS. ALTHOUGH A VERY NEW PROGRAM, THE RESULTS ARE ENCOURAGING.

WHEN PROCESSING CASES FOR PAROLE CONSIDERATION, THE BOARD MUST RELY ON INFORMATION PROVIDED BY THE DEPARTMENT OF CORRECTIONS. BEYOND THE BOARD'S CONTROL IS THE PREPARATION AND SUBMISSION OF CLASSIFICATION MATERIALS AND STAFF RECOMMENDATIONS BY THE DEPARTMENT BEFORE A PAROLE DECISION CAN BE MADE. (61 P.S. §331.19). WHEN

INFORMATION IS NOT AVAILABLE, FOR WHATEVER REASON, DELAYS RESULT IN THE DECISION MAKING PROCESS.

AT THE STATE CORRECTIONAL INSTITUTION AT GRATERFORD IN DECEMBER, 1990, ONE HUNDRED EIGHTY-ONE (181) INMATES WERE ON THE DOCKET TO BE INTERVIEWED. HOWEVER, ONE HUNDRED TWO (102) OR 56% OF THE INMATES COULD NOT BE INTERVIEWED DUE TO THE LACK OF CLASSIFICATION MATERIALS AND/OR PAROLE RECOMMENDATIONS FROM THE DEPARTMENT. OUR BOARD SHOULD NOT BE HELD ACCOUNTABLE FOR THINGS BEYOND OUR CONTROL. THIS ALL CONTRIBUTES TO THE INFAMOUS 125% OF MINIMUM SENTENCES WE HEAR ABOUT.

ALSO, BEYOND THE BOARD'S CONTROL, ARE RELATIVELY COMMON SITUATIONS IN WHICH THE INMATE HAS ALREADY PASSED HIS OR HER MINIMUM TERM BEFORE BEING RECEIVED AT A STATE CORRECTIONAL INSTITUTION, EITHER BECAUSE OF THE APPLICATION OF EXTENDED PERIODS OF PRE-TRIAL CUSTODY CREDIT OR SHORT MINIMUM SENTENCES GIVEN BY JUDGES TO ENSURE IMMEDIATE PAROLE ELIGIBILITY. IN ONE RECENT CASE, THE BOARD WAS INFORMED OF A MINIMUM SENTENCE DATE BY THE DEPARTMENT ON JANUARY 31, 1991. THIS INMATE WAS RECEIVED BY THE DEPARTMENT ON MAY 8, 1990, WITH A MINIMUM SENTENCE DATE OF DECEMBER 10, 1988 - THIS INMATE WAS OVER TWO (2) YEARS PAST HIS PAROLE ELIGIBILITY DATE BEFORE THE DEPARTMENT NOTIFIED THE BOARD THAT HE WAS EVEN IN THE SYSTEM.

ALTHOUGH THE BOARD CAN HAVE LITTLE IMPACT ON THOSE AREAS

BEYOND ITS CONTROL, WE ATTEMPT TO PROCESS PAROLE CASES AS PROMPTLY AND EFFICIENTLY AS POSSIBLE. I HAVE NO REASON TO BELIEVE THAT THE BOARD AND THE DEPARTMENT CAN'T WORK COOPERATIVELY TO RESOLVE THESE PROBLEMS GIVEN THE RESOURCES TO DO SO. THERE IS NO QUESTION THAT THE SYSTEM IS NOT AS EFFICIENT AS IT SHOULD BE, AND THAT CHANGES ARE NECESSARY. THE INEFFICIENCY, HOWEVER, IS DIRECTLY RELATED TO RESOURCE CONSTRAINTS THAT CANNOT KEEP PACE WITH THE RAPIDLY GROWING PRISON AND PAROLE POPULATIONS.

THERE ARE TWO (2) ADDITIONAL ATTACHMENTS ("F") AND ("G") WHICH THE BOARD WANTS TO PROVIDE FOR YOU. ATTACHMENT "F" IS AN ANALYSIS OF PENNSYLVANIA'S CRIME RATE INDEX AS COMPARED TO THE DETERMINATE SENTENCING STATES COMPILED IN THE 1989 PUBLICATION OF THE FBI UNIFORM CRIME REPORT. ATTACHMENT "G" OFFERS SOME ALTERNATIVE SENTENCING REFORM STRATEGIES THAT WILL INCREASE THE PAROLE ELIGIBLE POPULATION.

ON BEHALF OF OUR BOARD, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE. ALL BOARD MEMBERS ARE PRESENT TODAY AND AVAILABLE FOR ANY QUESTIONS YOU MAY HAVE.

THANK YOU.

AMERICAN CORRECTIONAL ASSOCIATION

8025 Laurel Lakes Court • Laurel, Maryland 20707 • 301-206-5100 • Fax: 301-206-5061

February 20, 1991

The Honorable Thomas R. Caltagirone
Chair, House Judiciary Committee
The General Assembly of Pennsylvania
South Office Building, Room 214
Harrisburg, PA 17120

Re: House Bill 239

Dear Mr. Caltagirone:

Recently we have been made aware that you and your committee will be having an open hearing regarding the pros and cons of House Bill 239. This bill defines parole in a new framework and transfers the parole supervision processes to the Department of Corrections.

The American Correctional Association (ACA) has long felt that parole decision-making is an integral part of a well defined correctional system and that parole (a conditional release) along with appropriate supervision is vital to public safety in its broad terms.

The Association has produced policy statements on many important aspects of corrections and we are including a copy of our Public Correctional Policy on Parole.

Most parole boards, if they follow an objective decision-making process, incorporating standards of due process and fairness to all concerned, will consider the public safety impact on victims and the offender.

Many offenders should not be released on the minimal terms prescribed by law. The offender and the severity of the offense(s) must be of paramount concern to public safety. Our policy statement takes this type of situation into account when it suggests objective decision-making as a must in any parole board operation.

We ask that you include in your deliberation the attached Public Correctional Policy on Parole. Your committee is charged with a grave responsibility and we wish you well in you discussions.

Peace,

Anthony P. Travisono
Executive Director

APT:skm
Enclosure

bc: Fred W. Jacobs (w/enclosures)
Joseph D. Lehman (w/enclosures)

Public Correctional Policy on Parole

Introduction:

Parole is the conditional release of an offender from confinement before expiration of sentence pursuant to specified terms and conditions of supervision in the community. The grant of parole and its revocation are responsibilities of the paroling authority. Supervision of the parolee is provided by a designated agency that ensures compliance with all requirements by the releasee through a case management process. Because the vast majority of those incarcerated will eventually be released into the community, the public is best protected by a supervised transition of the offender from institutional to community integration. Parole offers economic advantages to the public, the offender, and the correctional system by maximizing opportunities for offenders to become productive, law-abiding citizens.

Statement:

The parole component of the correctional system should function under separate but interdependent decision-making and case supervision processes. Paroling authorities should seek a balance in weighing the public interest and the readiness of the offender to re-enter society under a structured program of supervisory management and control. Paroling systems should be equipped with adequate resources for administering the investigative, supervisory, and research functions. Administrative regulations governing the grant of parole, its revocation, case supervision practices, and discharge procedures should incorporate standards of due process and fundamental fairness. To achieve the maximum cost-benefits of parole supervision, full advantage should be taken of community-based resources available for serving offender employment and training needs, substance abuse treatment, and other related services. The parole system should:

A. Establish procedures to provide an objective decision-making process incorporating standards of due process and fundamental fairness in granting of parole that will address, at a minimum, the risk to public safety, impact on the victim, and information about the offense and the offender;

B. Provide access to a wide range of support services to meet offender needs consistent with realistic objectives for promoting law-abiding behavior;

C. Ensure any intervention in an offender's life will not exceed the minimum needed to ensure compliance with the terms and conditions of parole;

D. Provide a case management system for allocating supervisory resources through a standardized classification process, reporting parolee progress, and monitoring individualized parolee supervision and treatment plans;

E. Provide for the timely and accurate transmittal of status reports to the paroling authority for use in decision-making with respect to revocation, modification, or discharge of parole cases;

F. Establish programs for sharing information, ideas, and experience with other agencies and the public; and

G. Evaluate program efficiency, effectiveness, and overall accountability consistent with recognized correctional standards.

The following discussion clarifies for the general reader the correctional issues addressed in the policy. The discussion was prepared by members of the Advisory Committee and staff of the ACA Public Correctional Policy Project.

Discussion: Parole

The public correctional policy on the purpose of corrections indicates that the overall mission of the criminal and juvenile justice system, consisting of law enforcement, courts, and corrections, is to enhance social order and public safety. Because the vast majority of offenders will be released from confinement at some point, the public is best protected by a supervised transition of the offender from institutional to community life. For more than 100 years, the American Correctional Association has recognized parole as an important method of protecting the public safety. Parole is a proven method for the reentry of incarcerated offenders into society and a proven method for providing supervision of the released offender in the community. Experience has demonstrated that an effective system of parole is essential to any corrections system.

In the 1983 report *Towards a Nationwide Corrections Policy,* corrections specialists concluded that parole serves the following six important purposes. It is:

- A tool for correctional managers in motivating offenders toward constructive activities and responsible behavior.
- A means of hindering residual disparity in dealing with inmate changes over time.
- A way to conserve human and economic resources.
- A source of hope for that group of potentially desperate inmates serving extremely long or life sentences.
- Post-release assistance to offenders in their efforts to reintegrate themselves into society.
- Perhaps most importantly, a method of public protection through community surveillance that allows for removal of the parolee from the community should he or she violate the conditions of release.

The public correctional policy on parole calls for the parole system to do the following:

A. ***"Establish . . . an objective decision-making process incorporating standards of due process and fundamental fairness. . . ."***

Parole boards have made significant progress in their effort to ensure the fairness, equity, and accountability of parole as a structured process of release, and these objective efforts should be continued. The issues of risk to public safety, impact on the victim, and providing information about the offense and the offender are essential elements in the parole decision-making process.

B. ***"Provide access to a wide range of support services. . . ."***

The supervision provided through a parole system offers protection to the public as well as the opportunity for released offenders to receive services that can aid them in their reentry and their daily living in our communities. In order to successfully implement parole decisions, there must be adequate resources to maintain the necessary level of supervision and supportive assistance.

C. ***"Ensure any intervention in an offender's life will not exceed the minimum needed. . . ."***

Parole regulations and services should be employed only at the level necessary for administering the sanction and for balancing concern for individual dignity, public safety, and maintenance of social order.

D. ***"Provide a case management system for allocating supervisory resources. . . ."***

As with other correctional resources, the resources available to parole are scarce. Therefore the most efficient and effective case management system is needed. The case management system should have an objective method of assessing the level of supervision and services needed by each offender, ensuring periodic assessments of the parolee's progress, and monitoring both the supervision and the treatment plans.

Discussion on Parole (continued)

E. ***"Provide for the timely and accurate transmittal of status reports to the paroling authority. . . ."***

Paroling authorities must have factual and timely information about an individual's progress or lack of progress so that the necessary follow-up can be made. Parole decisions on revocation, discharge, or modifications to the conditions of release must be based on this information.

F. ***"Establish programs for sharing information, ideas, and experience. . . ."***

Parole authorities should have means by which they can share their experiences, innovative programs and strategies, and performance evaluations with other agencies. This sharing of information benefits the total justice system as well as the individual parole system. Correctional practitioners have found again and again that one need not reinvent the wheel—that we can and should learn from others. In addition, parole agencies should aggressively promote a system of providing the public with information concerning their programs, policies, and procedures.

G. ***"Evaluate program efficiency, effectiveness, and overall accountability. . . ."***

Recognized correctional standards can provide to parole systems the necessary benchmarks from which they can evaluate their overall operations. The public correctional policy on parole strongly recommends that parole systems conduct an ongoing evaluation program in the interests of meeting the individual needs of the offender and of society at large.

U.S. Department of Justice
United States Parole Commission

Office of the Chairman

5550 Friendship Blvd.
Chevy Chase, Maryland 20815

February 22, 1991

Thomas R. Caltagirone
Chairman
House Judiciary Committee
House of Representatives
Rm. 214 South Office Bldg.
Harrisburg, PA 17121

Dear Chairman Caltagirone:

I am writing to oppose the pending legislation which would abolish discretionary parole release in the State of Pennsylvania.

I would like to offer several comments regarding this important issue based on my 40 plus years of experience in the field of corrections - most of which has been involved in the running of institutions. I have worked in a number of State Correctional systems - 13 years in California, including the last six as the Associate Warden at San Quentin; Iowa, where I served as the Director of Corrections; and Minnesota, where I was Deputy Commissioner in charge of the Youth Division. I have served over 18 years in the Federal system, the last nine as Chairman of the U.S. Parole Commission, having been appointed by President Reagan.

A primary consideration which should be given careful thought before you make a decision such as this is the impact it will have on your fiscal resources. A determinate sentencing system will in fact increase prison population and thus the costs associated with housing prisoners and building new prisons. As I understand it, under the current law, when a Judge sentences a defendant the minimum sentence cannot be more than half the maximum and the person is eligible for parole at the minimum.

Under the proposed law the Judge could sentence a defendant up to the maximum with no parole. Unless Pennsylvania Judges are vastly different from judges in other states, there is no question but that many sentences will be longer than in the past and the prison population will increase drastically.

Therefore, whether or not to go to a determinate sentencing system is in large part a spending issue - and be prepared to spend much more money for corrections.

Other states that have gone to a determinate sentencing system have experienced severe prison crowding and the inability to continue to allocate more and more of its fiscal resources to this area. California is a good example. The percent of the State budget for corrections went from 2% in 1981-82 to 6% in 1989. If you read the California Blue Ribbon Commission Report, you will realize the enormous problems and increased cost as a result of abolishing the indeterminate sentence. In the federal system the prison population increased enormously with the advent of determinate sentencing.

The unfortunate result has been and continues to be increasing the "good time" given offenders in order to reduce the prison overcrowding. In some states "good time" is earned day for day, i.e., for every day served an inmate receives one day off, which cuts the sentence in half. In other states individuals are serving only one month for each year given. Legislators are increasingly being faced with either approving large increases in spending or large across-the-board increases in "good time" to avoid costly building programs. And the more "good time" given the more one of the goals of determinate sentencing is defeated, i.e., truth in sentencing.

A parole board is needed to assist in <u>discretionarily</u> controlling prison population. In a number of states that have gone to a determinate sentencing system, the prison population increases so drastically that "good time" credits are correspondingly drastically increased across-the-board without consideration for offender or offense characteristics - - the assaultive or dangerous offender receives the same generous "good time" as the check-writer.

There are numerous examples of cases of dangerous prisoners

who are released under a determinate sentencing system.

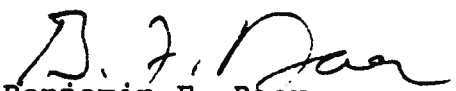
Another issue of concern regarding the determinate sentencing system is in the area of plea bargaining. Under the determinate sentencing system, the discretion shifts from the judge and the parole board to the prosecutor. Disparity results because it is now the prosecutor who decides how an individual is charged.

A fully determinate sentencing system precludes consideration of any new information. Even if participation in rehabilitative programs would be totally discounted, (I personally believe it should be considered) there are other factors that may change with time, for example: severe illness, effects of aging, assistance to institutional officials, etc. Similarly, public attitudes about an offense for which a long sentence has been opposed may change over time. There may also be cases in which a sentence that was imposed when public feelings were intense, appears with the perspective of time, excessive.

As you know the Federal system abolished parole in the Comprehensive Crime Control Act of 1984. The General Accounting Office is currently studying the Federal Sentencing Guidelines to see whether or not determinate sentencing is meeting its intended purpose of reducing sentencing disparity. We know - and it is well documented - that the Federal Prison Population has increased enormously. The GAO report is expected to be completed by April 1992. I would urge you to wait until that report is published before you make a decision to abolish parole. The GAO report will provide documented evidence as to whether or not that goal - reduction of disparity - can be met - and at what cost.

Thank you for allowing me to comment on this important issue. I would be pleased to discuss these issues further or respond to specific questions.

Sincerely,



Benjamin F. Baer
Chairman

BFB/db

Allen F. Breed
Criminal Justice Consultant

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San Andreas, CA 95249

Telephone
209-754-1352

February 20, 1991

Thomas R. Caltagirone, Chairman
House Judiciary Committee
House of Representatives
South Office Building, Room 214
Harrisburg, Pennsylvania 17120

Dear Chairman Caltagirone,

It has come to my attention that serious consideration is being given to the abolishment of Pennsylvania's Parole Board, and a complete reliance on a determinate sentencing system. I hope you will do everything possible to carefully evaluate this proposal before making such a change. I have been involved in corrections at the state and federal levels for over forty years, and write to you out of professional concern.

Determinate sentencing has failed wherever it has been adopted. I come from California, which pioneered the abolution of parole boards, and after careful research of the results it has been found that determinate sentencing:

* Did not provide truth in sentencing.

* Did not reduce crime.

* Did not enhance public protection.

* Did not provide equity or fairness in sentencing.

* Did not eliminate disparity in prison release.

What determinate sentencing did in California was to make California the largest and most crowded prison system in the world, and released many dangerous offenders early!

In a brief letter I cannot begin to adequately analyze the pros and cons of sentencing and release procedures. I can, however, strongly state that Pennsylvania has excellent sentencing (minimum) guidelines and utilizes a professional body to make intelligent release decisions within a carefully developed policy framework. If there have been pro-

blems with the process, correct them through legislation - but don't eliminate the only responsible prison release mechanism that exists today.

If I can be of assistance in gathering information for your committee's review please don't hesitate to call on me. If a witness before your committee would be of help I would urge you to contact Mr. Benjamin Baer, Chairman, U. S. Parole Commission, Washington, D.C., who can tell you first hand of the tragedies caused by the elimination of the parole release process.

Yours truly,

Allen F. Breed

AFB/vb

ASSOCIATION OF PAROLING AUTHORITIES, INTERNATIONAL
Iron Works Pike, P.O. Box 11910, Lexington, Kentucky 40578-1910
(606) 231-1920

February 21, 1991

Honorable Thomas R. Caltagirone
Chairman
House Judiciary Committee
Commonwealth of Pennsylvania
South Office Building, Rm 214
Harrisburg, Pennsylvania 17120

Dear Chairman Caltagirone:

On behalf of the Association of Paroling Authorities International, I would like to express our concern with recently introduced legislation which would abolish parole decision-making and transfer supervision responsibility to your Department of Corrections.

It has been documented that a responsible parole decision-making process affords the community a degree of protection which is generally lacking in determinate sentencing models. It is also noted that determinate sentencing often is accompanied by increased prison populations. Dissatisfaction with determinate sentencing in Colorado, North Carolina, and Connecticut has resulted in the reestablishment of parole decision-making within those jurisdictions. The majority of states and the District of Columbia utilize the parole process as the method of choice to reintegrate the offender back into the community.

The Figgie Report (1985) documented strong support for parole and parole supervision, as well as rehabilitation, provided public safety is not compromised.

It is commonly accepted that a responsive criminal justice system embodies elements of deterrence, incapacitation, retribution, and rehabilitation of the offender as risk to public safety dictates.

As Chairman of the District of Columbia Board of Parole, I have had the opportunity to visit and study Pennsylvania's parole system. My perception is that the Pennsylvania Board of Probation and Parole is one of the best systems in the country, a viewpoint shared by many of my Association colleagues. The Washington, District of Columbia Board has integrated elements of your system into ours, including parole decision-making guidelines to structure the discretion of our Board.

Like Pennsylvania and New York, we also provide supervision to offenders. Our experience is consistent with the results of a recent American Correctional Association Survey that concluded that incorporating parole supervision under the paroling authority, "...helps ensure that enforcement of the conditional release actually occurs; increases the level and frequency of communication between field services and the Board; and provides accountability as a case moves from release to supervision to discharge or revocation".

Parole decision-making is the last line of defense for the public against the premature release of dangerous offenders who would place the community at risk. The prospect of earning parole encourages the offender to address problem areas related to their criminal behavior and re-enter society as law abiding citizens. Most parolees do succeed. Parole is also adaptive and has historical significance as a valued method of managing crowded prisons. The selective release of offenders has demonstrated itself to be a responsible method of relieving our crowded prison conditions.

I hope that you will preserve the vital role of your parole and supervision systems as you struggle with prison population problems and efforts to assure equity and fairness in your criminal justice system. I believe that a transfer of too much authority to either the judiciary, prosecutors, or Corrections is likely to create an imbalance in the system which will neither serve the interests of the offender nor the community.

On behalf of the Association of Paroling Authorities International, I thank you for the opportunity to provide my input into your hearing process.

Sincerely,

Gladys W. Mack

Gladys W. Mack, President
Association of Paroling
Authorities International

GWM/jrb

State Board of Pardons and Paroles

FIFTH FLOOR, EAST TOWER
FLOYD VETERANS MEMORIAL BUILDING
2 MARTIN LUTHER KING, JR. DRIVE, S.E.
ATLANTA, GEORGIA 30334

February 19, 1991

The Honorable Thomas R. Caltagirone
Chairman, Judiciary Committee
House of Representatives
Room 214
South Office Building
Main Capitol
Harrisburg, Pennsylvania 17120

Dear Chairman Caltagirone:

I am taking the liberty of writing you because of my interest in parole wherever it exists. I'm a past president of the Association of Paroling Authorities International. In addition, I can understand your responsibilities because before I was appointed to the State Board of Pardons and Paroles in 1983, I was chairman for eleven years of the Judiciary Committee of Georgia's House of Representatives and was a member of that House for twenty-one years, as well as a practicing attorney.

It has come to my attention that your Committee is considering legislation which would eliminate or severely restrict the discretionary parole authority of the Pennsylvania Board of Probation and Parole and replace it with mandatory sentencing without parole. Allow me to share with you some thoughts:

* Justice demands that confinement punishment should be tailored to fit both the offense and the offender. This punishment should take into account offense severity, criminal history, likelihood of future success in the community, and possibly unusual factors in individual cases. This tailoring of confinement punishment should be accomplished consistently throughout the state to reduce disparity. And nothing can accomplish this better than a centralized and experienced paroling authority adhering to logical and just standards.

* Mandatory sentencing based exclusively on the offense is unfair. However, even if this sentencing included a formula to introduce other facts about the offender, we could hardly expect a widely divergent group of judges to apply the formula with any notable degree of consistency of interpretation. Fine tuning of confinement punishment should be kept in the hands of a centralized paroling authority.

* One should be wary of any legislation which could increase punishment disparity through prosecutorial decisions. The pressures of mandatory sentencing would highly activate the role of the district attorney, who, in bringing or dropping charges, would be even more important in determining the sentence than he is at present. Instead of bringing discretion "out in the open," as proponents might assert, the legislation would likely shift discretion away from the paroling authority and away from the judge and place it in the hands of the prosecutor. And plea bargaining and charge bargaining don't happen out in the open.

* The Pennsylvania Board of Probation and Parole is a small, collegial body of Members with a statewide perspective. It is both policy-setter as well as decision-maker, permitting the ongoing examination of its policies and standards against the reality of the results achieved. As full-time parole decision-makers, the Members devote constant attention to the complexities of criminal behavior and necessary counter measures. Moreover, in-house education and consensus building for a consistent approach are more feasible with a small group of Board Members than with large numbers of judges and prosecutors who would have to wrestle with mandatory sentencing.

* Most judges agree they are not gifted with prophecy and cannot fashion a sentence which will remain fair regardless of any changes which may take place. Many events can and do occur during service of a sentence, particularly a lengthy one, that would render further incarceration wasteful and unjust. Examples are illness, the effects of aging and maturing, or exceptional efforts at self-improvement which are clearly meaningful in terms of the offender's chances for future success. Therefore, requiring an offender to serve to the expiration of his sentence when he could at some point be safely and appropriately released after review by a paroling authority would misapply tax dollars and waste human resources.

* Post-release supervision of offenders in their home communities has proven vital in helping many make a successful transition from confinement to full freedom. Counseling, surveillance, personalized assistance, resource referral, and the threat of revocation all contribute to getting offenders to be law abiding. The logical agency to provide this parole supervision is the releasing and revoking agency. Especially in this era of drug-related crime, the drug testing and drug counseling which can be mandated by a paroling and supervising authority are increasingly necessary.

* If Pennsylvania has experienced prison overcrowding and resulting class-action lawsuits or threats of lawsuits, that should be another reason to keep the paroling authority as a

safety valve to prevent control of the prison system from being forfeited to the federal courts. If the prison population climbed to unacceptable levels, the paroling authority could make immediate but small, temporary changes in its policies throughout the prison system to relieve the crisis.

* Our Founding Fathers created a separation of powers among the three branches of government with checks and balances between those branches. In the Federalist Papers Hamilton wrote about the importance of the Executive wielding executive clemency as a check against the Judiciary and as a tool for better justice. Most of our states have followed that example, and parole remains the most important type of executive clemency nationwide. Eliminating parole from any jurisdiction blots out part of our Founding Fathers' vision.

Very best wishes.

Sincerely,

Wayne Snow, Jr.
Chairman

WSjr:gr
bcc:Mr. Fred Jacobs, Chairman
Pennsylvania Board of Probation and Parole
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February 18, 1991

Honorable Thomas R. Caltagirone
House of Representatives
Room 214
South Office Building
Harrisburg, PA 17120

Dear Representative Caltagirone:

I am writing to you regarding House Bill No. 239 and Senate Bill No. 341. I am particularly concerned about provisions of the proposed legislation which would do away with discretionary parole release and remove the existing limitation on minimum sentences to no more than one-half the maximum sentence imposed. In my view, the implementation of these provisions would do grievous harm to our system of justice by moving it further away from a philosophy of offender rehabilitation and deeper into the delusionary idea that harsh punishment and formula justice are panaceas for solving Pennsylvania's crime problem. As I see it, these policies could, in practice, shift discretion and increase the prosecutor's influence in determining sentences and times of release. Further, they would seriously limit the opportunity for post-sentencing actions in response to the changing circumstances and adjustment of convicted offenders.

As a person with more than 30 years administration of justice experience in a number of roles, I have developed considerable perspective about offender assessment and correctional programming.

It is clear that our criminal justice system, as currently administered, is troubled. But to pursue the failed policy of increased penalties and treating offenders as if they were all alike as the solution to our problem is inappropriate. More thoughtful actions must be taken. First, we must significantly narrow the mandate of our criminal/legal system. It is a reactive system and must not be expected to accomplish tasks beyond its authority or control (e.g., primary crime prevention). Second, within a

narrowed, more realistic mandate, a helpful, hopeful correctional mission must be articulated which properly acknowledges the positive relationship between social protection and the preparation of individual offenders for useful community reintegration.

Obviously, one's view of the proposed legislation is influenced by his/her beliefs about the viability of offender rehabilitation as a primary correctional objective. While there are limitations to the extent that human beings can be caused to change, the fact is that many, under proper circumstances, can be assisted in re-orienting their lives.

No one would suggest that other groups of persons under the care and control of our human service systems should be treated in exactly the same manner nor that the kind and amount of treatment required for their improvement could be determined at the time of admission. So too, in a correctional system which seeks to rehabilitate offenders, decision makers must possess significant levels of flexibility to deal with them as unique individuals and to distinguish between those who are and are not ready for release. The existing limitation on minimum sentences and the availability of discretionary parole are necessary ingredients for a system capable of responding appropriately to the ongoing adjustment of individual offenders. These limits and post-sentencing discretions also provide necessary checks and balances in a decisional system which is subject to varying influences and excesses.

Over the past several years, a number of legislative actions have been taken to reduce unreasonable discretion among courts, correctional officials, and paroling authorities. We must retain the discretion which remains if we are to be able to appropriately tailor decisions to the needs of the community and individual offenders.

I appreciate the opportunity to register my objections to the proposed legislation.

Sincerely,

William H. Parsons

February 24, 1991

Thomas R. Caltagirone, Chair
House Judiciary Committee
Room 214, South Office Building
Main Capitol
Harrisburg, Pennsylvania 17120

Dear Mr. Chairman:

I would like to offer some comments on House Bill 239 also known as the "Sentencing Reform Act." My observations are focused mainly on the impact of the proposed legislation on the Board of Probation and Parole. I share my concerns having served as a former executive assistant to the Chair of the New Jersey State Parole Board (1984-86) and as co-chair of an American Correctional Association Task Force on Parole (1986-1988). Finally, I am senior author of a forthcoming publication entitled Paroling Authorities: Recent History and Current Practice.

If enacted in its current form, House Bill 239 will, among other things, abolish discretionary parole release and transfer parole supervision from the Board of Probation and Parole to the Department of Corrections. It will also create a system of "earned-time" credits for institutional program participation. My concern is that these (and other provisions in the legislation) may very well undermine the progressive and rational system of checks and balances created by the Sentencing Commission, and eliminate one of the best parole boards in the United States without a demonstrable payoff in terms of public safety.

Pennsylvania has a unique sentencing guidelines system. Unlike Minnesota and Washington which have also adopted presumptive sentencing guidelines, it retains the parole board and thus discretionary release. Within this system, the Board of Probation and Parole is singularly responsible for carefully appraising an inmate's suitability for release to the community. The integration of sentencing guidelines and discretionary parole enables the Board to screen offenders during confinement and to deny parole to those who are deemed too high a risk to return to the community.

The Sentencing Reform Act will eliminate this critical assessment which emphasizes public safety and thus an inmate's actual readiness for release. It will substitute instead a mechanical system of release based on earned-time and work time credits relative to the inmate's minimum and maximum sentence.

Under the Act, inmates will be released automatically at a certain point in their sentence regardless of the risk or danger they may pose to public safety.

This is not to suggest that parole board decision making is error free. Like other components of criminal justice (e.g., corrections), parole board decisions blend experience, expertise and discretion. It is thus noteworthy that the Board of Probation and Parole is one of a relatively small number of paroling authorities nationwide who have adopted formal and objective tools to enhance the accuracy and quality of the decisionmaking process. The Board has done so through the use of parole guidelines and a formal instrument-based assessment of inmate risk. As research shows, this decisionmaking framework provides for a measure of equity, consistency, and fairness relative to parole release standards.

Once an inmate is released, I believe that the effectiveness of supervision is increased because the Bureau of Supervision is an integral part of the Board of Probation and Parole. Again, Pennsylvania is unique in this respect as the long term trend in most states has been to place parole supervision under the Department of Corrections. The fully integrated relationship between the parole board and parole field services enables the Board to convey its expectations for monitoring and providing assistance to parolees, establish special programs for high risk offenders (e.g., Special Intensive Supervision Drug Program) and maintain accountability for parolee success and failure.

My conviction that parole field services belongs under the paroling authority is shared by a majority of parole board chairs across the country. According to a national survey conducted by the American Correctional Association Task Force on Parole, 77% of the parole board chairs felt that the merging of field services under the paroling authority would contribute to a more effective system of parole. In too many states the organizational separation of release from supervision undermines the ability of the parole board to effectively manage or oversee the parolee's transition from confinement.

In Pennsylvania as elsewhere the escalating demands associated with prison crowding have placed enormous pressures on corrections officials. The record setting population growth has created inmate idleness and disruption and reduced the availability of meaningful prison programs. Yet, under House Bill 239, the Department of Corrections will be authorized to bestow earned-time credits based on program participation which along with work time credits will result in the mandatory release of an inmate based on the length of the court-imposed sentence.

I assume that prison population growth will continue unabated and that given current fiscal constraints insufficient

funding and resources will be made available for prison programs. If these assumptions are correct, the Department of Corrections may very well be put in the untenable position of having to grant earned-time credits as a tool to regulate the prison population.

In many states rising prison populations have already placed unprecedented pressures on parole boards to release inmates as quickly as possible. To the credit of the Board of Probation and Parole, this has not happened in Pennsylvania. Under the proposed legislation, this pressure will simply be transferred to the Department of Corrections.

In concert with the Department of Corrections, the Board of Probation and Parole may play a significant role in managing limited correctional resources. As shown by other states' experiences, it may do so in terms of both release and revocation policy. Nonetheless, neither the Department nor the Board even acting jointly can solve the prison crowding crisis. This problem is due mainly to sentencing policies and statutes established by the legislature that determine who goes to prison and how long they stay.

As is evident, I believe that the Board of Probation and Parole represents a vital agency and performs a critical set of functions within the current sentencing guidelines system. This system is unique in that it provides for fairness and equity at sentencing at the same time that it focuses on an inmate's readiness for release, thereby elevating public safety as an overriding objective of the parole process. If the sentencing guidelines are to be reformed, the Board of Probation and Parole should remain a key component.

These comments were informed by a commitment to a sound and effective system of criminal justice. If you have any questions or would like further information on any of the points I have raised, do not hesitate to contact me at (609) 292-4635.

Very truly yours,

Edward E. Rhine

Edward E. Rhine, Ph.D.

State of Connecticut

BOARD OF PAROLE

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February 20, 1991

The Honorable Thomas R. Caltagirone
Chairman
House Judiciary Committee
Room 214
Main Capitol
Harrisburg, PA 17120

Dear Mr. Caltagirone:

I am writing at the request of my colleague, Pennsylvania Parole Chair, Fred Jacobs, to provide you with a brief history of parole in Connecticut. The Connecticut Board of Parole was established in 1968 at the same time at which all of the various county and state correctional facilities and institutions were unified under one Department of Correction. The Board of Parole held the discretionary release authority over felons serving sentences of over one year, by statute, indeterminate and indefinite sentences. During the late 70s a more cynical philosophy of human behavior developed, one which maintained that persons once incarcerated could not be motivated to change, that correctional facilities could do no more than warehouse their inmates. In 1980 the Connecticut General Assembly passed a law which prescribed determinate sentences (with no parole eligibility) for all convicted felons. Within a very short time, correctional populations began to increase and in 1982 another change was quietly slipped through the General Assembly, which expanded the Community Release Statutes to give The Commissioner of Correction the authority to release any inmate serving any sentence at any time under Community Release to any "approved community residence." These "supervised home releasees" were required to report to the parole officers. In 1980 there were 18 parole officers in the state of Connecticut; there are presently over 70. During the years between 1980 and 1990 the over-crowding situation became worse and worse and inmates became eligible to be released after having served ten percent of their sentences. To avoid reaching court-ordered population caps inmates have been released under this program, hundreds at a time, so there are now

seven thousand inmates on supervised home release in Connecticut compared with ten thousand incarcerated.

As prison crowding became the sole criterion for considering people for release to the Supervised Home Release Program several other phenomena occurred: inmates in correctional facilities became less and less involved with educational and other treatment programs since they no longer had to impress the Parole Board with accomplishments; disciplinary problem rates rose since inmates knew that even if they were convicted of institutional violations which led to forfeitures of good time or placement in segregation units, they would be released at the ten percent mark; inmates in the community under supervision more quickly returned to drug use and criminal activity since they knew that parole officers (who in Connecticut work for the Department of Correction) were not allowed to return them to custody if they were involved in drug use or minor criminal activity, and they knew that if they were returned they would again be released after having served only ten percent of their new sentences. In one case after another, serious crimes were being committed by persons on Supervised Home Release and the public became quickly outraged at this.

Because of this outrage, Connecticut's "Commission on Prison and Jail Overcrowding" drafted legislation earlier this year, called "an act to abolish the Supervised Home Release Program." In its place, it restored discretionary release authority to the Board of Parole and only after an inmate had served half the term imposed by the court. The release authority was given to the Board of Parole because the Board is an autonomous agency and does not consider overcrowding when evaluating a person's suitability for release to the community because parole hearings are open to the public--and to the media; and because victims in Connecticut have the statutory right to appear at parole hearings and speak to the Board regarding their feelings and their recommendations for action in their particular cases. But the greatest strength of a discretionary parole release system is that it <u>motivates</u> inmates to seek treatment and training during their terms of incarceration and to adhere to rules and regulations. Inmates know that they have to accomplish things if they want to seriously be considered for parole. Many times inmates have told us that the only reason anyone gets his GED is to please the Parole Board; but if an inmate leaves prison with that diploma, a little more qualified to get a job and having a little better feeling of self-worth for having earned it, then our primary goal has been realized. Guaranteeing release at a specific date takes away this motivational influence and from a

group of people who are clearly not self-motivated to reach valuable goals. Sentences can and should serve to do more than simply punish and incapacitate.

Connecticut was one of the earliest states to embrace determinate sentencing with no parole, but after this ten-year experiment, it has been one of the first to recognize the impact that determinate sentencing has had on public safety.

If you have any further questions please feel free to call me at anytime. I am enclosing a recent article from the Boston Globe.

Very truly yours,

Henry A. Bissonnette, Jr.
Chairman
Connecticut Board of Parole

HAB/hh

Enc.

bc: Fred Jacobs
Chairman
PA Parole Board

CITIZENS' ADVISORY COMMITTEE
Pennsylvania Board of Probation & Parole
Erie District
652 West 17th. Street
Erie, Pa. 16502
February 21, 1991

WRITTEN TESTIMONY OFFERED TO THE HOUSE JUDICIARY COMMITTEE ON HOUSE BILL

#239 FOR FEBRUARY 26, 1991.

Distinguished Legislators:

Thank you for the opportunity to submit this written testimony on behalf of the Citizens' Advisory Committee, the Pennsylvania Board of Probation and Parole, Erie District Office.

As a Citizens' Advisory Committee, we are extremely concerned about the legislative reform which is currently being considered as House Bill 239 and the companion piece of legislation, Senate Bill 341. The major rationale for moving from the indeterminate sentencing to the determinate sentencing model is a substantial cost benefit by reducing inmate population. Such projections, however, have not been realized in any of the jurisdictions that have gone from the indeterminate to the determinate sentencing model.

California has the longest experience with the determinate sentencing model, and according to the Blue Ribbon Commission on Inmate Population Management Final Report of January, 1990, went from 22,500 inmates in the state prison system in 1979 to 86,000 by 1989. In addition, parole violators went from 1,011 recommitted in 1979 to 34,000 parole violators in 1988. The Blue Ribbon Commission Report projects an increase in parole violators to 83,000 by 1994! It is suggested that Pennsylvania today is at the same place California was in 1979. In addition, for all the increase in the inmate population in California, the F.B.I. Uniform Crime Reports for the year 1989 indicate that the crime rate in California is double that of Pennsylvania per 100,000 inhabitants. Despite the fact that California's system has grown by unprecedented proportions, making it one of the largest growth industries in the Nation, the citizens are no safer.

It is our understanding that three states which have previously gone to determinate sentencing are now reinstituting indeterminate sentencing. Those states are Connecticut, North Carolina, and Colorado. Perhaps the best indicators of what would happen in Pennsylvania were to go to determinate sentencing are the results obtained in the states that went to determinate sentencing in the past.

The State of Washington is also on interest, particularly because the chief proponent of this legislation, our Commissioner of Corrections, came from the State of Washington last year. The Seattle Post-Intelligencer, in a story on October 20, 1989, credits then Deputy Correctins Secretary Joseph Lehman with projecting a 50% increase in their state prison population over the next few years. It also indicates that the Corrections Department budget for the current biennium is 400.75 million, up by about 35 million from the previous budget cycle. The State of Washington Sentencing Reform

Act of 1981 took effect in 1984. Between 1983 and 1988, the F.B.I. reported a significant increase in crime in the State of Washington. During the same time period, the crime rate in Pennsylvania increased by a rate less than one-fifth as great.

We believe the current way we sentence, incarcerate, parole and supervise paroled people in the community is at least partially responsible for Pennsylvania being one of the safest places in the nation to live. Only North Dakota, South Dakota, Kentucky and West Virginia can boast a lower crime rate, according to the Uniform Crime Report published by the F.B.I.

An additional concern about this legislation is that victims will lose input into the parole decision process, which they now enjoy in Pennsylvania.

In summary, we believe the proposed legislation would result in the substitution of mandatory and arbitrary releases, with little or no consideration for either the victim of the crime or the defendant's rehabilitative progress, for the present system of thoughtful and comprehensive review of each parole decision. In that sense, it is an overly simplistic approach to a complex problem which has had a demonstrated lack of success in other jurisdictions, as noted earlier.

Further, it is believed that passage of this legislation with the specific intent of reducing prisoner populations, as has been projected by proponents, not only discounts public safety but flies in the face of the realities experienced in other jurisdictions. Of particular note are the approximate thirty-four fold increase in parole revocations experienced in California and the expanding prison poulation in the State of Washington, as acknowledged by Mr. Lehman while serving in his former capacity in that state.

It is respectfully suggested that passage of this legislation would sacrifice public safety in a futile attempt to control increases in prisoner population and attendant costs. While the necessity of controlling costs is unquestioned, this legislation is not the vehicle to achieve that goal.

For the Committee,

Sincerely,

Peter Benekos, Chair
Citizens' Advisory Committee
PA Board of Probation & Parole
Erie District

LETTERS TO THE EDITOR

Parole law will heighten control of offenders

■ A Sept. 16 news story emphasized the possible rise in parole eligibility for inmates when the parole system is reinstituted in Connecticut today ("Parole eligibility to rise sharply"). But more needs to be said about the issue, about how this fits into an aggressive prison construction program and how parole will bolster the integrity of the criminal-justice system.

Parole was abolished in 1980 — for crimes committed after July 1, 1981 — and determinate sentencing was established to make sentencing more straightforward. Two years later, the Supervised Home Release Program was instituted to promote the transition from incarceration to community life in order to increase the likelihood of offenders living as law-abiding citizens.

However, the pressure of overcrowding in the correctional system forced the program to become a release valve, a means to control numbers. Court-imposed restrictions on correction facilities, combined with a statutory prison-capacity figure and a growing prison population, resulted in conflicting goals for the Department of Correction.

The gradual release of offenders often conflicted with the need to reduce the prison population to avoid the mass release of inmates required by statute. As a result, high-quality decision-making was compromised in favor of avoiding a larger public harm.

One cannot have quality if one is caught in a numbers game in which prison beds become the focal point. Gov. William A. O'Neill, the Legislature and the Department of Correction addressed this conflict, and resolved it through their support of the law that takes effect today.

As a result, the Supervised Home Release Program will cease to exist after June 30, 1993. Effective today, a person incarcerated for a felony must appear before a parole board and will not be eligible for parole until 50 percent of his sentence is served.

Many, if not most, offenders served approximately 10 percent of their sentences prior to release under the Supervised Home Release Program. The key element in the new law, however, is that the responsibility for release now is separated from the responsibility for managing the inmate population explosion. The parole board has no responsibility or authority for prison management. Its sole purpose is to examine each case on its merits. Its deliberations are open to the public, and it encourages input from victims and other interested parties. Also, eligibility for parole is in no way equivalent to release.

Moreover, because the parole board will render independent decisions based on objective information, the mere possibility of parole will serve as a strong management tool for the operation of Connecticut's prisons, with parole decisions becoming a component of institutional control.

Connecticut has made tremendous strides in addressing the problem of prison-population growth. The new law enhances this by reinforcing the sentencing powers of the court, with review by the parole board. In this manner, the integrity of the criminal-justice system that was compromised by the distortion of the Supervised Home Release Program will be re-established.

Larry R. Meachum
Commissioner
Connecticut Department of Correction
Hartford

Position Statement on PAROLE

APPA Position/Statement Committee
Adopted September 1985

Purpose

The purpose of parole is twofold: to provide offenders the opportunity to successfully reintegrate into the community, and to provide a continuing measure of protection to society. Parole is not leniency or clemency but a logical extension of the sentence at a time when incarcerated offenders are assessed to have the capability and desire to succeed and live up to the responsibilities inherent in such a release. Conditions of parole and supervision services provided to conditionally released offenders are means by which the parole authority can assist the offender to successfully reintegrate into the community while providing a continuing measure of protection to society. The core services of parole are: to provide investigation and reports to the parole authority, to help offenders develop appropriate release plans and to supervise those persons released on parole. Parole authorities and supporting correctional agencies, in addition to fulfilling these responsibilities, may provide a wide variety of supporting pre-release and post-release programs and services, such as employment and life-skills counseling, halfway house accommodation, counseling services, specialized community work programs and family services. **PAROLE IS A CRITICAL ELEMENT OF THE FELONY SENTENCE AND SHOULD NOT BE ABRIDGED OR ABOLISHED.**

Position

The mission of parole is to prepare, select and assist offenders who, after a responsible period of incarceration, could benefit from an early release while, at the same time, ensuring an appropriate level of public protection through conditions of parole and provision of supervision services. This is accomplished by:

- assisting the parole authority in decision making and the enforcement of parole conditions;
- providing pre-release and post-release services and programs that will support offenders in successfully reintegrating into the community;
- working cooperatively with all sectors of the criminal justice system to ensure the development and attainment of mutual objectives.

Parole is premised upon the following beliefs:

- The majority of incarcerated offenders can benefit from a period of transition into the community prior to completion of their sentence.

  While incarceration is necessary in many cases to ensure protection of society, to act as a deterrent to criminal activity and as a punishment for criminal acts, it is limited in its ability to prepare offenders for return to the free world. Parole is a means of allowing for a period of transition, testing and assistance, which affords a continuing measure of protection to the public while supporting the individual offender in establishing himself or herself as a productive and law-abiding member of the community.

- The protection of society is a primary objective of conditional release.

  Although parole supports conditional release of offenders prior to completion of their sentence, parole also supports the use of restrictions (imposed as conditions) and, where necessary, termination of the release where the offender is not assessed to be abiding by the conditions of release and/or the potential for renewed criminal activity is felt to be high.

- Not all offenders have the same potential and motivation to benefit from conditional release.

  Each offender must be judged on his or her own merits. Similarity of offense, sentence length and background, while important considerations, must be viewed in the total context of a complete assessment of the individual. Risk evaluation and selection criteria may be used successfully by many parole authorities, but it is fundamental that each individual offender be assessed on the basis of complete and comprehensive information about his or her circumstances. This is important not only in relation to the release decision but also in relation to the conditions and services determined to be required upon release.

- Community services available to all citizens should be utilized wherever possible, but specialized services for some offenders are necessary to meet special needs.

  As parole involves the reintegration of the offender into society, the offender should be encouraged to utilize available opportunities for socialization, support and assistance which already exist in the community. However, the community cannot be expected to provide the support and assistance that will meet all the special needs of all conditionally released offenders. Parole services should identify and provide, whenever possible, for specialized post-release programs which meet such needs.

- Society benefits from a successful parole program.

Most incarcerated offenders eventually complete their sentence and return to the community. Given that incarceration is limited by definition in its ability to promote successful reintegration of ex-offenders as productive members of the community, parole can provide a positive means of promoting successful reintegration. It results in reducing unnecessary expenditures for continued incarceration while, at the same time, maintaining an appropriate degree of supervision and control to ensure continued protection of society.

22 Belvedere Square
Wimbledon Village
London 5W19 5DJ
England
February 25, 1991

Thomas R. Cultagirone
Chairman, House Judiciary Committee
214 South Office Building
Harrisburg, PA 17120

Dear Chairman Cultagirone:

I write to you from England, where I am presently on a year's sabbatical from my position as Professor, Graduate School of Criminal Justice, Rutgers University. The purpose of this letter is to urge that you not support the proposed legislation, H.B. 239, that would place the parole authority within the department of corrections. Copies of this legislation were sent to me by colleagues from Pennsylvania who asked my views. I believe the legislation is unwise for several reasons.

There are good reasons to retain parole's independence from institutional corrections. Parole pursues two penological aims: first, to manage offenders' risk by careful release and appropriate supervision; and second, to regulate punishments using information not available to the judge at the time of sentencing.

There is no compelling evidence that these two purposes are better served by making parole a sub-division of institutional corrections. The aim of institutional corrections is to carry out the lawful punishments imposed by the courts, and to do so within the bounds of law (especially constitutional law). In recent years, the main impediment to this has been extensively overcrowded prisons, not only in Pennsylvania but almost everywhere in the U.S. The problem is the likelihood that, faced by extreme population pressures, the institutional corrections system would distort the parole function, turning it into a population management tool.

While this might seem sensible in the short term, there are reasons why the population-control benefits are likely to be minimal. The inevitable result of a wholesale acceleration of paroles to control populations is the continuing loss of public confidence in the penal system. This happens either due to a "Willie Horton" type case, involving brutal criminal acts, or by investigative newspaper reporting about actual parole cases. When parole sees its main function

as controlling prison populations, the result is normally a cycle of liberal paroles which produce a scandal which leads to a period of restricted paroles. This has been the experience in Texas, Alabama, Iowa, Massachusetts and elsewhere. The practical population management value of parole is easily overestimated.

In the long run, making parole a sub-part of corrections diverts attention from the central problems causing overcrowding. There is excellent evidence, in Pennsylvania as elsewhere, that institutional crowding results from the combined forces of legislative and judicial practice. Without addressing these causes, any other actions are likely to be either ineffectual, temporary expedients, or both. The solution to crowding involves an entire package of changes, addressing the structure of penalties in the penal code, resources for community-based punishments, and the relationships of the various agencies that comprise the corrections system.

This is not an easy task, of course, and it necessarily involves difficult political choices. That is why a bill such as H.B. 239 can seem so useful, for it avoids these tough issues. But eventually, the corrections system in Pennsylvania and elsewhere must confront the real dimensions of the crisis in corrections, and this requires much more than mere tinkering.

For excellent policy analyses of the options an overcrowded system faces, I would suggest two documents. The first is a report to the Iowa Legislature on the 5-year correctional plan, prepared by Toborg, Assoc. (for the Joint Committee on Corrections). The second is a special report on corrections to the New Jersey Governor's Management Review Commission; available through the office of Dr. John DiJulio, Princeton University.

Thank you for the opportunity to comment on this legislation.

Sincerely,

Todd R. Clear, Ph.D.
Professor
School of Criminal Justice
Rutgers University

TRC/ml

A REVIEW OF THE NATIONAL EXPERIENCE IN DETERMINATE SENTENCING

Indeterminacy is defined as something which is not fixed or known in advance. Conversely, determinacy is a state of being determined or having defined limits. In operational terms, the determinate sentence state has prescribed punishment in relation to specified crime. Therefore, the crime of conviction determines who goes to prison and for how long; there is a certainty of confinement and a certainty of release in the the determinate 'just desert' concept. Although this definition is understandable in the abstract; it is often diluted in the real world. In the indeterminate system, the offender is the determinant factor, and his criminal and institutional behavior determine the imprisonment period based upon judgment and discretion. However, discretion and indeterminacy are frequently found in determinate sentencing systems and determinacy is often found in indeterminate sentencing systems. For example, there can be determinacy on who goes to prison based upon the crime but indeterminacy on how long he stays there based upon behavior. The key to understanding determinacy and indeterminacy is to find out where discretion exists and who decides. In the last fifteen years, some states have adopted a strict determinate sentencing system with fixed prison terms and mandatory release. A key question is how these states have performed and whether there is any return to indeterminacy.

The notion of a return to indeterminancy implies a resurrection of the parole decision making function as it was known traditionally. In a majority of states nationwide, the judge gave a maximum sentence for a crime but the parole decision making function encompassed both the prison time setting decision and the prison release decision. Pennsylvania historically was a minority state where the prison time setting decision was decided by the judiciary and the prison release decision was delegated to the parole authority. While it is true that a refusal to release a prisoner had the effect of extending the prison term, it is an important difference that the guaranteed minimum term in prison was decided by the judiciary; it provided certainty of confinement in terms of the minimum term of incarceration. If judicial discretion is limited by sentencing guidelines or mandatory sentencing law, then the amount of sentence indeteminancy is curbed even if the parole release decision had unlimited discretion. If both judicial discretion and parole release discretion are limited, there is substantive determinacy in practice.

Pennsylvania has both sentencing guidelines which limit judicial discretion and parole guidelines which limit parole discretion. The Pennsylvania Sentencing Commission began its work in 1978 and implemented sentencing guidelines in 1982; the Pennsylvania Board of Probation and Parole began research in 1976 and implemented parole decision making guidelines in 1980. The Pennsylvania Sentencing Commission reported that 86% of sentences conformed to the sentencing guidelines in 1989 which is a measure of determinacy in sentencing. A study completed in 1989 of parole decision making guidelines indicated that 79% of the decisions conform with the parole decision making guidelines; the reported parole rate in 1990 was 75%. Assuming the same sentencing and parole guideline conformity in 1990, then three out of four cases paroled at their minimum sentence in Pennsylvania are released with a very high degree of sentence determinacy. All inmates held beyond there minimum sentence involve indeterminacy, or in other words, a selective screening of inmates for further incapacitation; the determinate sentence is rejected in Pennsylvania for only a small proportion of the inmates who are not paroled at their minimum.

Summary of Findings on Determinate Sentencing States

One overriding fact is apparent from a review of states who have limited judicial discretion and parole discretion; all are impacted by the effects of over crowded prisons and the need to find a way to assure punishment, incapacitaton and release without jeopardy to the public safety. During the ten year period from 1975 to 1985, there were thirteen states which are frequently cited in the literature and known to experts as determinate sentencing states:

Arizona (1978)	California (1976)	Colorado (1979)
Connecticut (1981)	Florida (1983)	Illinois (1978)
Indiana (1977)	Maine (1976)	Minnesota (1980)
New York (1983)	New Mexico (1979)	North Carolina (1981)
Washington (1983)		

Of the original 13, New York is excluded from this analysis because it never successfully adopted sentencing guidelines. Two years after guidelines were promulgated, they were rejected by their legislature and the state returned to discretionary release with an enhanced parole system. Among the remaining 12 early states, the following facts in 1991 are evident:

1. Three states, or 25%, of the 12 original states returned to discretionary parole release methods: Colorado, Connecticut and North Carolina. The predominate reason for this reversal of policy were public safety issues.

2. Three states, or 25%, adopted early release mechanisms which provide for discretion and obviate existing determinate sentencing and good time provisions in law. These states are Florida, Illinois and Minnesota. Florida gave the Parole authority discretion in the Control Release Program. Minnesota and Illinois gave the Commissioner of Corrections discretion to release in differently designed programs. Minnesota created release to Intensive Community Supervision and Illinois empowered the Commissioner of Corrections with early release discretion in time reduction awards up to six months beyond earned time. The predominate concern for these policy regressions was prison overcrowding.

3. Two states have had public safety concerns with specific reports on the subject or programs developed. Washington state passed the Community Protection Act in 1989 which gave discretion to district attorneys to prosecute repeat sex offenders for involuntary civil commitment; serious study is also being requested to see where discretion can be effectively used in a determinate sentencing system. A similar concern was raised in Indiana's long range planning which called for examination of recidivism based methods in sentencing and releasing offenders.

Pennsylvania could be included in the above analysis because it created a sentencing commission in 1978 and adopted sentencing guidelines in 1982. Since there was an unsuccessful 1982 effort in Pennsylvania to create a completely determinate system and abolish parole release, Pennsylvania could be added to as a statistic to the analysis. It was not since it is our frame of reference.

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PENNSYLVANIA BOARD OF PROBATION AND PAROLE

PAROLE DECISION MAKING GUIDELINES

A Statement on Policy, Procedure and Philosophy

Introduction

One paradox of the criminal justice system is the different standards applied to information at different points of decision making; strict rules of procedure guide the use of information in the determination of guilt in comparison with total discretion in the later phases of judicial sentencing. All information, such as hearsay, privileged communication, opinion, background facts, and character evidence, are inadmissible in the adjudicatory phase of criminal justice but are acceptable in the sentencing phase of correctional decision making. In addition, the adversarial process of a trial provides the defendant an opportunity to defend his interests against those of the state, but the sentencing phase offers no comparable process. Typically, those involved in sentencing and corrections decide what is in the best interest of the state and the offender.

Historically, the parole decision making process exemplified the characteristic of broad unilateral discretion found in most correctional decisions. The parole decision traditionally resulted from a review of a range of information without continuity in content or clarity in priorities. The use of information was discretionary and the resultant judgment was subjective. Consequently, parole critics perceived the decision making process as arbitrary and capricious; no one knew how decisions were made. In order to remedy these weaknesses, the Pennsylvania Board of Probation and Parole sought to structure its discretion and to increase objectivity in making judgments. Explicit parole decision making policy was developed to increase consistency in the use of information and to structure discretion without eliminating it. Explicit policy in the form of Pennsylvania's parole decision making guidelines were designed to represent observable standards of justice in making decisions and to link behavior with societal sanctions in a clearer manner. This paper describes the design and use of Pennsylvania's decision making guidelines.

Is There any Movement Toward the Return of Indeterminacy?

It appears that at least half of the original determinate sentencing states either abandon the pure 'just desert' approach or modified methods which obviate the original intent. It is concluded that many of the original states which adopted a pure determinate sentencing system could not abide by all of its constraints and secondary effects, particularly in the area of public safety.

Other states, such as, Delaware, New Jersey, Ohio, Oregon and Tennessee, more recently have adopted sentencing changes which increased determinacy. For example, both Ohio and Tennessee adopted sentencing changes to help manage institutional populations but maintained their parole board discretionary capability at release. Adding these 5 to the previously discussed 12 states means that only about 17 states over the last twenty years, or only about one third of the nation, have engaged in sentencing reform with increased determinacy. These 'reform' situations have not applied consistently to the parole authority. In addition, it is believed that Kansas and Louisianna are exploring sentencing changes although it is not known at this writing how they propose to work.

In sum, it can be concluded that there is not a national trend toward determinate sentencing since half of those who adopted its ideological basis have since moved away with other pragmatic solutions. There has been a trend in limiting judicial discretion since more states have become involved in restructuring their sentencing policies. However, the same can not be said for parole release which still exists, more often with decision making guidelines. It can be concluded that most states are struggling with the complex issues of sentencing, prison crowding and public safety through efforts which seek to structure judicial and parole decision making while controlling the growth of correctional systems which have limited resources.

QUALITATIVE SURVEY OF DETERMINATE SENTENCE STATES

In a classic traditional system, there was broad discretion in the judiciary to set the maximum sentence time and decide which offender went to prison; there also was broad parole discretion to both set the prison term and decide which offender would be released from prison. The change from the classic indeterminate to determinate sentencing model involved defining the sentence, based upon the crime, with a specified period of imprisonment, either presumptively in legislatively designed crime categories, or through sentencing guideline ranges. The determinate method of sentencing fixed the type of sentence for particular crimes, the amount of time served and the release which was automatic once the prison sentence was served. However, in practice, many states adopted a combination of methods and do not fit completely either model's definition. What has been the national experience with determinate sentencing and are there any trends with respect to a return to indeterminacy in the tradition of parole models? In reviewing different states practices, it is meaningful to assess where the discretion has emerged in the decision making process. The early states involved in determinate sentence law are listed below; the year that determinate sentence law was enacted is in parenthesis next to the state name. The remaining comment results from a telephone survey and readings in publications.

MAINE (1976) - Offenders serve a fixed sentence and there is no screening for the release of inmates at the present time. However, discretionary release though labeled 'resentencing' is possible after one year of prison; the Maine law allows the judge to fix a single prison sentence for a crime but it does not control disparity in sentencing or the length of prison terms.

CALIFORNIA (1976) - Inmates are released when determinate sentence requirements are met. The sentencing practices have become complicated and administratively burdensome; there is a perceived need to simplify the sentencing process in order to get sentencing accomplished correctly within the present determinate sentence law. In the last six months, there has been a legislative hearing on rewriting the existing law and there is some discussion on crime selective criteria for release.

INDIANA (1977) - Since flat sentences provide no incentives for inmates, there is now some thinking about a need to return to a more indeterminate structure which would keep in the dangerous offender and let out those who have made progress. In July, 1990, the Governor's Indiana Correction Advisory Committee released a report called "A Long-Range Plan for Indiana's Criminal Justice System". "The Criminal Code Subcommittee proposes that consideration be given to the remodeling of the correctional process so responsibility for maintaining the public safety might be more equitably shared by all branches of government. In such a model, the legislative branch would define crimes and continue to establish minimum and maximum penalty ranges; a sentencing commission located within the judicial branch would establish sentencing guidelines by administrative rules developed from data-based recidivism predicting profiles to operate within statutory penalty ranges; and a sentence adjustment board, bound by these same data-based recidivism predicting profiles, would make early release decisions when necessary to respond to unconstitutional prison overcrowding" [pg.61] The Indiana system sees the problem of legislatively determinate sentences and proposes recidivism based discretion release to cope with prison overcrowding.

NEW MEXICO (1979) - Sentences are fixed with mandatory, relatively short parole terms; there are both good time and meritorious time provisions. The offender population has a negative attitude to the Parole Board because their function is of minor consequence; their only power is to deny a parole plan. There are no known initiatives at present to reform this determinate system.

MINNESOTA (1980) - The sentence given for a conviction is fixed but the offender may earn up to one third of the sentence through earned good time. The Minnesota system is credited with some success due to the legal provision that sentencing policy coordinate commitment and release policy with prison population size. However, in 1989, the legislature enacted the Intensive Community Supervision law (MN Statutes 1988, section 244.05 as amended sec 32) which empowered the Commissioner of Corrections to "order that an inmate be placed on intensive community supervision, ... for all or part of the inmate's supervised release term ... for all or part of the [eligible] offender's prison sentence if the offender agrees to participate in the program and if the sentencing court approves ...". Prohibited from participation in community intensive supervision were offenders serving mandatory sentences and those convicted of violent crime, such as, murder, manslaughter, criminal sexual assault and vehicular homicide. Most importantly, the Commissioner must exclude "offenders whose presence in the community would present a danger to public safety." The law further states that the Commissioner "shall establish programs for those designated to serve all or part of a prison sentence...[which] are not subject to the rule making procedures...[and an] officer caseload shall not exceed the ratio of 30 offenders to two probation officers....The commissioner shall impose severe and meaningful sanctions for violating the conditions of an intensive supervision program...[for] an offender who ... presents a risk to the public, based upon the offender's behavior, attitude, or abuse of alcohol or controlled substances." This act empowered the Commissioner of Corrections with discretionary parole functions after the imposition of determinate sentences as a means of controlling prison population.

CONNECTICUT (1981) - The determinate sentencing law prescribed prison terms without parole eligibility. In 1982, the Commissioner of Corrections was empowered to release "any inmate serving any sentence at any time" under the Community Release statutes to an "approved community residence". After prison crowding further stimulated release to the Supervised Home Release Program and crime in the community provoked public outrage, the legislature in October 1990 restored discretionary release authority to the Board of Parole. The failure of the Supervised Home Release Program was its disregard for public safety; it will be phased out in June 1993.

NORTH CAROLINA (1981) - The determinate sentence law which was known as the Fair Sentence Act was in effect only two years. In 1983, the state returned to a system which obligated the Parole Board by law to control population. The current system allows for release to community service parole after 1/8th of the sentence is served; the law also allows for the earning of good time.

ARIZONA (1978) - The determinate sentencing system provided flat sentences with no parole. However, the release of violence prone offenders and sex offenders as well as the need for prison beds in an overcrowded system has reintroduced subtle changes in the parole power. There has been change in the sentencing code and there has been alternatives introduced in the front and back end of prison time involving house arrest.

ILLINOIS (1978) - Once the determinate sentence is served, the offender is released from prison. The resulting crime from these offenders has caused continual public outcry but there has not been a change in the determinate system to date. The effort on managing risk in the community has focused on supervision through aggressive violation policy; the parole violation rate was 43% in a 3 year followup of which 60% are for technical violations. In 1988 when there were massive layoffs due to fiscal crisis and 43 agents supervised 11,000 cases, the technical violation rate plunged 35% to 19% of the total violation population. The resulting demand for law enforcement in 1989 led to a restaffing and a return to the former practices. Since the mandatory sentence laws are keeping the Class X group, violent personal crime, in prison longer, the prisons are becoming increasingly stockpiled with serious offenders; the volume of commitments continued to grow as well and in 1982, the legislature gave the Commissioner of Corrections discretionary authority to shorten sentences by 3 months beyond earned time provisions. The Department was found to abuse the authority by giving multiple 3 month awards to some offenders and not screening who got early release; this approach operates similar to parole but without policy safeguards. After successful prosecution in court, the authority was removed. However, the pressures of prison overcrowding in 1990 resulted in the reinstatement of this discretionary authority with awards up to 6 month months being possible. The Parole Board's only power in this process is to set conditions of supervision; this has the effect of focusing their responsibility on supervision case planning which is very limited with respect to managing risk and providing for public safety. What is important is that discretionary decision making is alive and well albeit without concern for public safety.

COLORADO (1979) - In 1977, HB1589 established a single fixed presumptive sentence of imprisonment for felony cases which replaced broader indeterminate ranges. The law also had good and earned time provisions which enabled a prisoner to cut the sentenced served in half. The effects of mandatory release dates, short sentences and heinous crimes led to HB1589 in 1985 which doubled the top of the presumptive range and returned release discretion to the parole board with a minimum time served of half the sentence. In 1987, HB1311 created a Colorado Parole Guideline Commission to develop and implement parole guidelines which "shall first consider" public risk in every release decision using "objectively ... statistically determined risk predictors." "The new bill assures that the parole release decisions are made systematically via a process that incorporates the best of our subjective ideas and our objective facts."

FLORIDA (1983) - Sentencing guidelines were designed to attack sentencing disparity statewide. Prison crowding accelerated by drug crime resulted in a court order in 1987 which required a 98% capacity threshold. The legislature subsequently empowered the Department of Corrections with the ability to award "gain time" which is separate from 'good time' for all offender groups except the sex offender in order to maintain a 95% cap on prison populations. In September 1990, the legislature empowered the former parole board with responsibility for the Control Release Program. The Florida Parole Commission's Control Release Program is the "release of an inmate prior to the expiration of the inmate's sentence, when release is required to maintain the prison population within the lawful capacity. A period of control release supervision may or may not be required. Control release is an administrative function solely used to manage the state prison population. Florida Statute 947.146(2) specifically provides that no inmate has a right to control release. Control release is not parole "although both are means of early release from incarceration. Parole is granted after a finding that there is a reasonable probability that when released, an inmate will live a law-abiding life and agrees to the terms and conditions of parole supervision. Control release ... is intended to avoid prison overcrowding...Inmates...may not refuse to accept the terms and conditions of control release....All inmates not eligible for parole are eligible for control release " except those serving mandatory sentences or selected offense groups, such as, sex offenders, assault, murder and offenses committed with the intent to commit sexual battery. Control release decisions are based upon a "uniform criteria which places emphasis on the seriousness of the offender's criminal offense and past criminal history.....Within two weeks of an inmate's receipt in the prison system, a parole examiner will begin a review of all available documents and written information pertaining to each eligible inmate, and prepare a report....The Commission will review the examiner's report, victim's input statement statement, any written comment on behalf of the inmate, and, utilizing uniform criteria, establish a control release date." The components and powers of the control release program are similar and appear to be distinguishable only in terms of the determinate sentence concepts which provide an ideological frame of reference. Control release provides discretionary screening capability and early release; the intend of determinate sentencing is obviated by the needs of prison population.

NEW YORK (1983) - This state appears in the early literature as a determinate sentencing state; New York embarked upon a sentencing guideline model for two years but in a 1985 report was debated and turned down in 1986. The determinate sentencing effort was abandoned when the guidelines were rejected by the legislature. The thinking of the era and the emerging conditions in the corrections landscape did create some changes in the system. Parole was expanded by two new programs to reflect a determinacy stance: (1) shock incarceration was created with a presumption of release, and (2) the Earned Eligibility Program tied the Parole Board to a more presumptive orientation which concentrates on identifying which 'bad guys' to keep in incarceration.

WASHINGTON (1983) - When the Sentencing Reform Act was implemented in 1984, it had a sunset provision for the parole authority. Since that time, in 1985 and in 1989, the parole authority has been extended until 1998. In addition, the Sentencing Reform Act which was to be "tough on crime", actually shortened sentences and allowed the offender to walk free once the time was served. Community supervision which had been eliminated, reemerged gradually in importance with an extension of the supervision term for released offenders in 1988 and a mandated term for sex offenders in 1989. Crime gradually caused a shift in public opinion which resulted in the raising of sentence grids for burglary and sex offenders in 1988; more time was to be served and new penalties were created for drug offenders. The parole authority was affected by prison crowding and court law with the 1984 requirement that minimum terms be made consistent with the SRA and the subsequent 1987 requirement for retroactive redetermination of minimum terms for SRA consistency. In 1990, statute required the parole authority to place primary emphasis on public safety concerns.

Most notable has been Washington state's response to the automatic release of sex offenders at their determinate sentence date; the 1989 Community Protection Act which became law on February 28, 1990 increased sentences for several sex crimes by making them Class A felonies, classified other felonies for which sex is a motivation as sex crimes for purposes of setting offender scores, and created a new civil commitment statute which enabled a District Attorney to prosecute a 'sexually violent predatory offender' because of past recidivism and the potential for future crime. This response came about in order to cope with the revolving door effect of sex offenders under the determinate system with earned time in prison and automatic release. The central question before the authors of the legislation was "what gaps in our law and administrative procedures allow the release of known dangerous offenders who are highly likely to commit very serious crimes?." Since the laws enactment, 3 were referred for civil commitment and 1 case went to trial. Successful prosecution will result in indefinite commitment under the involuntary treatment law. It is important to note that this coerced treatment and confinement is deemed necessary for protection of the public but ironically the coerced treatment and confinement is not part of the original sentence for the crime(s). For some reason, neither the sentencing guidelines nor Judges in Washington State can perceive this need for treatment at sentencing based upon prior record but prosecuting attorneys can see this need after the sentence is served and successive new victims are created. The discretion on judging dangerousness in Washington is vested in the prosecutor. This new approach to the sex offender is being challenged in court on grounds of unconstitutionality since no crime is committed and mental illness is not established.

Another result of the high crime rate experienced in Washington State was the creation of an ad hoc committee called the END OF SENTENCE REVIEW COMMITTEE, to examine the question of the dangerous offender being returned to the community. Represented on this ad hoc committee were individuals from both the Department of Corrections and the Indeterminate Sentence Review Board (formerly parole). The following facts were obtained the Legislative Budget Committee report from the Office of Legislative Audits which was charged with the responsibility to do a program audit of sentencing practices and their impact in Washington State on public safety. This independent program report was released to the legislature in mid January 1991.

The Office of Legislative Audit's report described the purpose of Washington state's Ad Hoc Committee in terms of the process which was activated; the Ad Hoc Committee had asked the staff at the Department of Corrections to supply them with documentation on any case that they perceived to be dangerous and posed a threat to the public safety. Between February and October 1990, there were 2,250 inmates released of which 931 (41%) were reviewed by the Ad Hoc Committee. Only 18 met the requirements of 1989 Community Protection Act regarding predatory sexual behavior; all of the other cases were of 'grave' concern to the committee. "For those prisoners solely under the jurisdiction of the SRA, the only recourse DOC has is to release them at the end of their sentences and to notify local police agencies, and other agencies such as Child Protection Services." [pg. 9] They notified the communities involved that a dangerous offender was being released which placed the burden of the risk upon community law enforcement to afford the community protection. However, according to the audit report, they also identified 8 cases which fell under the jurisdiction of the Indeterminate Sentence Review Board. "In June 1990, the committee began referring serious, high risk offenders who have ISRB parole time left from a previous offense back to the board. So far the committee has referred eight cases to the ISRB, and all eight cases have been placed back on active parole supervision because of concerns that they were likely to reoffend." [pg. 9] The Indeterminate Sentence Review Board retained their parole status on the basis of the fact that the public safety interest outweighed the liberty interest in those cases.

This narrow exercise of discretion had a discriminating effect in Washington with their dual sentencing system; however, the Indeterminate Review Board function (parole release) will diminish as prior Sentence Reform Act cases are processed out of the corrections system. The Legislative Budget Committee audit concluded that discretion at release does and can serve a public safety interest in Washington State; letters of support from Superior Court Judges were included in the report. They further called for an examination of sentencing philosophy which places exclusive emphasis on punishment proportionate with the crime so as to more effectively balance the liberty interest with the public safety interest.

The Legislative Budget Audit report has caused some controversy in Washington because of political reputations which are vested in the pure determinate sentencing ideology. A retreat from theoretical rhetoric to examine what is needed to do an effective job was called for in Washington; a mix of determinacy which assures some equity in imposing sentence and discretion which assures some protection in screening out potentially dangerous offenders may be included in the decision making process as Washington demonstrates. However, an independent review authority, similar to parole in Pennsylvania, can function in a determinate sentencing environment if appropriate policy and procedures are in place. This assertion is based upon the philosophy of public accountability often espoused by the determinate sentencing advocates; decisions involving liberty interests are better accomplished publicly rather than privately, as is being done in Washington, to insure that liberty interests of the offender are not being assessed for predicted behavior in a discriminatory manner.

OHIO (1983) - During a period of time when there was strong public sentiment to get tough on crime, sentencing changes were examined in Ohio. A two tiered system was created which kept 1st degree and 2nd degree felony crime under the jurisdiction of their traditional 'indefinite' sentence system but provided a determinate flat sentence to 3rd degree and 4th degree felony crime. The offender who was convicted of a 3rd or 4th degree felony would serve a fixed time in prison and then receive mandatory release without followup supervision. The judges in the state set the minimum and the maximum sentence; prison earned time was considered in sentencing. The emphasis on indeterminate sentences for serious offenses has often placed Ohio in the indeterminate group when state systems are being classified. One difficulty with this system is that some offenses, such as, sex offenses, are plea bargained down to lessor charges; the result is that they walk away from prison after a comparatively short period of time

TENNESSEE (1986) - As a result of prison overcrowding and a court order, the legislature created a sentencing commission to examine the state's sentencing code and judicial practices; the intent was to reduce the effect of sentencing upon crowded prisons without increasing jeopardy to the community. After two years, a grid proposal was adopted which structured judicial discretion. The parole authority had structured its own discretion with an explicit decision making policy; the policy was further developed with a new actuarial assessment scale in 1990 which further improved the risk screening capability of the policy. Also, in 1990, the legislature enacted a "Two years or Under" law which provided for the automatic release of inmates who had sentences of less than two years. This law was intended to impact upon prison crowding since many of the short sentence cases reach their minimum sentence before the parole authority had administrative access to them; they were also found to be cases which had very high likelihood of successful supervision.

Pennsylvania Parole Guidelines - the Decision Making Process

Pennsylvania's parole guidelines represent explicit decision making policy. A policy is defined as a definite course or method of action to guide decisions which are selected from alternatives in light of given conditions. A policy is explicit when it appears as a written public statement which is amenable to change and subject to public accountability .

The essence of Pennsylvania's Parole guidelines policy is the management of risk to the community in the decision making process. The concept of parole risk management refers to the relationship of the individual offender to society as a law abiding citizen. The goal of risk management is to protect the community from possible harm from offenders who are serving criminal sentences. There are two expressions of risk management in parole policy: 1) the assessment of parole supervision risk to determine the probability of unlawful behavior, and 2) the assessment of offender characteristics to determine the suitability of parole, conformance with societal laws and the feasibility of reintegration into society. The integration of these assessments is the basis of parole decision making.

Parole decision making policy is implemented in Pennsylvania in three distinct stages. In the first stage prior to a minimum sentence date, an institutional parole representative will evaluate a case record, make a recommendation, and fill in all factual information on the first two pages of the parole guidelines. The second stage consists of a parole interview which is conducted by either a Board Member or Hearing Examiner. The purpose of the interview is to verify parole guideline data and solicit additional information with which to render a more informed decision. In the final stage, the parole interviewer submits a recommendation, and the case file is subsequently reviewed by a second panel member to render a final decision.

The explanation which follows will review each section of Pennsylvania's parole guideline policy from a more operational perspective of policy and procedure.

Section I: Parole Prognosis Assessment

The Parole Prognosis Assessment portion of Pennsylvania's decision making guidelines institutes a uniform and objective method of judging an offender's risk to the community. A central concern in every parole decision making situation is the likelihood that an offender will commit a new crime or fail to abide by the conditions of release from prison. Empirical analysis of parole outcome for release cohorts in Pennsylvania has revealed that knowledge of four variables for each offender enables a decision maker to classfy an inmate into a parole performance group which has a predictable probability of success. The four predictive variables are: 1) age at minimum sentence, 2) prior convictions, 3) instant offense and 4) prior probation or parole revocations. The evaluation process on the parole prognosis instrument scores each fact for an individual so that a higher score means a higher risk. The result of classification places the offender into one of three parole performance groups which have significantly different levels of risk; they are described simply as high risk, medium risk and low risk.

Although classification into parole prognosis groups separates the low from the high parole failure risks, it also provides structure for the clinical insights and theoretical causation which underlies decision making. The actuarial prognosis classification does not replace clinical judgments on parole but effectively augments them in an efficient manner. The classification process structures decision making so that clinical insights have a more equitable framework for judgement.

The first step in preparing Pennsylvania's parole prognosis assessment is fact finding. Information on the offenders date of birth, the number of prior convictions, the offense(s) associated with the current conviction, and the number of prior probation or parole revocations is gathered by an institutional parole representative. This information is entered in Column 1 of the parole prognosis assessment table. The offender's age at minimum is computed by subtracting his date of birth from his minimum sentence date. In cases involving multiple convictions, the most recidivistic offense is ranked first in the offense listing because of the need to evaluate the offender in terms of the strongest risk indicator. An instant offense recidivism ranking is found underneath the parole prognosis assessment table for easy reference.

Once fact finding is complete, each objective fact for a particular offender is rated for risk according to the risk assessment scores in Column 2. The lowest score for each variable represents a group of offenders who had the greatest likelihood of completing parole successfully. Conversely, recidivism is more likely with high scores. For example, offenders with longer criminal records, i.e. three or more convictions, are higher risk since they are more likely to fail parole supervision. After each client was classified in Column 2 and the scores for each variable are listed in Column 3, they are added together to produce a total assessment score. It is the total assessment score which is the basis of the final risk classification.

At the bottom of the parole prognosis assessment, a range is produced with cutoff points for a final classification into parole risk groups. Research found that certain combinations of characteristics resulted in a lower probability of successful parole. For example, an inmate with three prior convictions who is serving a sentence for burglary and is twenty-five years old has a high probability of failing parole and would have a high total assessment score. The high risk parole prognosis group has the highest probability of parole failure or the lowest likelihood of successfully completing parole supervision without a violation of parole. Similarly, offenders in the low risk parole prognosis group are most likely to complete supervision without a parole violation.

The risk classification in the parole decision making process sets the stage for a parole policy decision derived from the check list of unfavorable parole factors found on Page 2. One of the important unfavorable factors is the potential assaultiveness or dangerourness of the offender in harming others; the bottom of Page 1 examines this issue through an objective reference screen. An explanation of the assaultiveness or dangerousness screen is provided on the next page. If the parole interview reveals a factual error in the fact finding process for the parole prognosis risk assessment, the client may be reassessed in Column 4 and reclassified as a result. However, policy requires that challenges to client information on the guideline generally must be supported by some documentation from the offender to invalidate official source records.

A valid concern of parole practitioners is the extent to which they have the ability to predict an individual's behavior from membership in a class or group which has a known base expectancy for success or failure. In truth, an offender's chances of parole failure are determined by patterns in his or her life and not by probabilities found in a larger population. All that is really known from an actuarial prediction, such as, the Parole Prognosis Assessment, is that persons in the past with the characteristics X, Y, and Z have failed parole at a certain frequency. In order to make an inferential leap from membership in a class of offenders who had a high failure rate in the past to the prediction that a future member of the same class will fail, it is necessary to theoretically link the past causes of parole failure with similar conditions in a current individual case. As one analogist observed, an actuarial parole device is like using a weather report which says that there is a sixty percent chance of rain today. Although it rained sixty percent of the time on similar days, we do not know whether it will rain today. However, the information is helpful in deciding if you should carry an umbrella. Knowing the base expectancy for parole failure provides analogous information for release decision making. There are parole failures among those classified in the low risk prognosis group and parole successes among those classified in the high risk prognosis group. The function of parole decision policy is to determine what level of risk is tolerable and when an umbrella is necessary to protect the community from further crime.

Section II: Potential Assaultiveness or Dangerousness Screen

Inherent in the concept of risk management is the notion that some crimes, although less likely to be repeated, have more serious consequences than others if repeated. In other words, although some offenders may be low risk from the viewpoint of parole supervision failure, the stakes are high in terms of protecting the public if their new crime is violent and serious in nature. If the parole decision is limited to recidivism base expectancy, then offenders who commit violent crimes, such as, murder or rape, and are classified as lower risk, could have greater opportunity for favorable parole consideration than offenders who commit less serious offenses, such as, theft or burglary. In order to not denigrate the seriousness of the offense, parole decision making guidelines have incorporated an explicit method of selective intervention for the more serious or dangerous offender; it is a set of key questions which act as a secondary screen for potential assaultiveness or dangerousness in the assessment process.

Research on past decision making practices has found that knowledge of several characteristics in a case correlates with a high probability of future assault or violent crime. The facts of importance in making this assessment are as follows: if the offender has an assaultive instant offense which is explicitly defined in the guideline's instructions, there is a likelihood that future recidivism will involve assaultiveness in contrast with offenders who had been convicted of non assaultive crime. However, when an inmate has an assaultive instant offense and also has had an institutional adjustment problem involving assaultive behavior within the past twelve months, a high assaultive potential exists among recidivists. Lastly, when an offender has an assaultive instant offense and has a known mental health problem, either psychological or psychiatric, requiring treatment in the form of therapy/counseling and/or psychotropic medication, then it is predicted that this offender is among a group who have a very high assaultive potential as a recidivist. The existance of these characteristics in a case are checked on the bottom of the first page of the guidelines and subsequently become an objective reference point for the unfavorable parole consideration factor of assualtive behavior potential on page 2 of the guidelines. The following paragraphs review all of the unfavorable factors of parole which are considered by the Board.

Section III: Parole Consideration Factors: Unfavorable Factors For Parole

The parole consideration checklist represents an enumeration of explicit policy regarding unfavorable factors commonly associated with parole refusal. Research has demonstrated the relationship between the unfavorable factor and the resultant parole decision. The scores for each unfavorable factor represent an assigned weight, such as, '1' or '2', in terms of their prescribed policy value. Higher relative scores for individual unfavorable factors signify more serious concerns for parole and consequently higher likelihood of an overall unfavorable parole decision. Each client is evaluated in terms of the existence of each unfavorable factor by a written indication of their score weight when the factor is present; a zero score is required when the unfavorable factor is not present. The accumulation of unfavorable factors increases the likelihood that an offender will be refused parole when considered in relation to the level of parole risk of recidivism which was previously established in the parole prognosis assessment.

Most unfavorable factors are weighted as '1' which means that there presence alone makes the inmate a less suitable parole candidate. Several unfavorable factors have an assigned weight of '2' and one factor, very high assaultive behavior potential, has an assigned weight of '3' in the parole consideration unfavorable factor checklist. These are viewed as more serious reasons for parole refusal and consequently are given additional weight in the parole evaluation process.

In conclusion, an inmate is evaluated in terms of his parole prognosis risk and the sum of the the relative unfavorable factors which may justify a parole refusal. The consistent application of these information is a statement of prescribed parole policy. Each unfavorable factor is based upon reference criteria to facilitate a standardized assessment. Reference definitions are found below the 'Reasons for Parole Refusal' table. The policy application of unfavorable factors asserts that offenders with these characteristics do not have an equal opportunity for parole at their minimum sentence date in comparison with those who lack these negative characteristics if all other things are equal. Conditional release on parole is predicated on selective release in order to best serve the interests of society that corrections is meaningful and future harm is minimized.

Each unfavorable factor has had importance in past parole decisions and are therefore elements of prescribed Board decision making policy. Consider for a moment, the role of each factor in the decision making equation. The first subset, unfavorable factors for institutional performance, represent explicit policy regarding the importance of institutional adjustment to the parole decision. The purpose of this policy factor is to recognize the judicial intent of sentencing, punishment and incapacitation, and to support the management of prisons. Absent the reward or retraction of an imprisonment good time policy in Pennsylvania, parole plays a special role in influencing prison behavior. There is no relationship, either implied or intended, between the inmate's institutional behavior and future parole behavior in this policy statement. Class I and II misconducts are groupings defined by the Department of Corrections. The second subset of unfavorable factors, namely those involving prior record, are intended to represent a clear sanction to those who are prone to crime because of either drug dependency or a chosen life of crime as indicated by their habitual behavior. A criterion referenced definition of substance abuse and habitual offender is found on the bottom of the page.

A final subset of unfavorable factors from the offender's instant offense reflect an important sanctioning authority embodied in the parole decision. The unfavorable factor of assaultive behavior potential is derived from the secondary risk assessment on the bottom of the guideline's first page. It is a policy sanction which targets on the seriousness of a future offense in terms of probable violence or dangerousness. Lastly, the final two unfavorable factors focus on offenders who are involved in violent crime where the victim was injured and/or those who used a weapon. Criterion referenced definitions are located on the bottom of page 2. These policy factors are intended to selectively incapacitate offenders who pose a special threat to other people in the community rather than property. In sum, assaultive potential, physical injury to victims and dangerous weapons, all are testimony that these offenders are not considered equal candidates for parole at their minimum sentence date in comparison with those whose crime lacked these attributes if all other things are equal.

Section IV: Countervailing Factors to Explicit Policy of Parole Decision Making Guidelines

Policy is expected to reflect decision making practice in approximately eighty percent of the decisions rendered. This means that there are some cases which may be exceptions to policy because of particular circumstances which are not encompassed in the guideline policy screen. Parole interviewers depart from policy in making a decision but they are required to provide written justification for an exception. The parole guidelines seek to document the countervailing reasons for departures from guideline expectations on Page 3.

There are two categories of reasons which justify policy exceptions: 1) factors which countervail a guideline recommendation to refuse parole, and 2) factors which countervail a guideline recommendation to grant parole. Some of the reasons to countervail a policy decision are explicitly referenced on the guideline form because they are frequent reasons for a policy expection. For example, if an inmate participated in prison programming and demonstrably benefited from this effort, then he or she may warrant special consideration even if other factors recommend parole refusal. The effect of the countervailing statement is to justify departing from a parole refusal decision which has been based upon past criminal behavior. Documentation of specific program benefits is required, although there are currently no objective standards for the number or quality of prison programming which is expected to counterbalance a given level of parole risk or parole suitability.

The countervailing factors are intended to be information for the decision maker only. They are not intended to be communicated in the final Board action statement as the basis for a refuse decision although they may provide source information. The guideline document has made special provision for the decision maker to supply appropriate reasons for a decision, particulary when it involves a denial of parole. Section VI documents reasons for parole refusal and establishes a future review date.

Section V: Final Decision Making Analysis: Policy Standards for Justice in the Guideline Decision Rules

The basic tenent of parole guidelines is that similar offenders will receive similar dispositions. This means that equity and fairness are as important to parole policy as effectiveness in determining which inmates need further imcapacitation. An effective parole policy keeps the right inmates in prison to protect people from harm; a fair and equitable policy ensures that all inmates are treated the same regardless of economic class, race or nationality. The Guidelines' Parole Prognosis Assessment on Page 1 and the Parole Consideration Factors on Page 2 provide structure for discretion in making risk assessments and apply standard criteria for parole refusal to insure equitable and uniform policy and procedures. The decision process in the guidelines flows with a simple but effective logic. The parole prognosis classification identifies similar offenders and standardizes risk of recidivism assessment. The risk class is then related to the unfavorable factors checklist which recognizes that there is a range of offender characteristics that warrant special santion if parole is to be a meaningful form of conditional liberty. As a matter of policy, the guidelines explicitly state that failure to abide by prison rules and regulations, past substance

abuse and/or habitual criminal behavior, or a particularly violent previous crime for which the offender is being considered for parole, support a need for further incarceration beyond the minimum sentence date for selected offenders. However, unfavorable factors will vary from case to case. In order to allow for the presence of a variable mix of unfavorable factors from case to case in relation to a standard assessment of parole risk, a quantitative decision rule was created on page 2 on the guideline form. This decision rule is found on the bottom of the unfavorable factors check list in Section III.

In view of the risk management objective of parole, a quantitative decision rule was necessary to assess parole for each risk of recidivism group in the classification. The accumulation of different sets of unfavorable factors compared with a threshold cutoff level provides a clear and consistent decision method which justifies a refusal of parole as a matter of policy. This approach to decision making is similar to a preponderance of evidence criteria in an adjudicatory process. An empirical analysis of decision making practices revealed that a decision threshold which justifies a parole refusal was reached when unfavorable factors accumulated to a factor weight of five or more for high risk clientele; lower risk clientele tolerated higher factor weights for unfavorable factors before parole denial is justified. The decision rule for parole refusal was established as a factor weight of six or more for a medium risk parole prognosis and a factor weight of seven or more for a low risk parole prognosis.

Since the parole guidelines prescribes a decision based upon the accumulation of evidence against parole, the decision maker must decide whether he concurs with policy, or wishes to make an exception to policy, using the final decision making table on Page 4 of the guidelines. This table requires that the decision maker select the appropriate policy recommended decision column, either parole or refuse based upon the outcome of page 2, and then indicate his or her individual decision choice in the appropriate row for Board decisions. There are four general types of Board decisions available: a continue action, a parole release action, a parole to detainer action, and a refuse parole action. Under each decision category, special information relevant to that category is collected, such as, the type of detainer imposed when the inmate is paroled to a detainer sentence.

The burdens of prison overcrowding has created special problems for the administration of parole as well as prisons. Parole decision making attempts to relieve some of the prison population pressures by taking inmates who are refused parole according to standard policy considerations but can be managed effectively in the community at higher levels of supervision custody and control than is normally afforded. Inmates who meet these extraordinary parole consideratons are classified as Special Early Release Program participants, or SERP in the guideline table, and are provided special intensive supervision in caseloads which mandate frequent contact, curfews and routine urinalysis if warranted. These emergency measures have increased the size of the community supervision population and decrease prison population..

Sometimes additional information is available in a case that is important but not highlighted in the standardized portion of the guidelines. Space has been provided for the decision maker to make notes regarding a case which are relevant to the decision outcome. Thus, although discretion is structured in the decision making guideline format, the decision maker must still make their own judgments on individual cases. This feature of decision making guidelines underscores the reality that the structuring of discretion does not eliminate it; the burden of the decision remains with the decision maker to evaluate the merit of each case.

Section VI: Special Conditions of Parole

The imposition of special conditions for supervision offers a means of mandating specific requirements on quality and/or quantity of supervision for high risk parolees, as well as, an alternative means of countervailing a guidelines recommendation to refuse parole. However, the imposition of special conditions for supervision is not limited to clients who are in these two decision making groups. Any release decision may be predicated on special conditions. Page 5 of the guidelines provides an opportunity for the Board to specify special conditions of supervision beyond the general conditions of parole. The assignment of a special condition represents a mandate for supervision and a legal framework to evaluate conditional release.

Section VII: Reason for Parole Refusal and Review Date

If the decision is made to refuse parole to an inmate, reasons for the refusal of parole are documented on page 6 of the guidelines regardless of whether the decision conforms with policy. In addition, a date is set to review the case for parole reconsideration with programmatic instructions being provided to the inmate to accomplish prior to the next review date.

Section VIII: Panel Members Concurrence

The parole decision requires the concurrence of a Board panel. Two panel members must concur for a decision to be made; page 6 provides documentation of Board member concurrence. If the parole interviewer is not a Board member, one Board member must concur in writing to authorize any action on the case. The agreement or disagreement judgment made by each panel member is a decision making position relative to the preceding response or decision on the form.

Section IX: Special Conditions of Parole and the Parole Plan:

The purpose of the Parole Plan Checklist on page 7 of the guideline instrument is to provide accurate information to the parole interviewer regarding the status of the inmate's parole plan. A parole plan must be investigated in the community to determine the adequacy of residence and the availability of employment or an acceptable alternative. The parole plan must be approved prior to the release of an offender. Although release from an institution is contingent upon approval of a parole plan, rendering a parole decision may not be. In some instances a parole plan may not be completed by the parole interview date. The Parole Board may render a parole decision subject to approval of a parole plan which is delegated to an institutional parole representative. Alternatively, the Board may continue a case until a parole plan is available.

CONCLUSION

The Board monitors its decision making activity with routine feedback on decision making practices. Parole policy seeks to provide an effective means of managing risk to the community while remaining adaptive to emerging conditions and values in society. As a practice evolves, it is evaluated and if deemed appropriate, modifications are made to policy. The existance of a clearly defined and explicit policy for decision making means that there is a navigational fix on where the Commonwealth is a any point in time in relation to the needs of the criminal justice system. The role of discretionary parole in the Commonwealth has meaning only in context of the other participants and their uniquely defined roles in the system. It may be observed that the kinds of decisions that are made in a state will not change significantly; variation exists only in how and who makes the decisions. The availability of explicit policy for parole in Pennsylvania provides a means of testing and evaluating relationships when those governing seek to find ways to change its criminal justice system in response to changing conditions in society. These guidelines have been revised four times since inception as explicit policy for decision making. In this way, policy remains adaptable and relevant to changing conditions.

B

Respondents' second argument is that the Nebraska statutory language itself creates a protectible expectation of parole. They rely on the section which provides in part:

"Whenever the Board of Parole considers the release of a committed offender who is eligible for release on parole, it shall order his release unless it is of the opinion that his release should be deferred because:

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

"(b) His release would depreciate the seriousness of his crime or promote disrespect for law;

"(c) His release would have a substantially adverse effect on institutional discipline; or

"(d) His continued correctional treatment, medical care, or vocational or other training in the facility will substantially enhance his capacity to lead a law-abiding life when released at a later date." Neb.Rev.Stat. § 83–1,114(1) (1976).[5]

Respondents emphasize that the structure of the provision together with the use of the word "shall" binds the Board of Parole to release an inmate unless any one of the four specifically designated reasons are found. In their view, the statute creates a presumption that parole release will be granted, and that this in turn creates a legitimate expectation of release absent the requisite finding that one of the justifications for deferral exists.

It is argued that the Nebraska parole-determination provision is similar to the Nebraska statute involved in *Wolff v. McDonnell*, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974), that granted good-time credits to inmates. There we held that due process protected the inmates from the arbitrary loss of the statutory right to credits because they were provided subject only to good behavior. We held that the statute created a liberty interest protected by due process guarantees. The Board argues in response that a presumption would be created only if the statutory conditions for deferral were essentially factual, as in *Wolff* and *Morrissey*, rather than predictive.

Since respondents elected to litigate their due process claim in federal court, we are denied the benefit of the Nebraska courts' interpretation of the scope of the interest, if any, the statute was intended to afford to inmates. See *Bishop v. Wood*, 426 U.S. 341, 345, 96 S.Ct. 2074, 2077, 48 L.Ed.2d 684 (1976). We can accept respondents' view that the expectancy of release provided in this statute is entitled to some measure of constitutional protection. However, we emphasize that this statute has unique structure and language and thus whether any other state statute provides a protectible entitlement must be decided on a case-by-case basis. We therefore turn to an examination of the statutory procedures to determine whether they provide the process that is due in these circumstances.

It is axiomatic that due process "is flexible and calls for such procedural protections as the particular situation demands." *Morrissey v. Brewer*, 408 U.S., at 481, 92 S.Ct., at 2600; *Cafeteria & Restaurant Workers v. McElroy*, 367 U.S. 886, 895, 81 S.Ct. 1743, 1748, 6 L.Ed.2d 1230 (1961); *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 162–163, 71 S.Ct. 624, 643, 95 L.Ed. 817 (1951) (Frankfurter, J., concurring). The function of legal process, as that concept is embodied in the Constitution, and in the realm of factfinding, is to minimize the risk of erroneous decisions. Because of the broad spectrum of concerns to which the term must apply, flexibility is necessary to gear the process to the particular need; the quantum and quality of the process due in a particular situation depend upon the need to serve the purpose of minimizing the risk of error. *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 903, 47 L.Ed.2d 18 (1976).

5. The statute also provides a list of 14 explicit factors and one catchall factor that the Board is obligated to consider in reaching a decision. Neb.Rev.Stat. §§ 83–1,114(2)(a)–(n) (1976) See Appendix to this opinion.

F

AN ANALYSIS OF PENNSYLVANIA'S CRIME RATE INDEX

AS COMPARED TO

DETERMINATE SENTENCING STATES*

- Pennsylvania is the fifth (5th) highest state in terms of population, however, ranks fifth (5th) lowest in rate of crimes per 100,000 inhabitants.

- Pennsylvania's crime index rate per 100,000 inhabitants is lower than any other of the determinate sentencing states.

- Pennsylvania has a lower rate of violent crime than all determinate sentencing states with the exception of Maine and Minnesota.

- Five (5) of the determinate sentencing states (Florida, Arizona, California, New Mexico and Washington) are among **the seven (7) highest in rate of crime per 100,000 inhabitants**.

* **Source:**

FBI Uniform Crime Report (1989)

Imprisonment Ranking for Determinate vs. Indeterminate States

Rank of Imprisonment per 100,000	State	Indeterminate	Determinate
9	Alabama	X	
3	Alaska	X	
8	Arizona		X
25	Arkansas	X	
18	California		X
43	Colorado		X
20	Connecticut		X
4	Delaware	X	
1	District of Columbia	X	
13	Florida	X	
11	Georgia	X	
24	Hawaii	X	
36	Idaho	X	
31	Illinois		X
27	Indiana		X
47	Iowa	X	
19	Kansas	X	
30	Kentucky	X	
6	Louisiana	X	
44	Maine		X
7	Maryland	X	
46	Massachusetts	X	
16	Michigan	X	
51	Minnesota		X
23	Missouri	X	
14	Mississippi	X	
23	Montana	X	
41	Nebraska	X	
2	Nevada	X	
48	New Hampshire	X	
32	New Jersey		X
26	New Mexico		X
21	New York	X	
12	North Carolina		X (presumptive)
50	North Dakota	X	
22	Ohio		X
10	Oklahoma	X	
28	Oregon	X	
39	Pennsylvania		X
37	Rhode Island	X	
5	South Carolina	X	
35	South Dakota	X	
33	Tennessee		X
15	Texas	X	
45	Utah	X	
40	Vermont	X	
17	Virginia	X	
34	Washington		X
49	West Virginia	X	
42	Wisconsin	X	
29	Wyoming	X	

Of the 15 states with determinate sentencing structures, 10 rank in the bottom half of the nation's per capita imprisonment rankings. So, the overwhelming majority of those states operating with determinate sentencing fall below the national norm in terms of incarceration when compared to states with indeterminate sentencing.

Source: August 1985 N.I.J. Issues and Practices Report, and 1986 N.C.C.D. publication, "Focus: Rating the Nation's Most Punitive States."

1989 FBI UNIFORM CRIME REPORT

STATE	YEAR	CRIME INDE	
WEST VIRGINIA		2362.8	
NORTH DAKOTA		2560.9	
SOUTH DAKOTA		2685.2	
PUERTO RICO		3277	
KENTUCKY		3317.1	
PENNSYLVANIA		3360.4	
MISSISSIPPI		3515.3	
MAINE	1976	3583.6	
NEW HAMPSHIRE		3596.2	
WYOMING		3889.1	
IDAHO		3931	
MONTANA		3997.5	
IOWA		4081.4	
VERMONT		4088.5	
NEBRASKA		4091.6	
WISCONSIN		4164.8	
VIRGINIA		4211.4	
MINNESOTA	1980	4383.2	
INDIANA	1977	4440	
TENNESSEE		4513.6	
ARKANSAS		4555.7	
ALABAMA		4628.8	
OHIO		4733.2	
ALASKA		4779.9	
DELAWARE	1990	4865.2	
KANSAS		4982.8	
MISSOURI		5127.1	
MASSACHUSETTS		5136	
RHODE ISLAND		5224.8	
NORTH CAROLINA	1981	5253.8	
NEW JERSEY		5269.4	
CONNECTICUT	1981	5270	
OKLAHOMA		5502.6	
MARYLAND		5562.6	
SOUTH CAROLINA		5619.2	
ILLINOIS	1978	5639.7	
UTAH		5682.1	
MICHIGAN		5968.3	
COLORADO	1979	6039.4	
OREGON		6161.1	
LOUISIANA		6241.3	
HAWAII		6270.4	
NEVADA		6271.7	
NEW YORK	(1983)*	6293.2	*attempted
NEW MEXICO	1979	6573.8	
WASHINGTON	1983	6593.8	
CALIFORNIA	1976	6763.4	
GEORGIA		7073.1	
TEXAS		7926.9	
ARIZONA	1978	8059.7	
FLORIDA	1983	8804.5	
DISTRICT OF COLUMBIA		10293.4	

COMMENT: This is the 1989 crime index for the USA. It is crime per 100,000 population. The states are ranked in ascending index order. The YEAR column is the determinate sentencing start date. It is noteworthy that Pennsylvania is in the top ten lowest states; among the ten highest crime rate states, five have determinate sentencing. In fact, determinate sentencing is associated with higher crime rates for some reason.

Table 5.—Index of Crime, State, 1989

Area	Population	Crime Index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft
ALABAMA												
Metropolitan Statistical Area	2,780,013											
Area actually reporting	99.0%	152,119		19,342	132,777	314	1,015	4,990	13,023	37,193	84,934	10,65
Estimated totals	100.0%	153,774		19,543	134,231	316	1,022	5,034	13,171	37,559	85,927	10,74
Other Cities	556,220											
Area actually reporting	95.0%	27,206		3,668	23,538	43	152	371	3,102	5,825	16,774	93
Estimated totals	100.0%	28,625		3,859	24,766	45	160	390	3,264	6,129	17,649	98
Rural	781,767											
Area actually reporting	81.2%	6,637		753	5,884	49	76	74	554	2,871	2,594	41
Estimated totals	100.0%	8,174		927	7,247	60	94	91	682	3,536	3,195	51
State Total	4,118,000	190,573		24,329	166,244	421	1,276	5,515	17,117	47,224	106,771	12,24
Rate per 100,000 inhabitants		4,627.8		590.8	4,037.0	10.2	31.0	133.9	415.7	1,146.8	2,592.8	297.
ALASKA												
Metropolitan Statistical Area	223,363											
Area actually reporting	100.0%	12,216		1,131	11,085	11	139	272	709	1,708	8,219	1,15
Other Cities	174,486											
Area actually reporting	86.0%	7,198		664	6,534	8	54	56	546	1,100	4,727	70
Estimated totals	100.0%	8,372		772	7,600	9	63	65	635	1,280	5,498	82
Rural	129,151											
Area actually reporting	100.0%	4,602		720	3,882	22	77	19	602	1,370	2,094	41
State Total	527,000	25,190		2,623	22,567	42	279	356	1,946	4,358	15,811	2,39
Rate per 100,000 inhabitants		4,779.9		497.7	4,282.2	8.0	52.9	67.6	369.3	826.9	3,000.2	455.
ARIZONA												
Metropolitan Statistical Area	2,718,009											
Area actually reporting	100.0%	244,299		17,632	226,667	190	1,100	4,570	11,772	50,061	154,558	22,04
Other Cities	459,072											
Area actually reporting	97.4%	32,505		2,466	30,039	20	119	317	2,010	6,222	22,042	1,77
Estimated totals	100.0%	33,382		2,533	30,849	21	122	326	2,064	6,390	22,636	1,82
Rural	378,919											
Area actually reporting	90.9%	8,108		1,050	7,058	24	58	44	924	2,574	3,980	50
Estimated totals	100.0%	8,923		1,155	7,768	26	64	48	1,017	2,833	4,380	55
State Total	3,556,000	286,604		21,320	265,284	237	1,286	4,944	14,853	59,284	181,574	24,42
Rate per 100,000 inhabitants		8,059.7		599.6	7,460.2	6.7	36.2	139.0	417.7	1,667.2	5,106.1	686.
ARKANSAS												
Metropolitan Statistical Area	954,548											
Area actually reporting	100.0%	68,230		7,928	60,302	112	622	2,122	5,072	16,940	39,058	4,30
Other Cities	568,287											
Area actually reporting	99.4%	29,521		2,517	27,004	35	164	463	1,855	7,160	18,503	1,34
Estimated totals	100.0%	29,713		2,533	27,180	35	165	466	1,867	7,207	18,623	1,35
Rural	883,165											
Area actually reporting	100.0%	11,667		936	10,731	56	137	72	671	4,591	5,403	737
State Total	2,406,000	109,610		11,397	98,213	203	924	2,660	7,610	28,738	63,084	6,391
Rate per 100,000 inhabitants		4,555.7		473.7	4,082.0	8.4	38.4	110.6	316.3	1,194.4	2,621.9	265.6
CALIFORNIA												
Metropolitan Statistical Area	27,808,040											
Area actually reporting	100.0%	1,910,278		278,637	1,631,641	3,095	11,556	95,819	168,167	395,995	940,416	295,230
Other Cities	516,727											
Area actually reporting	99.6%	33,258		2,782	30,476	26	188	424	2,144	7,212	21,327	1,937
Estimated totals	100.0%	33,379		2,793	30,586	26	189	426	2,152	7,238	21,404	1,944
Rural	738,233											
Area actually reporting	95.8%	21,062		2,591	18,471	35	212	178	2,166	6,928	10,326	1,217
Estimated totals	100.0%	21,995		2,706	19,289	37	221	186	2,262	7,235	10,783	1,271
State Total	29,063,000	1,965,652		284,136	1,681,516	3,158	11,966	96,431	172,581	410,468	972,603	298,445
Rate per 100,000 inhabitants		6,763.4		977.7	5,785.8	10.9	41.2	331.8	593.8	1,412.3	3,346.5	1,026.9

See footnotes at end of table.

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* Determinate Sentencing State

** Determinate Sentencing State (until recently)

Table 5.—Index of Crime, State, 1989—Continued

Area	Population	Crime Index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft
COLORADO												
Metropolitan Statistical Area	2,703,021											
Area actually reporting	100.0%	171,351		13,990	157,361	117	1,125	2,888	9,860	36,462	107,191	13,708
Other Cities	292,149											
Area actually reporting	99.7%	19,027		926	18,101	13	45	72	796	2,937	14,464	700
Estimated totals	100.0%	19,085		928	18,157	13	45	72	798	2,946	14,509	702
Rural	321,830											
Area actually reporting	100.0%	9,892		718	9,174	16	32	24	646	2,067	6,495	612
State Total	3,317,000	200,328		15,636	184,692	146	1,202	2,984	11,304	41,475	128,195	15,022
Rate per 100,000 inhabitants		6,039.4		471.4	5,568.0	4.4	36.2	90.0	340.8	1,250.4	3,864.8	452.9
CONNECTICUT												
Metropolitan Statistical Area	2,968,529											
Area actually reporting	100.0%	163,067		15,883	147,184	183	830	6,863	8,007	37,913	87,278	21,993
Other Cities	87,903											
Area actually reporting	100.0%	3,673		171	3,502	1	29	40	101	746	2,485	271
Rural	182,568											
Area actually reporting	100.0%	3,955		522	3,433	6	33	53	430	1,376	1,720	337
State Total	3,239,000	170,695		16,576	154,119	190	892	6,956	8,538	40,035	91,483	22,601
Rate per 100,000 inhabitants		5,270.0		511.8	4,758.2	5.9	27.5	214.8	263.6	1,236.0	2,824.4	697.8
DELAWARE												
Metropolitan Statistical Area	443,807											
Area actually reporting	100.0%	22,671		2,342	20,329	24	314	733	1,271	4,162	13,935	2,232
Other Cities	70,708											
Area actually reporting	100.0%	5,391		566	4,825	.....	64	132	370	717	3,904	204
Rural	158,485											
Area actually reporting	100.0%	4,681		837	3,844	10	191	69	567	1,193	2,455	196
State Total	673,000	32,743		3,745	28,998	34	569	934	2,208	6,072	20,294	2,632
Rate per 100,000 inhabitants		4,865.2		556.5	4,308.8	5.1	84.5	138.8	328.1	902.2	3,015.5	391.1
DISTRICT OF COLUMBIA[4]												
Metropolitan Statistical Area	604,000											
Area actually reporting	100.0%	62,172		12,937	49,235	434	186	6,542	5,775	11,780	29,164	8,291
Other Cities	NONE											
Rural	NONE											
State Total	604,000	62,172		12,937	49,235	434	186	6,542	5,775	11,780	29,164	8,291
Rate per 100,000 inhabitants		10,293.4		2,141.9	8,151.5	71.9	30.8	1,083.1	956.1	1,950.3	4,828.5	1,372.7
FLORIDA												
Metropolitan Statistical Area	11,495,723											
Area actually reporting	100.0%	1,061,917		133,707	928,210	1,314	5,841	50,054	76,498	272,649	556,465	99,096
Other Cities	313,068											
Area actually reporting	100.0%	22,224		2,760	19,464	20	116	645	1,979	5,869	12,525	1,070
Rural	862,209											
Area actually reporting	100.0%	31,476		4,108	27,368	71	342	489	3,206	10,736	14,712	1,920
State Total	12,671,000	1,115,617		140,575	975,042	1,405	6,299	51,188	81,683	289,254	583,702	102,086
Rate per 100,000 inhabitants		8,804.5		1,109.4	7,695.1	11.1	49.7	404.0	644.6	2,282.8	4,606.6	805.7
GEORGIA												
Metropolitan Statistical Area	4,174,661											
Area actually reporting	99.3%	353,104		36,413	316,691	585	2,349	15,041	18,438	80,988	199,605	36,098
Estimated totals	100.0%	355,498		36,616	318,882	587	2,363	15,121	18,545	81,500	201,072	36,310
Other Cities	894,944											
Area actually reporting	94.1%	54,709		6,090	48,619	108	302	1,589	4,091	13,402	32,617	2,600
Estimated totals	100.0%	58,115		6,470	51,645	115	321	1,688	4,346	14,236	34,647	2,762
Rural	1,366,395											
Area actually reporting	98.3%	40,924		4,200	36,724	116	458	630	2,996	14,240	19,531	2,953
Estimated totals	100.0%	41,612		4,271	37,341	118	466	641	3,046	14,479	19,859	3,003
State Total	6,436,000	455,225		47,357	407,868	820	3,150	17,450	25,937	110,215	255,578	42,075
Rate per 100,000 inhabitants		7,073.1		735.8	6,337.3	12.7	48.9	271.1	403.0	1,712.5	3,971.1	653.7

Footnotes at end of table.

Table 5.—Index of Crime, State, 1989—Continued

Area	Population	Crime Index total	Modified Crime Index total[3]	Violent crime[2]	Property crime[1]	Murder and non-negligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson
HAWAII													
Metropolitan Statistical Area	848,959												
Area actually reporting	100.0%	52,909		2,297	50,612	43	412	815	1,027	10,685	36,325	3,602	
Other Cities	37,054												
Area actually reporting	100.0%	3,061		114	2,947	2	19	27	66	653	2,184	110	
Rural	225,987												
Area actually reporting	100.0%	13,757		593	13,164	8	65	83	437	3,601	8,865	698	
State Total	1,112,000	69,727		3,004	66,723	53	496	925	1,530	14,939	47,374	4,410	
Rate per 100,000 inhabitants		6,270.4		270.1	6,000.3	4.8	44.6	83.2	137.6	1,343.4	4,260.3	396.6	
IDAHO													
Metropolitan Statistical Area	202,940												
Area actually reporting	100.0%	9,133		652	8,481	1	66	50	535	2,281	5,829	371	
Other Cities	398,678												
Area actually reporting	99.0%	21,809		1,202	20,607	11	96	80	1,015	3,893	15,961	753	
Estimated totals	100.0%	22,023		1,214	20,809	11	97	81	1,025	3,931	16,118	760	
Rural	412,382												
Area actually reporting	97.4%	8,479		697	7,782	14	71	20	592	2,563	4,752	467	
Estimated totals	100.0%	8,704		716	7,988	14	73	21	608	2,631	4,878	479	
State Total	1,014,000	39,860		2,582	37,278	26	236	152	2,168	8,843	26,825	1,610	
Rate per 100,000 inhabitants		3,931.0		254.6	3,676.3	2.6	23.3	15.0	213.8	872.1	2,645.5	158.8	
ILLINOIS[5]													
Metropolitan Statistical Area	9,590,182												
Area actually reporting	99.8%				507,459	1,023		38,697	52,132	112,916	325,600	68,943	
Estimated totals	100.0%				508,117	1,023		38,715	52,161	113,045	326,068	69,004	
Other Cities	1,040,914												
Area actually reporting	98.3%				37,561	20		364	1,591	7,611	28,712	1,238	
Estimated totals	100.0%				38,197	20		370	1,618	7,740	29,198	1,259	
Rural	1,026,904												
Area actually reporting	100.0%				12,489	8		53	482	4,656	7,290	543	
State Total	11,658,000	657,414		98,611	558,803	1,051	4,161	39,138	54,261	125,441	362,556	70,806	
Rate per 100,000 inhabitants	5,639.2	→ ?		845.9	4,793.3	9.0	35.7	335.7	465.4	1,076.0	3,109.9	607.4	
INDIANA													
Metropolitan Statistical Area	3,809,116												
Area actually reporting	84.1%	175,757		17,239	158,518	234	1,374	4,908	10,723	38,329	102,988	17,201	
Estimated totals	100.0%	198,384		18,579	179,805	261	1,502	5,239	11,577	43,243	117,393	19,169	
Other Cities	625,193												
Area actually reporting	72.8%	22,160		1,503	20,657	11	78	202	1,212	3,608	16,077	972	
Estimated totals	100.0%	30,420		2,063	28,357	15	107	277	1,664	4,953	22,070	1,334	
Rural	1,158,691												
Area actually reporting	45.6%	8,908		955	7,953	35	89	71	760	2,740	4,586	627	
Estimated totals	100.0%	19,523		2,093	17,430	77	195	155	1,666	6,005	10,051	1,374	
State Total	5,593,000	248,327		22,735	225,592	353	1,804	5,671	14,907	54,201	149,514	21,877	
Rate per 100,000 inhabitants		4,440.0		406.5	4,033.5	6.3	32.3	101.4	266.5	969.1	2,673.2	391.1	
IOWA													
Metropolitan Statistical Area	1,233,177												
Area actually reporting	100.0%	74,223		5,399	68,824	41	363	973	4,022	14,814	51,106	2,904	
Other Cities	664,509												
Area actually reporting	100.0%	28,635		1,555	27,080	7	73	107	1,368	4,967	21,080	1,033	
Rural	942,314												
Area actually reporting	98.1%	12,811		598	12,213	6	23	27	542	4,191	7,473	549	
Estimated totals	100.0%	13,054		609	12,445	6	23	28	552	4,271	7,615	559	
State Total	2,840,000	115,912		7,563	108,349	54	459	1,108	5,942	24,052	79,801	4,496	
Rate per 100,000 inhabitants		4,081.4		266.3	3,815.1	1.9	16.2	39.0	209.2	846.9	2,809.9	158.3	

See footnotes at end of table.

Table 5.—Index of Crime, State, 1989—Continued

Area	Population	Crime Index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson[4]
KANSAS													
Metropolitan Statistical Area	1,343,974			7,641	79,482	105	673	2,319	4,544	20,505	52,857	6,120	
Area actually reporting	100.0%	87,123											
Other Cities	679,069			1,886	28,850	21	185	154	1,526	6,707	21,134	1,009	
Area actually reporting	100.0%	30,736											
Rural	489,957			546	6,814	12	59	35	440	2,659	3,811	344	
Area actually reporting	100.0%	7,360											
State Total	2,513,000	125,219		10,073	115,146	138	917	2,508	6,510	29,871	77,802	7,473	
Rate per 100,000 inhabitants		4,982.8		400.8	4,582.0	5.5	36.5	99.8	259.1	1,188.7	3,096.0	297.4	
KENTUCKY													
Metropolitan Statistical Area	1,718,964			7,770	72,442	102	520	2,363	4,785	18,399	48,905	5,138	
Area actually reporting	97.6%	80,212		7,888	73,818	104	530	2,389	4,865	18,726	49,874	5,218	
Estimated totals	100.0%	81,706											
Other Cities	608,300			2,048	19,139	16	103	205	1,724	4,446	13,531	1,162	
Area actually reporting	97.7%	21,187		2,095	19,582	16	105	210	1,764	4,549	13,844	1,189	
Estimated totals	100.0%	21,677											
Rural	1,399,736			2,379	12,135	124	202	170	1,883	5,198	5,658	1,279	
Area actually reporting	71.7%	14,514		3,319	16,928	173	282	237	2,627	7,251	7,893	1,784	
Estimated totals	100.0%	20,247		13,302	110,328	293	917	2,836	9,256	30,526	71,611	8,191	
State Total	3,727,000	123,630											
Rate per 100,000 inhabitants		3,317.1		356.9	2,960.2	7.9	24.6	76.1	248.3	819.1	1,921.4	219.8	
LOUISIANA													
Metropolitan Statistical Area	3,032,676			28,289	194,479	508	1,308	9,608	16,865	51,662	121,867	20,950	
Area actually reporting	93.8%	222,768		29,341	204,788	521	1,370	9,878	17,572	54,178	128,949	21,661	
Estimated totals	100.0%	234,129											
Other Cities	476,517			1,288	10,717	35	48	201	1,004	2,854	7,580	283	
Area actually reporting	54.7%	12,005		2,357	19,605	64	88	368	1,837	5,221	13,866	518	
Estimated totals	100.0%	21,962											
Rural	872,807			1,390	8,059	37	118	82	1,153	2,598	5,101	360	
Area actually reporting	54.3%	9,449		2,559	14,842	68	217	151	2,123	4,785	9,394	663	
Estimated totals	100.0%	17,401		34,257	239,235	653	1,675	10,397	21,532	64,184	152,209	22,842	
State Total	4,382,000	273,492											
Rate per 100,000 inhabitants		6,241.3		781.8	5,459.5	14.9	38.2	237.3	491.4	1,464.7	3,473.5	521.3	
MAINE													
Metropolitan Statistical Area	451,971			899	21,761	15	91	227	566	4,823	15,669	1,269	
Area actually reporting	100.0%	22,660											
Other Cities	417,450			463	14,869	14	76	50	323	2,665	11,584	620	
Area actually reporting	99.8%	15,332		464	14,907	14	76	50	324	2,672	11,613	622	
Estimated totals	100.0%	15,371											
Rural	352,579			313	5,448	10	62	16	225	2,315	2,785	348	
Area actually reporting	100.0%	5,761		1,676	42,116	39	229	293	1,115	9,810	30,067	2,239	
State Total	1,222,000	43,792											
Rate per 100,000 inhabitants		3,583.6		137.2	3,446.5	3.2	18.7	24.0	91.2	802.8	2,460.5	183.2	
MARYLAND													
Metropolitan Statistical Area	4,362,705			37,970	208,340	516	1,637	15,296	20,521	49,218	128,604	30,518	
Area actually reporting	99.9%	246,310		37,986	208,480	516	1,637	15,301	20,532	49,248	128,701	30,531	
Estimated totals	100.0%	246,466											
Other Cities	85,331			1,007	7,104	7	56	169	775	1,557	5,258	289	
Area actually reporting	100.0%	8,111											
Rural	245,964			1,159	5,371	21	90	119	929	1,930	3,084	357	
Area actually reporting	100.0%	6,530		40,152	220,955	544	1,783	15,589	22,236	52,735	137,043	31,177	
State Total	4,694,000	261,107											
Rate per 100,000 inhabitants		5,562.6		855.4	4,707.2	11.6	38.0	332.1	473.7	1,123.5	2,919.5	664.2	

Footnotes at end of table.

Table 5.—Index of Crime, State, 1989—Continued

Area	Population	Crime Index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent man-slaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft
MASSACHUSETTS												
Metropolitan Statistical Area	5,387,583											
Area actually reporting	85.8%	254,617		34,878	219,739	180	1,612	11,241	21,845	51,572	120,234	47,933
Estimated totals	100.0%	281,590		37,376	244,214	188	1,733	11,784	23,671	57,368	134,666	52,180
Other Cities	513,580											
Area actually reporting	84.3%	18,535		2,124	16,411	56	123	165	1,780	4,727	10,302	1,382
Estimated totals	100.0%	21,974		2,518	19,456	66	146	196	2,110	5,604	12,214	1,638
Rural	11,837											
Area actually reporting	100.0%	128		18	110	.....	2	.....	16	32	45	33
State Total	5,913,000	303,692		39,912	263,780	254	1,881	11,980	25,797	63,004	146,925	53,851
Rate per 100,000 inhabitants		5,136.0		675.0	4,461.0	4.3	31.8	202.6	436.3	1,065.5	2,484.8	910.7
MICHIGAN												
Metropolitan Statistical Area	7,415,780											
Area actually reporting	96.0%	475,461		60,182	415,279	948	5,168	20,083	33,983	95,213	257,123	62,943
Estimated totals	100.0%	490,669		61,406	429,263	958	5,311	20,367	34,770	97,872	266,802	64,589
Other Cities	691,085											
Area actually reporting	96.3%	28,303		1,482	26,821	9	304	132	1,037	4,172	21,665	984
Estimated totals	100.0%	29,390		1,539	27,851	9	316	137	1,077	4,332	22,497	1,022
Rural	1,166,135											
Area actually reporting	100.0%	33,383		2,815	30,568	26	997	112	1,680	11,375	17,797	1,396
State Total	9,273,000	553,442		65,760	487,682	993	6,624	20,616	37,527	113,579	307,096	67,007
Rate per 100,000 inhabitants		5,968.3		709.2	5,259.2	10.7	71.4	222.3	404.7	1,224.8	3,311.7	722.6
MINNESOTA												
Metropolitan Statistical Area	2,900,021											
Area actually reporting	100.0%	153,144		11,087	142,057	88	1,105	4,037	5,857	31,198	96,554	14,305
Other Cities	513,504											
Area actually reporting	100.0%	22,056		715	21,341	3	112	57	543	2,963	17,206	1,172
Rural	939,475											
Area actually reporting	100.0%	15,601		747	14,854	20	146	34	547	4,881	8,913	1,060
State Total	4,353,000	190,801		12,549	178,252	111	1,363	4,128	6,947	39,042	122,673	16,537
Rate per 100,000 inhabitants		4,383.2		288.3	4,094.9	2.5	31.3	94.8	159.6	896.9	2,818.1	379.9
MISSISSIPPI												
Metropolitan Statistical Area	799,700											
Area actually reporting	75.0%	37,715		3,149	34,566	76	395	1,108	1,570	12,174	20,143	2,249
Estimated totals	100.0%	43,889		3,687	40,202	90	523	1,228	1,846	15,063	22,422	2,717
Other Cities	676,034											
Area actually reporting	77.6%	29,734		2,384	27,350	73	191	517	1,603	8,409	17,820	1,121
Estimated totals	100.0%	38,331		3,074	35,257	94	246	667	2,067	10,840	22,972	1,445
Rural	1,145,266											
Area actually reporting	39.1%	3,880		546	3,334	27	97	62	360	1,610	1,515	209
Estimated totals	100.0%	9,916		1,395	8,521	69	248	158	920	4,115	3,872	534
State Total	2,621,000	92,136		8,156	83,980	253	1,017	2,053	4,833	30,018	49,266	4,696
Rate per 100,000 inhabitants		3,515.3		311.2	3,204.1	9.7	38.8	78.3	184.4	1,145.3	1,879.7	179.2
MISSOURI												
Metropolitan Statistical Area	3,407,591											
Area actually reporting	96.6%	223,226		29,404	193,822	352	1,307	9,754	17,991	48,078	120,565	25,179
Estimated totals	100.0%	227,390		29,728	197,662	354	1,328	9,819	18,227	49,005	123,171	25,486
Other Cities	479,488											
Area actually reporting	88.6%	19,402		1,225	18,177	14	99	128	984	3,345	14,153	679
Estimated totals	100.0%	21,904		1,383	20,521	16	112	144	1,111	3,776	15,978	767
Rural	1,271,921											
Area actually reporting	61.9%	9,419		943	8,476	24	91	60	768	3,599	4,408	469
Estimated totals	100.0%	15,214		1,523	13,691	39	147	97	1,240	5,813	7,120	758
State Total	5,159,000	264,508		32,634	231,874	409	1,587	10,060	20,578	58,594	146,269	27,011
Rate per 100,000 inhabitants		5,127.1		632.6	4,494.6	7.9	30.8	195.0	398.9	1,135.8	2,835.2	523.6

See footnotes at end of table.

Table 5.—Index of Crime, State, 1989—Continued

Area	Population	Crime Index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson[4]
MONTANA													
Metropolitan Statistical Area	194,893												
Area actually reporting	100.0%	11,182		306	10,876	10	71	86	139	1,976	8,294	606	
Other Cities	189,933												
Area actually reporting	83.6%	10,062		257	9,805	3	33	24	197	1,252	8,066	487	
Estimated totals	100.0%	12,033		308	11,725	4	39	29	236	1,497	9,646	582	
Rural	421,174												
Area actually reporting	92.7%	8,347		296	8,051	8	32	20	236	1,949	5,518	584	
Estimated totals	100.0%	9,005		321	8,684	9	35	22	255	2,102	5,952	630	
State Total	806,000	32,220		935	31,285	23	145	137	630	5,575	23,892	1,818	
Rate per 100,000 inhabitants		3,997.5		116.0	3,881.5	2.9	18.0	17.0	78.2	691.7	2,964.3	225.6	
NEBRASKA													
Metropolitan Statistical Area	766,589												
Area actually reporting	100.0%	43,830		3,825	40,005	28	296	778	2,723	8,098	29,745	2,162	
Other Cities	381,022												
Area actually reporting	94.2%	15,092		393	14,699	4	53	42	294	2,303	11,878	518	
Estimated totals	100.0%	16,016		417	15,599	4	56	45	312	2,444	12,605	550	
Rural	463,389												
Area actually reporting	84.8%	5,149		222	4,927	7	25	12	178	1,245	3,438	244	
Estimated totals	100.0%	6,070		261	5,809	8	29	14	210	1,468	4,053	288	
State Total	1,611,000	65,916		4,503	61,413	40	381	837	3,245	12,010	46,403	3,000	
Rate per 100,000 inhabitants		4,091.6		279.5	3,812.1	2.5	23.6	52.0	201.4	745.5	2,880.4	186.2	
NEVADA													
Metropolitan Statistical Area	918,016												
Area actually reporting	94.1%	59,927		6,077	53,850	84	587	2,646	2,760	13,231	34,761	5,858	
Estimated totals	100.0%	62,676		6,297	56,379	86	623	2,696	2,892	13,798	36,556	6,025	
Other Cities	35,212												
Area actually reporting	54.1%	1,129		83	1,046	.....	3	12	68	305	673	68	
Estimated totals	100.0%	2,088		154	1,934	.....	6	22	126	564	1,244	126	
Rural	157,772												
Area actually reporting	72.9%	3,585		362	3,223	4	24	48	286	908	2,105	210	
Estimated totals	100.0%	4,915		496	4,419	5	33	66	392	1,245	2,886	288	
State Total	1,111,000	69,679		6,947	62,732	91	662	2,784	3,410	15,607	40,686	6,439	
Rate per 100,000 inhabitants		6,271.7		625.3	5,646.4	8.2	59.6	250.6	306.9	1,404.8	3,662.1	579.6	
NEW HAMPSHIRE													
Metropolitan Statistical Area	591,059												
Area actually reporting	99.5%	26,219		1,225	24,994	18	198	208	801	5,163	17,741	2,090	
Estimated totals	100.0%	26,334		1,232	25,102	18	199	209	806	5,183	17,821	2,098	
Other Cities	342,832												
Area actually reporting	90.8%	11,230		461	10,769	4	90	42	325	2,291	7,985	493	
Estimated totals	100.0%	12,365		507	11,858	4	99	46	358	2,523	8,792	543	
Rural	173,109												
Area actually reporting	100.0%	1,111		126	985	14	29	9	74	451	474	60	
State Total	1,107,000	39,810		1,865	37,945	36	327	264	1,238	8,157	27,087	2,701	
Rate per 100,000 inhabitants		3,596.2		168.5	3,427.7	3.3	29.5	23.8	111.8	736.9	2,446.9	244.0	
NEW JERSEY													
Metropolitan Statistical Area	7,736,000												
Area actually reporting	99.8%	407,096		47,064	360,032	394	2,446	21,119	23,105	75,447	213,563	71,022	
Estimated totals	100.0%	407,643		47,111	360,532	394	2,449	21,139	23,129	75,548	213,878	71,106	
Other Cities	NONE												
Rural	NONE												
State Total	7,736,000	407,643		47,111	360,532	394	2,449	21,139	23,129	75,548	213,878	71,106	
Rate per 100,000 inhabitants		5,269.4		609.0	4,660.4	5.1	31.7	273.3	299.0	976.6	2,764.7	919.2	

Footnotes at end of table.

Table 5.—Index of Crime, State, 1989—Continued

Area	Population	Crime Index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent man-slaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft
NEW MEXICO												
Metropolitan Statistical Area	745,853			5,259	43,318	50	248	1,134	3,827	12,433	28,014	2,871
Area actually reporting	71.4%	48,577		5,946	53,479	65	352	1,241	4,288	15,889	34,108	3,482
Estimated totals	100.0%	59,425										
Other Cities	491,271			2,748	24,675	29	179	227	2,313	6,108	17,508	1,059
Area actually reporting	86.7%	27,423		3,169	28,459	33	206	262	2,668	7,045	20,193	1,221
Estimated totals	100.0%	31,628										
Rural	290,876			1,011	4,778	21	89	64	837	1,979	2,403	396
Area actually reporting	61.6%	5,789		1,640	7,755	34	144	104	1,358	3,212	3,900	643
Estimated totals	100.0%	9,395		10,755	89,693	132	702	1,607	8,314	26,146	58,201	5,346
State Total	1,528,000	100,448										
Rate per 100,000 inhabitants		6,573.8		703.9	5,870.0	8.6	45.9	105.2	544.1	1,711.1	3,809.0	349.9
NEW YORK												
Metropolitan Statistical Area	16,378,081			199,205	878,946	2,192	4,990	103,584	88,439	198,799	510,927	169,220
Area actually reporting	99.6%	1,078,151		199,388	881,271	2,193	4,999	103,638	88,558	199,277	512,536	169,458
Estimated totals	100.0%	1,080,659										
Other Cities	684,025			1,845	25,353	12	118	260	1,455	4,703	19,852	798
Area actually reporting	97.9%	27,198		1,885	25,897	12	121	266	1,486	4,804	20,278	815
Estimated totals	100.0%	27,782										
Rural	887,894			1,769	19,428	41	122	79	1,527	7,049	11,645	734
Area actually reporting	100.0%	21,197		203,042	926,596	2,246	5,242	103,983	91,571	211,130	544,459	171,007
State Total	17,950,000	1,129,638										
Rate per 100,000 inhabitants		6,293.2		1,131.2	5,162.1	12.5	29.2	579.3	510.1	1,176.2	3,033.2	952.7
NORTH CAROLINA												
Metropolitan Statistical Area	3,640,536			24,404	208,051	323	1,389	6,799	15,893	63,239	131,844	12,968
Area actually reporting	99.2%	232,455		24,616	210,035	325	1,400	6,854	16,037	63,760	133,194	13,081
Estimated totals	100.0%	234,651										
Other Cities	942,631			6,834	55,906	91	253	1,418	5,072	15,672	37,524	2,710
Area actually reporting	93.6%	62,740		7,300	59,715	97	270	1,515	5,418	16,740	40,080	2,895
Estimated totals	100.0%	67,015										
Rural	1,987,833			3,920	38,928	159	289	394	3,078	17,994	18,207	2,727
Area actually reporting	98.4%	42,848		3,986	39,573	162	294	401	3,129	18,292	18,509	2,772
Estimated totals	100.0%	43,559		35,902	309,323	584	1,964	8,770	24,584	98,792	191,783	18,748
State Total	6,571,000	345,225										
Rate per 100,000 inhabitants		5,253.8		546.4	4,707.4	8.9	29.9	133.5	374.1	1,503.5	2,918.6	285.3
NORTH DAKOTA												
Metropolitan Statistical Area	253,503			246	9,789	3	54	52	137	1,244	8,124	421
Area actually reporting	100.0%	10,035										
Other Cities	131,389			69	4,156	1	10	7	51	398	3,558	200
Area actually reporting	97.5%	4,225		70	4,264	1	10	7	52	408	3,651	205
Estimated totals	100.0%	4,334										
Rural	275,108			99	2,371	.....	14	2	83	699	1,555	117
Area actually reporting	97.5%	2,470		101	2,432	.....	14	2	85	717	1,595	120
Estimated totals	100.0%	2,533		417	16,485	4	78	61	274	2,369	13,370	746
State Total	660,000	16,902										
Rate per 100,000 inhabitants		2,560.9		63.2	2,497.7	.6	11.8	9.2	41.5	358.9	2,025.8	113.0
OHIO												
Metropolitan Statistical Area	8,593,961			44,408	375,516	577	4,160	17,451	22,220	90,660	242,437	42,419
Area actually reporting	88.0%	419,924		47,070	406,939	598	4,385	18,066	24,021	97,009	265,125	44,805
Estimated totals	100.0%	454,009										
Other Cities	875,243			2,031	31,038	21	227	363	1,420	6,102	23,629	1,307
Area actually reporting	80.2%	33,069		2,531	38,679	26	283	452	1,770	7,604	29,446	1,629
Estimated totals	100.0%	41,210										
Rural	1,437,796			1,173	15,183	22	159	91	901	5,011	9,361	811
Area actually reporting	77.8%	16,356		1,508	19,525	28	204	117	1,159	6,444	12,038	1,043
Estimated totals	100.0%	21,033		51,109	465,143	652	4,872	18,635	26,950	111,057	306,609	47,477
State Total	10,907,000	516,252										
Rate per 100,000 inhabitants		4,733.2		468.6	4,264.6	6.0	44.7	170.9	247.1	1,018.2	2,811.1	435.3

[1] See footnotes at end of table.

Table 5.—Index of Crime, State, 1989—Continued

Area	Population	Crime index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson[4]
OKLAHOMA													
Metropolitan Statistical Area	1,894,434												
Area actually reporting	100.0%	131,304		12,393	118,911	132	995	3,675	7,591	36,470	66,363	16,078	
Other Cities	692,171												
Area actually reporting	99.8%	34,241		2,593	31,648	39	141	337	2,076	9,138	20,477	2,033	
Estimated totals	100.0%	34,319		2,599	31,720	39	141	338	2,081	9,159	20,523	2,038	
Rural	637,395												
Area actually reporting	100.0%	11,782		855	10,927	39	73	57	686	4,782	5,384	761	
State Total	3,224,000	177,405		15,847	161,558	210	1,209	4,070	10,358	50,411	92,270	18,877	
Rate per 100,000 inhabitants		5,502.6		491.5	5,011.1	6.5	37.5	126.2	321.3	1,563.6	2,862.0	585.5	
OREGON													
Metropolitan Statistical Area	1,909,393												
Area actually reporting	99.9%	130,898		12,182	118,716	90	927	3,927	7,238	29,884	76,095	12,737	
Estimated totals	100.0%	131,021		12,188	118,833	90	928	3,929	7,241	29,909	76,178	12,746	
Other Cities	422,922												
Area actually reporting	98.9%	29,217		1,392	27,825	17	149	264	962	5,922	20,332	1,571	
Estimated totals	100.0%	29,528		1,407	28,121	17	151	267	972	5,985	20,548	1,588	
Rural	487,685												
Area actually reporting	100.0%	13,195		1,030	12,165	27	235	86	682	4,303	6,964	898	
State Total	2,820,000	173,744		14,625	159,119	134	1,314	4,282	8,895	40,197	103,690	15,232	
Rate per 100,000 inhabitants		6,161.1		518.6	5,642.5	4.8	46.6	151.8	315.4	1,425.4	3,677.0	540.1	
PENNSYLVANIA													
Metropolitan Statistical Area	10,202,731												
Area actually reporting	99.3%	368,001		42,740	325,261	720	2,661	17,752	21,607	75,578	195,388	54,295	
Estimated totals	100.0%	369,945		42,906	327,039	721	2,672	17,788	21,725	75,920	196,624	54,495	
Other Cities	772,217												
Area actually reporting	97.1%	18,613		1,638	16,975	12	114	142	1,370	3,312	12,720	943	
Estimated totals	100.0%	19,168		1,686	17,482	12	117	146	1,411	3,411	13,100	971	
Rural	1,065,052												
Area actually reporting	100.0%	15,481		994	14,487	20	174	91	709	6,594	6,842	1,051	
State Total	12,040,000	404,594		45,586	359,008	753	2,963	18,025	23,845	85,925	216,566	56,517	
Rate per 100,000 inhabitants		3,360.4		378.6	2,981.8	6.3	24.6	149.7	198.0	713.7	1,798.7	469.4	
PUERTO RICO													
Metropolitan Statistical Area	2,672,051												
Area actually reporting	100.0%	98,108		19,569	78,539	425	421	12,691	6,032	28,982	33,757	15,800	
Other Cities	685,139												
Area actually reporting	100.0%	11,919		2,284	9,635	42	88	539	1,615	4,739	4,222	674	
Total	3,358,000	110,027		21,853	88,174	467	509	13,230	7,647	33,721	37,979	16,474	
Rate per 100,000 inhabitants		3,277.0		650.9	2,626.1	13.9	15.2	394.0	227.8	1,004.3	1,131.1	490.7	
RHODE ISLAND													
Metropolitan Statistical Area	935,723												
Area actually reporting	99.4%	48,331		3,529	44,802	47	249	1,070	2,163	11,219	24,671	8,912	
Estimated totals	100.0%	48,510		3,538	44,972	47	250	1,072	2,169	11,264	24,773	8,935	
Other Cities	62,277												
Area actually reporting	100.0%	3,611		229	3,382	2	15	50	162	776	2,318	288	
Rural	.....	.....		.....	.....	.....	.....	.....	.....	.....	.....	.....	
Area actually reporting	100.0%	23		5	18	.....	1	.....	4	5	13	.....	
State Total	998,000	52,144		3,772	48,372	49	266	1,122	2,335	12,045	27,104	9,223	
Rate per 100,000 inhabitants		5,224.8		378.0	4,846.9	4.9	26.7	112.4	234.0	1,206.9	2,715.8	924.1	

See footnotes at end of table.

Table 5.—Index of Crime, State, 1989—Continued

Area	Population	Crime Index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson
SOUTH CAROLINA													
Metropolitan Statistical Area	2,126,586			18,004	113,287	181	1,050	3,376	13,397	31,197	73,500	8,590	
Area actually reporting	99.9%	131,291		18,014	113,357	181	1,051	3,378	13,404	31,214	73,549	8,594	
Estimated totals	100.0%	131,371											
Other Cities	435,571			4,840	25,855	43	199	669	3,929	6,911	17,659	1,285	
Area actually reporting	98.7%	30,695		4,906	26,206	44	202	678	3,982	7,005	17,899	1,302	
Estimated totals	100.0%	31,112											
Rural	949,843			5,656	29,209	95	379	518	4,664	10,695	16,397	2,117	
Area actually reporting	100.0%	34,865		28,576	168,772	320	1,632	4,574	22,050	48,914	107,845	12,013	
State Total	3,512,000	197,348											
Rate per 100,000 inhabitants		5,619.2		813.7	4,805.6	9.1	46.5	130.2	627.8	1,392.8	3,070.8	342.1	
SOUTH DAKOTA													
Metropolitan Statistical Area	208,053			606	8,454	4	161	63	378	1,446	6,641	367	
Area actually reporting	100.0%	9,060											
Other Cities	168,337			156	5,371	1	36	9	110	806	4,356	209	
Area actually reporting	79.5%	5,527		195	6,756	1	45	11	138	1,014	5,479	263	
Estimated totals	100.0%	6,951											
Rural	338,610			86	1,545	2	12	5	67	478	991	76	
Area actually reporting	51.2%	1,631		168	3,020	4	23	10	131	934	1,937	149	
Estimated totals	100.0%	3,188		969	18,230	9	229	84	647	3,394	14,057	779	
State Total	715,000	19,199											
Rate per 100,000 inhabitants		2,685.2		135.5	2,549.7	1.3	32.0	11.7	90.5	474.7	1,966.0	109.0	
TENNESSEE													
Metropolitan Statistical Area	3,286,457			22,615	152,363	314	1,954	7,403	12,944	45,044	84,571	22,748	
Area actually reporting	90.3%	174,978		23,476	161,203	327	2,041	7,553	13,555	47,900	89,787	23,516	
Estimated totals	100.0%	184,679											
Other Cities	577,599			1,860	18,768	26	100	216	1,518	5,128	12,162	1,478	
Area actually reporting	86.4%	20,628		2,153	21,728	30	116	250	1,757	5,937	14,080	1,711	
Estimated totals	100.0%	23,881											
Rural	1,075,944			871	7,558	35	66	72	698	3,383	3,533	642	
Area actually reporting	58.5%	8,429		1,489	12,923	60	113	123	1,193	5,784	6,041	1,098	
Estimated totals	100.0%	14,412		27,118	195,854	417	2,270	7,926	16,505	59,621	109,908	26,325	
State Total	4,940,000	222,972											
Rate per 100,000 inhabitants		4,513.6		548.9	3,964.7	8.4	46.0	160.4	334.1	1,206.9	2,224.9	532.9	
TEXAS													
Metropolitan Statistical Area	13,806,982			101,275	1,128,002	1,796	7,312	36,856	55,311	307,192	675,166	145,644	
Area actually reporting	99.9%	1,229,277		101,285	1,128,109	1,796	7,313	36,858	55,318	307,227	675,230	145,652	
Estimated totals	100.0%	1,229,394											
Other Cities	1,446,330			7,408	71,996	104	423	844	6,037	19,460	49,281	3,255	
Area actually reporting	99.9%	79,404		7,412	72,039	104	423	844	6,041	19,464	49,318	3,257	
Estimated totals	100.0%	79,451											
Rural	1,737,688			3,175	34,644	128	214	210	2,623	15,572	17,021	2,051	
Area actually reporting	99.5%	37,819		3,192	34,829	129	215	211	2,637	15,655	17,112	2,062	
Estimated totals	100.0%	38,021		111,889	1,234,977	2,029	7,951	37,913	63,996	342,346	741,660	150,971	
State Total	16,991,000	1,346,866											
Rate per 100,000 inhabitants		7,926.9		658.5	7,268.4	11.9	46.8	223.1	376.6	2,014.9	4,365.0	888.5	
UTAH													
Metropolitan Statistical Area	1,321,090			3,811	80,371	39	422	863	2,487	13,226	63,555	3,590	
Area actually reporting	100.0%	84,182											
Other Cities	193,865			414	8,324	.....	49	22	343	1,238	6,809	277	
Area actually reporting	96.0%	8,738		431	8,668	.....	51	23	357	1,289	7,091	288	
Estimated totals	100.0%	9,099											
Rural	192,045			172	3,462	6	16	12	138	779	2,509	174	
Area actually reporting	97.8%	3,634		175	3,538	6	16	12	141	796	2,564	178	
Estimated totals	100.0%	3,713		4,417	92,577	45	489	898	2,985	15,311	73,210	4,056	
State Total	1,707,000	96,994											
Rate per 100,000 inhabitants		5,682.1		258.8	5,423.4	2.6	28.6	52.6	174.9	897.0	4,288.8	237.6	

Footnotes at end of table.

Table 5.—Index of Crime, State, 1989—Continued

Area	Population	Crime index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent man-slaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson[4]
VERMONT													
Metropolitan Statistical Area	108,223												
Area actually reporting	85.0%	6,295		178	6,117	4	39	47	88	1,465	4,359	293	
Estimated totals	100.0%	7,411		210	7,201	5	46	55	104	1,725	5,131	345	
Other Cities	202,043												
Area actually reporting	100.0%	9,006		297	8,709	2	45	31	219	1,739	6,530	440	
Rural	256,734												
Area actually reporting	100.0%	6,765		246	6,519	4	40	16	186	2,371	3,805	343	
State Total	567,000	23,182		753	22,429	11	131	102	509	5,835	15,466	1,128	
Rate per 100,000 inhabitants		4,088.5		132.8	3,955.7	1.9	23.1	18.0	89.8	1,029.1	2,727.7	198.9	
VIRGINIA													
Metropolitan Statistical Area	4,401,346												
Area actually reporting	100.0%	219,091		16,415	202,676	371	1,372	6,141	8,531	37,567	148,216	16,893	
Other Cities	456,742												
Area actually reporting	100.0%	17,255		1,045	16,210	24	88	181	752	2,813	12,598	799	
Rural	1,239,912												
Area actually reporting	100.0%	20,468		1,597	18,871	85	178	172	1,162	5,776	11,831	1,264	
State Total	6,098,000	256,814		19,057	237,757	480	1,638	6,494	10,445	46,156	172,645	18,956	
Rate per 100,000 inhabitants		4,211.4		312.5	3,898.9	7.9	26.9	106.5	171.3	756.9	2,831.2	310.9	
WASHINGTON													
Metropolitan Statistical Area	3,885,961												
Area actually reporting	98.2%	265,565		19,880	245,685	187	2,495	6,288	10,910	61,985	164,281	19,419	
Estimated totals	100.0%	271,235		20,113	251,122	188	2,533	6,352	11,040	63,027	168,321	19,774	
Other Cities	374,985												
Area actually reporting	90.1%	25,271		1,352	23,919	4	210	223	915	4,940	17,902	1,077	
Estimated totals	100.0%	28,048		1,501	26,547	4	233	248	1,016	5,483	19,869	1,195	
Rural	500,054												
Area actually reporting	95.0%	13,913		803	13,110	16	163	68	556	4,799	7,534	777	
Estimated totals	100.0%	14,649		846	13,803	17	172	72	585	5,053	7,932	818	
State Total	4,761,000	313,932		22,460	291,472	209	2,938	6,672	12,641	73,563	196,122	21,787	
Rate per 100,000 inhabitants		6,593.8		471.7	6,122.1	4.4	61.7	140.1	265.5	1,545.1	4,119.3	457.6	
WEST VIRGINIA													
Metropolitan Statistical Area	676,770												
Area actually reporting	100.0%	22,838		1,420	21,418	43	177	530	670	5,658	14,280	1,480	
Other Cities	310,713												
Area actually reporting	100.0%	9,950		482	9,468	22	47	163	250	2,016	7,022	430	
Rural	869,517												
Area actually reporting	100.0%	11,090		822	10,268	56	123	100	543	3,961	5,306	1,001	
State Total	1,857,000	43,878		2,724	41,154	121	347	793	1,463	11,635	26,608	2,911	
Rate per 100,000 inhabitants		2,362.8		146.7	2,216.2	6.5	18.7	42.7	78.8	626.5	1,432.8	156.8	
WISCONSIN													
Metropolitan Statistical Area	3,246,993												
Area actually reporting	100.0%	160,263		8,997	151,266	155	846	3,552	4,444	27,236	109,828	14,202	
Other Cities	568,824												
Area actually reporting	99.7%	25,314		1,012	24,302	2	75	73	862	2,973	20,423	906	
Estimated totals	100.0%	25,378		1,014	24,364	2	75	73	864	2,981	20,475	908	
Rural	1,051,183												
Area actually reporting	100.0%	17,062		823	16,239	19	72	34	698	5,466	9,737	1,036	
State Total	4,867,000	202,703		10,834	191,869	176	993	3,659	6,006	35,683	140,040	16,146	
Rate per 100,000 inhabitants		4,164.8		222.6	3,942.2	3.6	20.4	75.2	123.4	733.2	2,877.3	331.7	

See footnotes at end of table.

Table 5.—Index of Crime, State, 1989—Continued

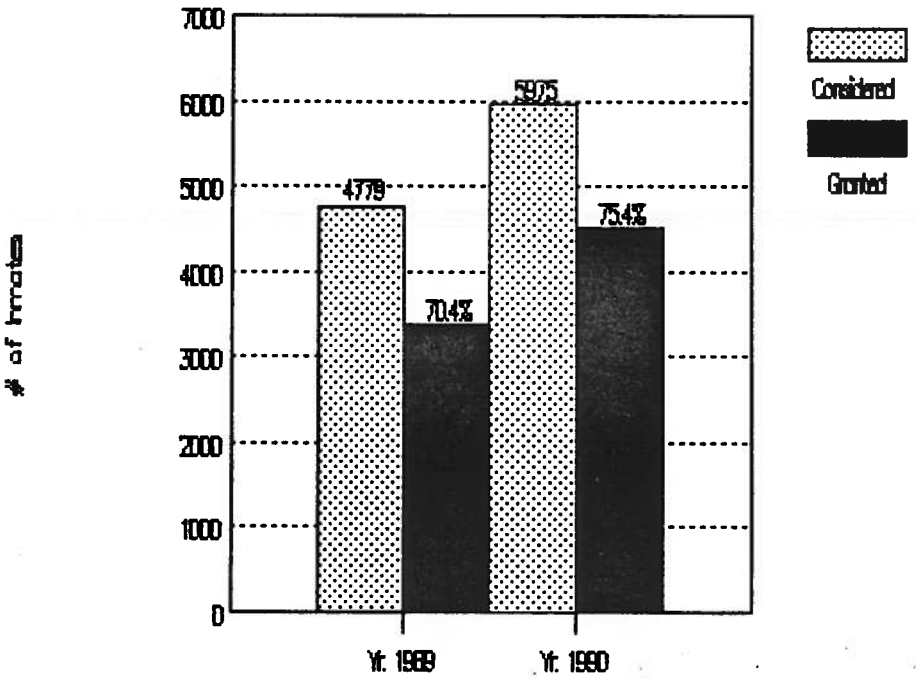
Area	Population	Crime Index total	Modified Crime Index total[1]	Violent crime[2]	Property crime[3]	Murder and non-negligent man-slaughter	Forcible rape	Robbery	Aggra-vated assault	Burglary	Larceny-theft	Motor vehicle theft
WYOMING												
Metropolitan Statistical Area	138,643											
Area actually reporting	100.0%	6,721		417	6,304	3	46	44	324	1,170	4,894	240
Other Cities	217,683											
Area actually reporting	99.7%	9,239		521	8,718	9	62	30	420	1,273	7,148	297
Estimated totals	100.0%	9,266		522	8,744	9	62	30	421	1,277	7,169	298
Rural	118,674											
Area actually reporting	100.0%	2,486		288	2,198	9	26	7	246	554	1,530	114
State Total	475,000	18,473		1,227	17,246	21	134	81	991	3,001	13,593	652
Rate per 100,000 inhabitants		3,889.1		258.3	3,630.7	4.4	28.2	17.1	208.6	631.8	2,861.7	137.3

[1]Although arson data were included in the trend and clearance tables, sufficient data are not available to estimate totals for this offense.
[2]Violent crimes are offenses of murder, forcible rape, robbery, and aggravated assault.
[3]Property crimes are offenses of burglary, larceny-theft, and motor vehicle theft. Data are not included for the property crime of arson.
[4]Includes offenses reported by the Zoological Police.
[5]Forcible rape figures furnished by the state-level Uniform Crime Reporting (UCR) Program administered by the Illinois Department of State Police were not in accordance with national UCR guidelines. The 1989 forcible rape totals for Illinois were estimated using the national rate of forcible rapes when grouped by like agencies. Therefore, only the state total is shown. See "Offense Estimation," page 3 for details.

E

Parole Considerations

at Minimum Sentence

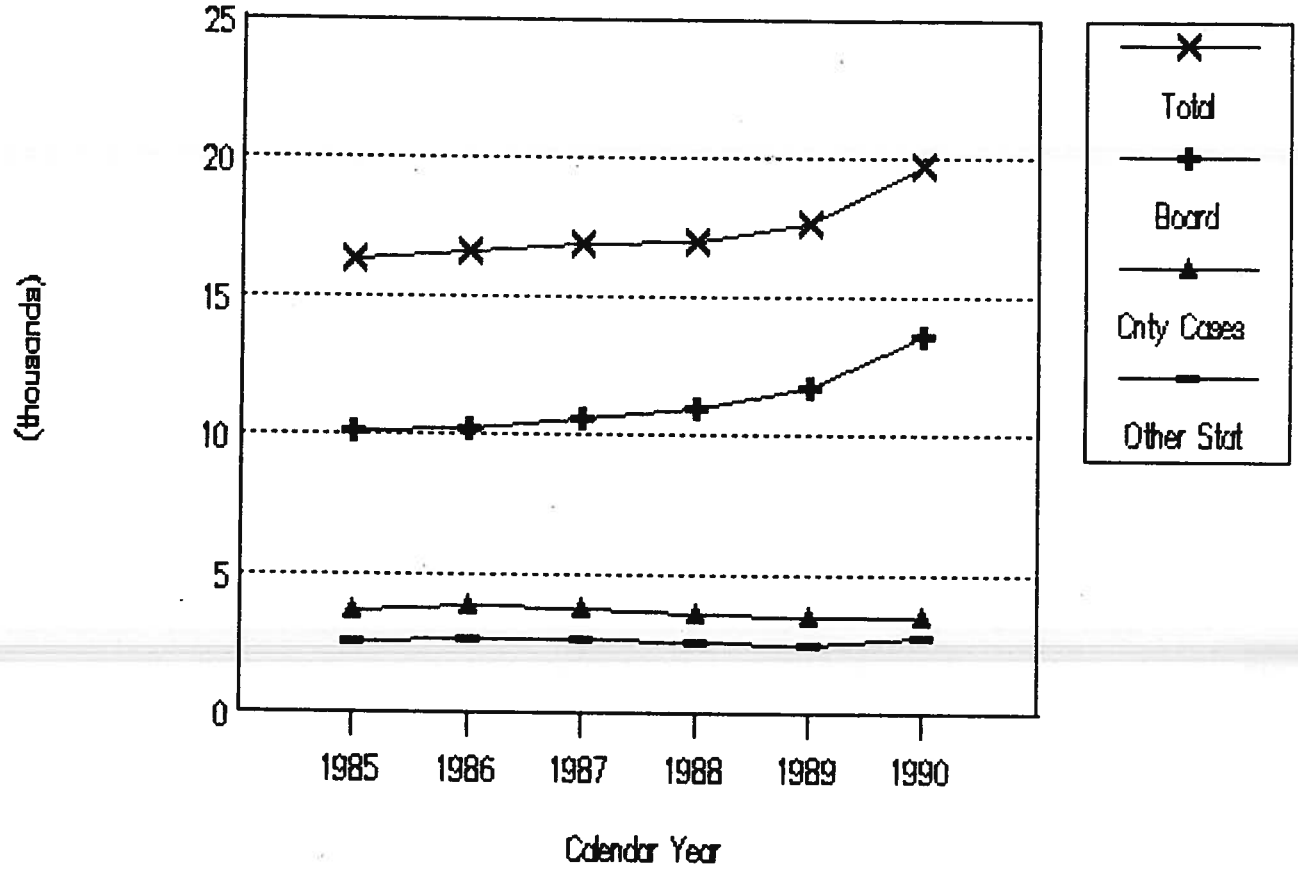


TOTAL PAROLES CONSIDERED AND GRANTED

	Calendar Yr. 1989	Calendar Yr. 1990
Total Considered	6341	7905
Minimum	4779	5975
DOC	3782	4684
County	997	1291
Review	1562	1930
DOC		1639
County		291
Total Granted At Minimum	3364	4503
DOC	2598	3469
County	766	1034
Total Granted At Review	933	1275
DOC		1036
County		239
% Granted at Minimum	70.4%	75.4%
DOC	68.7%	74.1%
County	76.8%	80.1%
% Granted at Review	59.7%	66.1%
DOC	ERR	63.2%
County	ERR	82.1%
% of Total Granted	67.8%	73.1%
Total Granted	4297	5778

Chart A

Six Year Trend PBPP Caseload Population



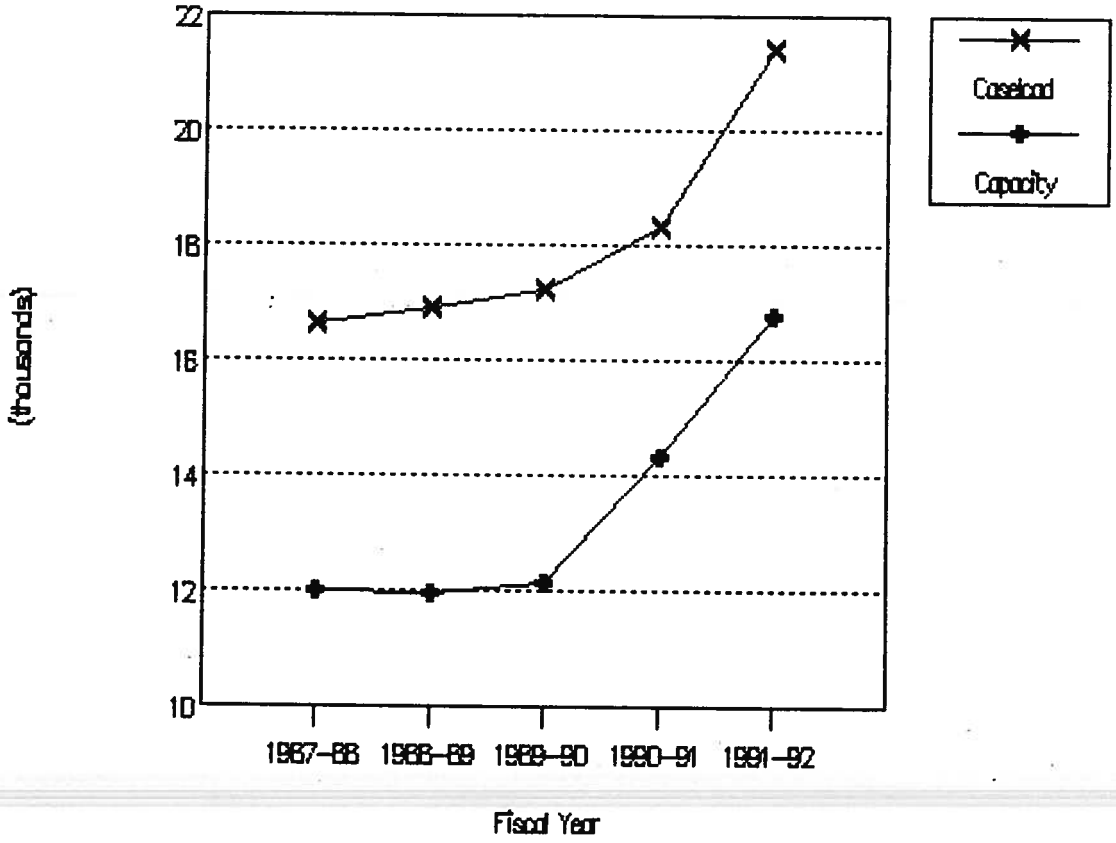
Six Year Trend in PBPP Case Population

Year End	Total Caseload	Board Cases	Special Prob/Par	Other States Cases
1985	16282	10073	3673	2530
1986	16587	10162	3818	2607
1987	16896	10550	3755	2591
1988	16926	10913	3517	2496
1989	17616	11647	3513	2456
1990	19723	13516	3511	2696

CASES IN SPECIALIZED UNITS BY QUARTER

SPECIAL UNITS	1st Qtr. 1990	2nd Qtr. 1990	3rd Qtr. 1990	4th Qtr. 1990
SISP UNITS				
ALLENTOWN	5	8	8	5
HARRISBURG	28	38	38	28
PHILADELPHIA	50	87	83	61
PITTSBURGH	20	27	20	22
SUB-TOTAL	103	160	149	116
SID UNITS				
HADDINGTON	190	187	201	188
NORTH		216	167	185
N. CENTRAL		345	141	212
CITYWIDE		265	281	302
EAST END	177	185	198	204
SUB-TOTAL	367	1198	988	1091
DOWP UNIT		88	37	76
TOTAL SPECIAL UNITS	470	1446	1174	1283

Supervision Capacity



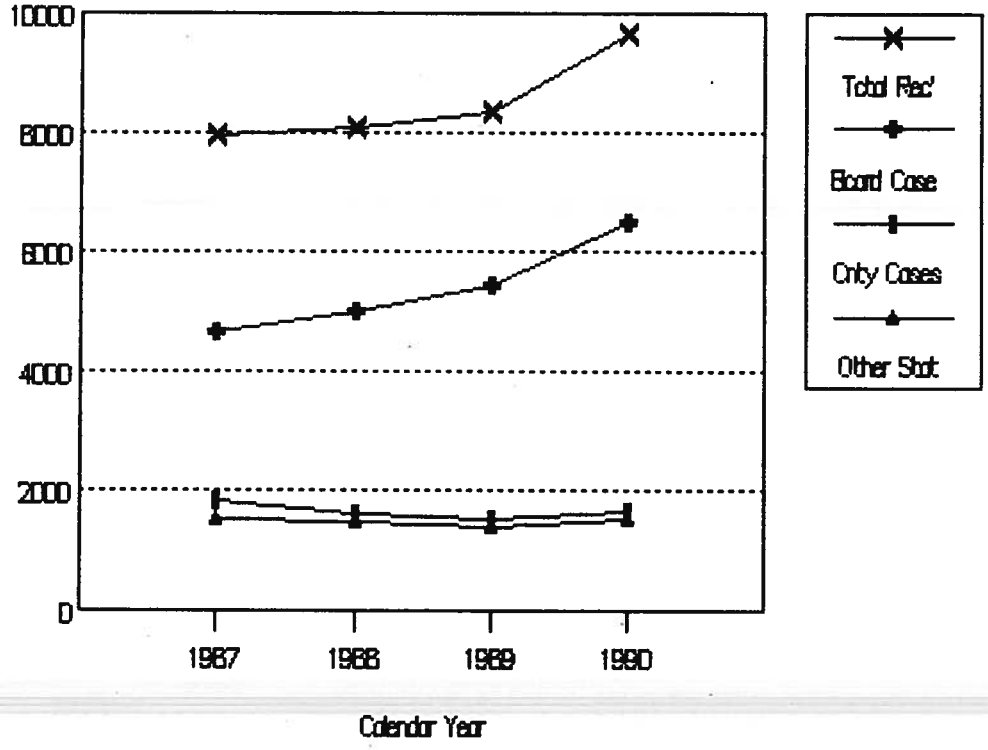
Supervision Population Capacity

Fiscal Year	BeginningFY Supervision Population	Parole Agents	Supervision Capacity Level	Number Over Capacity
1987-88	16633	210	11996	4637
1988-89	16890	209	11955	4935
1989-90	17218	208	12116	5102
1990-91	18327	231	14300	4027
1991-92	21411	280	16748	4663

1991-92 is projected.

Four Year Trend

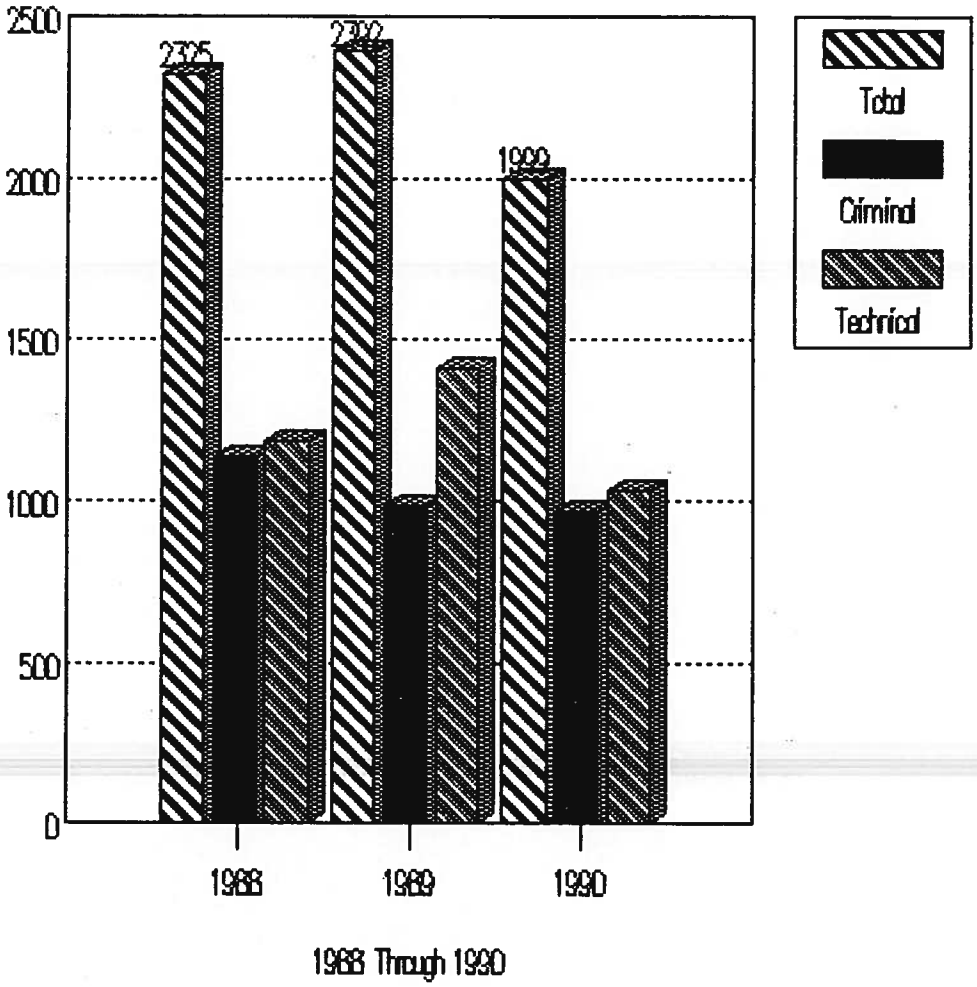
of Cases Released to Board Supervision



Year	Board Cases	Special Prob/Par	Other States Cases	Total Received
1987	4642	1818	1509	7969
1988	5014	1604	1482	8100
1989	5447	1511	1395	8353
1990	6496	1653	1504	9653

Includes cases released to other states for supervision.

Trends in Recommitment Data



1988 Through 1990

Year	Criminal Violators	Technical Violators	Total Recommits
1988	1141	1184	2325
1989	983	1409	2392
1990	970	1029	1999

G

ALTERNATIVE SENTENCING STRATEGIES

1) Provide the judiciary total discretion in deciding at the time of sentence whether the offender should be released mandatorily or through a discretionary parole decision making process at the expiration of the judicially imposed minimum sentence.

2) Provide for parole eligibility at a fraction (one-half or one-third) of the judicially imposed minimum sentence for non-violent crimes or misdemeanors (not felonies).

3) Provide for mandatory release at the expiration of the judicially imposed minimum sentence for non-violent offenses only.

4) Provide for a presumptive parole policy similar to what is included in this document as Attachment "D".

5) Provide judicial discretion for mandatory release for all offenders with one (1) year or less as a judicially imposed minimum sentence.

6) Provide for sentencing guidelines and parole release decision making guidelines to be directly linked to prison population projections with appropriate adjustments on an annual basis or more often, if necessary. Resource appropriations must be directly related to parole supervision needs, due to significant projected growth in caseload, and to provide adequate protection to the public.

7) Provide representation on the Sentencing Commission for both the Board and the Department to assure that parole and corrections issues are adequately addressed in all guidelines issued by the Commission.

- PA Board of Probation + Parole

Pages
98

- Dr. Kramer – statement 4
- Comm. Lehman 3
- PA Coalition Against Rape 12
- David Maher. 2
- PA Corrections. – Current / Proposed 1
- Final Report of PA Commission on Crime + Delinquency Corrections Overcrowding Committee 22
- 12/90 Fact Sheet PA Board of Probation + Parole 2
- FOP North Eastern Lodge #63 1
- Allen Breed / letter 2
- Benjamin Baer / U.S. Parole Commission 3
- Defender Assoc. of Phila (Ellen Greenlee) 12
- Citizens Advisory Committee / PA Board of Probation + Parole 2
- PA Assoc. of Probation, Parole + Correction 8

- PA Prison Society — 17 pages

- William J. Pypher, Jr./Probation & Parole Officers Assoc. of PA — 5

- PA State Assoc. of County Commissioners — 7.

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29 1/ pages attached.