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BOARD OF PROBATION AND PAROLE

33RD ANNUAL REPORT

JULY 1, 1986 - JUNE 30, 1987

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ACQUISITIONS



WEST VIRGINIA  
BOARD OF PROBATION AND PAROLE

ARCH A. MOORE, JR.  
GOVERNOR

112 California Avenue, Room 307  
CHARLESTON, WEST VIRGINIA 25305  
TELEPHONE (304) 348-6366

JOHN A. BAILES  
CHAIRMAN

October 29, 1987

The Honorable Arch A. Moore, Jr.  
Governor of West Virginia  
State Capitol Building  
Charleston, West Virginia 25305

Dear Governor Moore:

We have the honor to submit herewith the Thirty-third Annual Report by the West Virginia Board of Probation and Parole for the period of July 1, 1986 through June 30, 1987.

Sincerely,

A handwritten signature in cursive script, reading "John A. Bailes".

John A. Bailes  
Chairman

A handwritten signature in cursive script, reading "Janet M. Rader".

Janet M. Rader  
Member/Secretary

A handwritten signature in cursive script, reading "C. Frank LePage".

C. Frank LePage  
Member

JAB:JMR:CFL:ef

I Duties and functions of the West Virginia Board of Probation and Parole are defined by statute as: the determination to release or not release adult inmates from the State penal institutions through the parole process; subsequent to parole release, the determination to continue or revoke the parole granted; and on request from the Governor, investigate, report, and make recommendations to him on matters of executive clemency.

The Governor appoints the three member Board, and designates who shall serve as Chairman. Appointments are made with the advice and consent of the Senate. The Board operates independent of other departments and is responsible directly to the Governor.

While the Board operates independently of the Department of Corrections, it works in close cooperation with the Department. On granting parole, the Board releases the parolee to an approved home plan. The parolee is supervised by an area parole officer who is responsible to the Department.

For an inmate to be paroled, the Legislature requires:

- 1) That the inmate appear in person before the Parole Board.
- 2) That the inmate shall have served the minimum term of his indeterminate sentence, or shall have served one fourth of his definite term. If parole is not granted on the first interview, he is entitled to subsequent annual interviews.

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

## II Scope of Activity

The West Virginia Supreme Court of Appeals has held that:...

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

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

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

1. The inmate is notified a minimum of 14 days in advance of the date and time of his scheduled interview.
2. He is given access to information in his record which will be used in parole consideration (absent overriding security considerations).
3. He appears personally before the Board and is interviewed by the entire Board.
4. The interview is recorded.

5. The Board deliberates and arrives at a decision.  
Two favorable votes are required to grant parole.
6. The inmate is informed of the decision. If parole is granted he is told of any special conditions.  
If parole is denied he is entitled to an annual interview thereafter.

The Board conducts interviews at 1) the West Virginia Penitentiary at Moundsville; 2) the Huttonsville Correctional Center at Huttonsville; 3) the Federal Correctional Institution at Alderson; 4) the Charleston Work Release Center; 5) the Huntington Work Release Center; and 6) the Beckley Work Release Center.

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

The Board at the close of the fiscal year included John A. Bailes, Chairman, Janet M. Rader, Member/Secretary and C. Frank LePage, Member.

III Statistically, the year 1986-87 was close to 1985-86. Parole interviews dropped by one percent and paroles granted dropped three percent. Revocations of parole as a percentage of paroles granted averaged 15%, a somewhat constant ratio over five years.

During the year, the Board prepared for the Governor 187 clemency reports. The time required to research and write a meaningful report is demanding of time by the Board Members as well as the staff.

#### IV Summary

Fiscal year 1986-87 is history. The Board continued operating at full membership for the sixth year and with the same highly efficient and dedicated staff of three.

However, fiscal 1987-88 presents major obstacles for the Board to operate within the law as well as court mandated procedures. We have been directed not to cut our level of service to the citizens of West Virginia. Within this small agency we don't have options of deleting a phase of operations. We have submitted to the Legislature a supplemental appropriation request. If granted, we will have sufficient funds to do the job as expected and required.



PAROLE VIOLATION HEARING CASES

The chart below indicates the number of parole hearing referrals and decisions made by the Parole Board.

FISCAL YEAR 1986 - 1987

Parole violation referrals considered during 1986-1987---	97
Paroles revoked on technical grounds-----	43
Paroles revoked on felony grounds-----	26
Paroles continued under supervision-----	20
Decisions not to hold hearings-----	8

The data below indicates the Parole Board's activities as to interviews and the decisions granting or denying parole for the 1986-1987 fiscal year:

	<u>West Virginia Penitentiary</u>	<u>Huttonsville Correctional Center</u>	<u>Federal Correctional Institution</u>	<u>Total</u>
Interviews Held	156	783	55	994
Paroles Granted	39	400	21	460
Paroles Denied	117	383	34	534

Note: Male inmates of Work Release Centers are considered to be Huttonsville assignees; likewise females are Federal Correctional assignees.

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1986 THROUGH JUNE 30, 1987

CRIMES	WEST VIRGINIA PENITENTIARY	HUTTONSVILLE CORRECTIONAL CENTER	FEDERAL CORRECTIONAL INSTITUTION	TOTAL
<u>Category A.</u>				
1. Murder, First Degree	1	7	0	8
2. Murder, 2nd Degree	4	12	1	17
3. Manslaughter & Att. Murder	0	5	2	7
4. Kidnapping	0	3	0	3
5. Sex Crimes	1	14	0	15
6. Robbery	14	63	3	80
7. Assault	3	25	3	31
7.1 Disinterment of a Dead Human Body	0	0	0	0
<u>Category B.</u>				
8. Breaking & Entering, Burglary, Grand Larceny, Shoplifting, Receiving Stolen Property	29	263	2	294
9. Forgery, Uttering, Embezzle- ment, Fraud, False Pretense	2	60	8	70
10. Arson	3	9	0	12
10.1 Placing an Explosive Device with Criminal Intent	0	0	0	0
<u>Category C.</u>				
11. Drug Related	1	76	4	81
12. Escape	1	7	1	9
12.1 Failure to Appear	0	4	1	5
13. D.U.I.	0	2	1	3
14. Carrying A Dangerous & Deadly Weapon	0	0	0	0
15. Obstructing a Fire Dept.	0	0	0	0
16. Probation Violation	0	3	0	3

INTERVIEWS AND DECISIONS GRANTING OR DENYING PAROLE

1986 - 1987 AND 1985 - 1986

	West Virginia Penitentiary		Huttonsville Correctional Ctr.		Federal Correctional Institution		Total	
	1986/87	1985/86	1986/87	1985/86	1986/87	1985/86	1986/87	1985/86
Interviews Held	156	154	783	816	55	39	994	1009
Paroles Granted	(25%) 39	(32%) 49	(51%) 400	(51%) 417	(38%) 21	(62%) 24	(46%) 460	(49%) 490
Paroles Denied	(75%) 117	(68%) 105	(49%) 383	(49%) 399	(62%) 34	(38%) 15	(54%) 534	(51%) 519