

prison population remained the same, the parole population rose almost 60 percent.

Figure 9 illustrates the significance of the relationship between admissions and parole releases over time. Both factors show similar gains from 1969 through 1972 and decreases during 1973-4. It appears that the rate of prison and parole releases has a correlation to the rate of prison admissions.

Recommendation 14. *N.J.S.A. 30:4-123.14 states that release on parole should be based on the offender's ability to abide by the law. Parole release decisions should not be affected by prison population pressures, or cost considerations.*

RECIDIVISM

The purpose of parole is to protect society from crime and to help the individual parolee to become crime-free. Therefore, an evaluation of the ability of the New Jersey parole system to meet this objective must measure the extent to which parolees refrain from criminal behavior as a result of the effects of the parole system.

Unfortunately, there is no means of measuring this effect precisely. It is impossible to distinguish the effect of the parole system on an individual from the effect of other elements within the criminal justice system. Similarly, the programmatic successes or failures of the parole system cannot be clearly distinguished from the successes and failures of the individuals themselves. Those who do not technically recidivate cannot necessarily be credited to the system as successes. For example, parolees can be drug addicts who are unemployed and ill-housed but still considered successes with respect to the parole system if they are not returned to prison.

One means of evaluating parole is to analyze the number of parolees returned to prison, or the recidivism rate. Recidivism represents the tendency of former offenders to relapse into a previous mode of behavior, specifically criminal behavior. The National Advisory Commission on Criminal Justice Standards and Goals has developed a comprehensive definition of recidivism.

"Recidivism is measured by (1) criminal acts that resulted in conviction by a court, when committed by individuals who are under correctional supervision or who have been released from correction supervision..., and by (2) technical violations of probation or parole in which a sentencing or paroling authority took action that resulted in an adverse change in the offender's legal status."¹⁵¹

151. National Advisory Commission on Criminal Justice Standards and Goals, Corrections (Washington, D.C.: Government Printing Office, 1973), p. 513.

For purposes of analyzing the prison return rate in New Jersey, the Office of Fiscal Affairs used data from the Division of Correction and Parole: the Bureau of Parole's Annual Report; their Annual Arrests and Dispositions Report; and information compiled by the Correctional Information System from the Daily Population Movement Report.

Parole Arrests

Finding 17. Over the last five years, the rate of parolee arrests, the majority of which are for indictable offenses, has increased faster than the total parole population. Approximately two-thirds of these arrests occurred within 12 months of their release from prison.

Over the last five years, the rate of parolee arrests has more than doubled.¹⁵² In fact, the rate of parolees arrests has increased faster than the parole population. From 1968-73, the arrest rate has increased 54 percent¹⁵³ whereas the total parole population has only increased 38 percent during that time.¹⁵⁴ Since certain parolees were arrested more than once, the total number of recorded arrests increased at an even greater rate (67 percent) during the same five-year period.¹⁵⁵

These arrests occurred primarily among older youths and adults soon after release from prison. Sixty-three (63) percent of those parolees arrested were 21 years or older and at least two-thirds of these arrests occurred within 12 months of their release from prison.¹⁵⁶

In 1973, the majority (54 percent) of the total number of arrests were indictable offenses. Disorderly persons' arrests accounted for 24 percent of the total arrests. Arrests for technical violations accounted for only 57 percent of the total arrests.

A five-year comparison from 1968-1973 of the frequency and type of arrests indicates that arrests for technical violations has decreased about 20 percent during that time. Similarly, arrests for motor vehicle violations and juvenile delinquency have also decreased. However, there has been a dramatic increase in arrests for more serious crimes. The increase in the number of arrests exceeds the increase of the total parole population. Arrests for

152. N.J. Bureau of Parole, Annual Arrests and Dispositions Report, fiscal year 1973, p. 7.

153. Ibid.

154. N.J. Bureau of Parole, Annual Report, fiscal year 1973, Table 1.

155. Annual Arrests and Dispositions Report, op. cit.

156. Ibid, p. 7.

indictable offenses has increased 133 percent. Arrests for disorderly persons and local ordinances offenses have both increased almost 100 percent. (See Table 14.)

Parole Returns

Finding 18. For every three offenders released to parole each year in New Jersey, at least one person from the parole population was returned to prison.

The calculations for the number of persons returned to prison from parole varied considerably among the three available information sources. For example, in fiscal year 1973, the number of adult and youth offenders returned from parole was 1,837 based on caseload statistics in the Annual Report; 2,459 based on arrests in the Annual Arrests and Disposition Report; and 1,499 based on institutional population movement as compiled by the Correctional Information System.

There are several possible explanations for the variance. The Annual Arrests and Disposition Report underestimates the number of parole returns since 29 percent of the recorded arrests for fiscal year 1973 were not adjudicated during that year. Therefore, the parole return figures from this source represent only 71 percent of the potential returns for that year.¹⁵⁷

Certain record keeping difficulties reduce the accuracy of the prison return figures in the Daily Population Movement Report. If a receiving institution is not aware of a person's parole status on the day of reception, the individual will be recorded as a new commitment rather than a parole return.¹⁵⁸

For these reasons, the data used for analyzing the significance of the annual prison return rate was derived from the Bureau's Annual Report.

According to the Bureau of Parole's Annual Report, more persons are returned to prison by reason of a technical violation than those committed for a new conviction. In 1974, 1,024, or 56 percent, were returned for technical violations, while 817, or 44 percent, were returned for new convictions. The proportion of technical violations to new convictions has remained relatively constant over the last three years. This means that of all those parolees returned to prison, less than half of the returns to prison are adjudicated through the courts.

157. Bureau of Parole, Annual Arrests and Disposition Report, fiscal year 1973, p. 2.

158. Telephone conversation with Jim Benedict, Research Specialist, Correctional Information System, March 21, 1975.

Table 14
FIVE YEAR COMPARISON OF TYPE OF PAROLE ARRESTS,
FISCAL YEARS 1968-73

FISCAL YEAR	ARRESTS FOR INDICTABLE OFFENSES		ARRESTS FOR JUV. DELINQUENCY		ARRESTS UNDER DIS. PERSONS STATUTE		ARRESTS FOR MOTOR VEHICLE VIOLATIONS		ARRESTS UNDER LOCAL ORDINANCES		ARRESTS AS MATERIAL WITNESSES		ARRESTS FOR TECH. VIOLATIONS	
	NUMBER OF ARRESTS	% OF TOTAL ARRESTS	NUMBER OF ARRESTS	% OF TOTAL ARRESTS	NUMBER OF ARRESTS	% OF TOTAL ARRESTS	NUMBER OF ARRESTS	% OF TOTAL ARRESTS	NUMBER OF ARRESTS	% OF TOTAL ARRESTS	NUMBER OF ARRESTS	% OF TOTAL ARRESTS	NUMBER OF ARRESTS	% OF TOTAL ARRESTS
1972 - 1973	4,223	53.7	890	11.3	1,879	23.9	333	4.2	157	2.0	20	.3	365	4.6
1971 - 1972	4,396	52.9	1,176	14.1	1,694	20.3	375	4.5	144	1.7	23	.3	496	5.9
1970 - 1971	2,143	44.8	948	19.8	1,333	27.8	246	5.1	102	2.1	6	.1	464	8.9
1969 - 1970	2,128	40.2	1,119	21.1	1,162	21.9	295	5.5	91	1.7	17	.3	473	8.9
1968 - 1969	1,813	38.5	993	21.1	984	20.5	385	8.2	80	1.7	5	.1	457	9.7
5 Year Increase	132.9%		-10.3%		90.9%		-13.5%		96.2%		300.0%		-20.1%	

Source: Bureau of Parole, Annual Arrests and Dispositions Report, Fiscal Year 1973, p. 7.

A comparison of the number of persons returned from parole to the number of persons released on parole illustrates the revolving door of the criminal justice system. The comparison of returns to releases does not imply that all those returned had been released that year. Although since 67 percent of all parolee arrests occurred within 12 months of release, there is evidence to indicate that a significant proportion of those arrested probably do return within a year.¹⁵⁹

In fiscal year 1969, of the 3,693 offenders released on parole, 1,197 parolees, or 32 percent, were returned to prison. With the exception of fiscal year 1971, the return rate has been relatively constant at 36 percent return. This means that for every three persons released to parole each year in New Jersey, at least one person from the parole population was returned to prison.

Table 15
PRISON RETURN RATE, FY 1969-74

Fiscal Years	Number Returned to Prison	Number Released on Parole	Returns/Releases
1974	1,841	4,944	37%
1973	1,837	5,099	36%
1972	1,861	5,173	36%
1971	1,737	4,119	42%
1970	1,378	3,833	36%
1969	1,197	3,693	32%

Source: Bureau of Parole, Annual Reports, FY 1969-1974, Tables 1 and 2.

The real significance of these figures or return rates would be clarified if compared with parole outcomes in other states. An accurate comparison would require that the recidivism calculations be derived from a similar data base. This is a difficult task, as the previous sections indicate, since recidivism data varies among different sources.

There is one primary source of national data on parole outcomes for all persons released to parole supervision in the United States. Data gathering for this Uniform Parole Report is based on a

159. Annual Arrests and Disposition Report, FY 1973, p. 7.

Table 16
Parole Outcome in First Year for all
Persons Paroled in United States, 1969-1971

	Total Number Reported Paroled		
	1969	1970	1971
Continued on Parole	20,122 74%	20,557 75	22,148 79
Return to Prison as Technical Violators	3,981 14%	3,831 14	3,269 12
Recommitted to Prison with New Major Conviction(s)	1,287 5%	1,240 5	1,274 4
Absconder	1,818 7%	1,668 6	1,452 5
TOTAL	27,208 100%	27,296 100%	28,143 100%

Source: Uniform Parole Reports, National Male and National Female Summary Tables Part 2, November 1973.

standardized set of definitions and procedures, offering a high degree of reliability. Unfortunately, New Jersey is one of only two states which does not participate in this nationwide parole data system. However, based on the available data, the return rate in New Jersey appears to be higher than the national average reported in the Uniform Parole Reports. Of the total number paroled in the United States in 1971, 16 percent returned to prison. Related figures for New Jersey indicate that 42 percent returned that year. Figures for 1969 and 1970 are comparable. (See Table 16.)

These figures are somewhat an exaggeration since only half of those returned to prison are returned for a new conviction. Nevertheless, if one can assume that 100 percent of these individuals were judged to be fit at the time of release, over one-third of the number of persons released each year in New Jersey were returned that same year and therefore not fit for parole.

Recommendation 15. It is recommended that the Legislature direct the Bureau of Parole, in conjunction with the paroling authorities, to develop a uniform information system in order to closely monitor parole outcome and to determine the cause and extent of recidivism in New Jersey.

Furthermore, since the rate of failure appears to be most frequent within the first 12 months of release, *it is recommended that provisions be made to furnish more extensive post-release services to meet such basic needs as housing, employment, and financial assistance.*

UNIFORM PAROLE REPORTS

Finding 19. New Jersey is one of only two states which does not participate in the Uniform Parole Reports, a national statistical reporting system on parole.

The Uniform Parole Reports of the National Probation and Parole Institutes has developed a nationwide statistical reporting system on parole. This program, administered by the National Council on Crime and Delinquency, has developed data on parole outcomes for more than 150,000 persons paroled throughout the United States from 1965 through 1971. The Uniform Parole Reports data file also includes a two-year follow-up beginning with the 1968 parole analysis and three-year follow-up data starting with 1969.¹⁶⁰

¹⁶⁰. NCCD, Uniform Parole Reports, "1971 Parolees and Trend Analyses," November, 1973, back cover.

There are 55 agencies in 50 states that participate in this data system, including the Federal Government and Puerto Rico. While New Jersey has been a participating member in the past, it has not fully contributed data since November, 1971 for the 1969 analysis. The State's participation has steadily decreased. It contributed only four month's worth of data in November, 1972 and February, 1973. In November of 1973, New Jersey and Alaska were the only two states who did not contribute any data to the Uniform Parole Reports. There is no reason for New Jersey to not be participating, particularly since the NCCD has offered assistance in training the data gathering personnel.¹⁶¹

Recommendation 16. It is recommended that the Bureau of Parole participate in the nationwide parole information system of the Uniform Parole Reports. Such participation would provide New Jersey with a standardized mechanism for comparing parole outcomes with those of other states and improve the overall reliability of the Uniform Parole Reports.

¹⁶¹. Fred Haley, Supervising Parole Officer for the New Jersey Bureau of Parole, in telephone conversation, December, 1974.

APPENDICES

HISTORY OF PAROLE

European penal philosophy established the basic framework for the organization of the parole system in New Jersey. In Europe, during the 17th and 18th centuries, retribution and punishment formed the basic tenets of penal philosophy. The offender was treated with vengeance and subjected to cruel physical punishment. During the Reformation, this philosophy made a dramatic shift from one of physical punishment to that of reformation of the individual. As part of the reformation process, the idea of returning the offender to the community gained acceptance.

Early systems of prisoner release were based on reducing the period of imprisonment as a reward for good behavior. In England, the ticket-of-leave system substituted imprisonment with transportation, specifying the length of time prisoners were required to serve before becoming eligible for conditional release. Other than the conditions of release, prisoners weren't actually supervised. The result was confusion and disorder.¹

The Irish penal system allowed a prisoner to work through three successive stages of penal servitude toward a "license to be at large," revocable for irregularity of conduct at any time prior to the expiration of the original sentence. These ticket-of-leave convicts were supervised by the police and, in some cases, by a civilian inspector of released prisoners.

In 1876, the Elmira Reformatory in New York incorporated a number of these European principles of prison reform and introduced parole to the American penal system. The Reformatory developed an indeterminate sentence, whereby the length of time served was dependent on the behavior and capacity of the prisoner. Provisions were made for the release of carefully selected prisoners on parole.

Despite the stress on reformation, little thought was given to preparing the inmate for future adjustment in the community. Prison administrators and prisoners alike began to accept the idea that whether or not the inmate was reformed, early release for good behavior was a right, not a privilege.

1. Charles L. Newman, Sourcebook on Probation, Parole and Pardons, (3rd edition; Springfield, Illinois: Charles C. Thomas, 1970), p. 342. Reprinted from Nat R. Arluke, "A Summary of Parole Rules." NPPA Journal, 2 (No. 1): 6-14, January 1956.

So, while the origins of the parole system date back over a hundred years, it has only been within the last twenty years that the penal system has begun to realize the importance of inmate rehabilitation to the success of parole and to initiate dramatic reforms to achieve that objective.²

History of Parole in New Jersey

The history of parole in New Jersey has been marked by a variety of influential study commissions and dynamic individuals interested in penal reform.

The Committee of 1869, prompted by political scandal and protests about prison cruelty, carried out an extensive investigation of New Jersey prisons. At that time, parole was still just an idea. There were only two ways for an inmate to leave prison: by serving the entire term or by winning a pardon from the Governor and the Court of Pardons. The Commissioners observed that authorities were granting pardons, "...as much to relieve overcrowding (and presumably, in response to political influence) as to rectify the miscarriage of justice."³ They recommended that authorities direct the convicts' efforts and hopes toward earning their freedom by commuting their sentence for good conduct and faithful labor.

In 1889, the Warden of the State Prison helped pass a parole law relating discharge to rehabilitation rather than the former idea of executive clemency. At that time, the authority for release was held by the prison officials. The N.J. Attorney General transferred this authority from the prison to the Court of Pardons and later granted both authorities the power of release.

When the Prison Inquiry Commission (more commonly called the Morrow Commission) studied New Jersey prison reform in 1917, they found that the policies of early release, while rationalized as humanitarian, continued as an expedient means to relieve overcrowding.⁴ The Commission believed that such a mechanical disposition was futile, and that parole should be granted with careful discretion by the institutional Board of Managers based on behavioral considerations.⁵

2. Ibid., p. 34-37.

3. James Leiby. Charity and Correction in N.J.: A History of State Welfare Institutions. (New Brunswick: Rutgers University Press, 1967), p. 132.

4. Leiby, Charity and Corrections, p. 133.

5. Ibid., p. 144.

Since the creation of the Department of Charities and Corrections in 1818, each Commissioner has left a mark on the organization of the Department. Commissioner Sanford Bates was particularly interested in parole and, together with regulations set forth by the Constitutional Convention of 1947, facilitated the centralization of the Department. Bates transferred supervisory authority for parole from the State Prison to the Central Parole Office. Prior to this, the State Prison had two field officers supervising over 900 of its own parolees. A new Parole Board was organized to handle all inmates with a minimum-maximum sentence.⁶

The correctional system was reviewed again by the Study Commission of 1959. One area of concern was the function and composition of the Board of Managers. While the Commission was in agreement that the Boards should function better, they disagreed on a solution. The majority wanted to transfer the authority of the local Boards for paroling inmates on an indeterminate sentence to a separate Board, made up of delegates from the several local Boards. Other members felt the local Boards had a role to play in management and formulating local policies. The Commission eventually proposed the creation of a divisional advisory council composed of delegates from local Boards.⁷

Many correctional investigations have been initiated within the last decade. In 1968, the Commission to Study the Causes and Prevention of Crime in New Jersey made several recommendations related to parole, including establishment of community treatment centers, creation of the pre-parole work release program, and development of specialized parole caseloads.⁸ In 1970, the Governor's Management Commission recommended the abolition of the State Parole Board, advising transfer of its authority to each prison's Board of Managers.⁹

The County Penal System Study Commission, created in 1973, is currently undertaking a review of the conditions and programs within the prisons. Public hearings are being held throughout the State in order to evaluate, among other things, the county penal classification procedures and the use of community resources for rehabilitation.¹⁰

6. Ibid., p. 303.

7. Ibid., p. 395.

8. New Jersey Commission to Study the Causes and Prevention of Crime in New Jersey. Staff Report: A Survey of Crime Control and Prevention in New Jersey (1968), p. 88.

9. Governor's Management Commission, (1970), p. 213.

10. 1972 Senate Joint Resolution No. 17.

The New Jersey Association on Correction released a report recently which criticized several aspects of the parole system. The N.J.A.C. recommended that all inmates be released to community-based programs after one-third of their sentence.¹¹

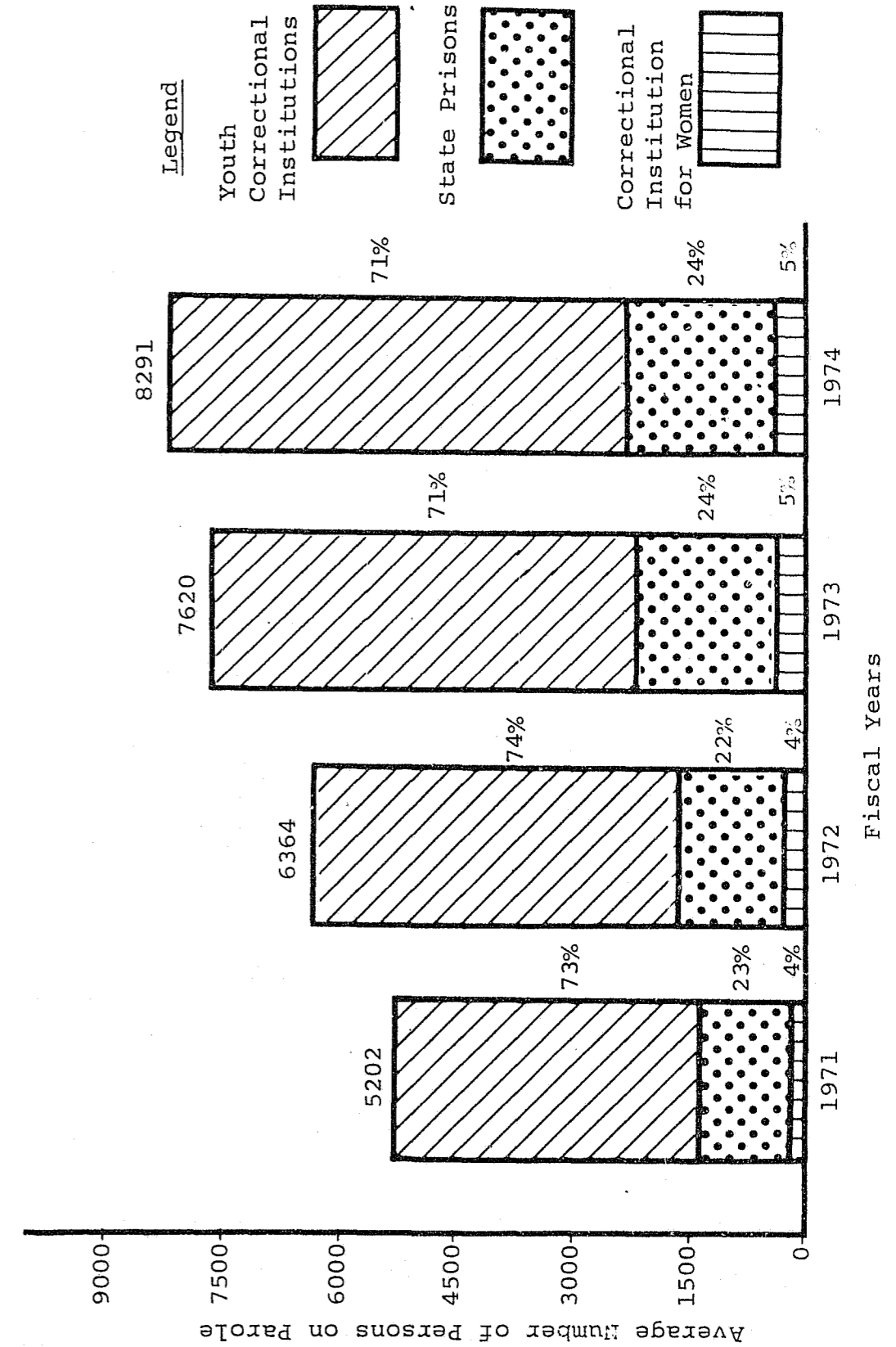
The inmates themselves have taken an active role in influencing parole policy. In February 1975, the Ad Hoc Parole Committee, a coalition of New Jersey State Prison inmates, criminal justice professionals, and citizens, issued a report entitled "The Parole Denial Process in New Jersey." As the result of a survey of over 300 inmates incarcerated in Trenton State Prison, the Committee proposed a Model Parole Act. This legislative proposal attempts to reduce the decision-making authority of the Parole Board. The Act establishes parole eligibility at one-third of the minimum sentence, less credits. Parole release is evaluated on the basis of progress toward the specifications for behavior and performance established in a contract at the time of reception.¹²

During the last three years, over eighteen parole bills have been introduced in the Legislature. In 1972, P.L. 1948, c. 84 was amended to allow the two associate members of the State Parole Board to serve full time.¹³ Another important parole reform bill, considered that year, would have guaranteed automatic eligibility after serving sentence for six months.¹⁴

11. New Jersey Association on Correction, Report of the Special Study Committee on Parole Reform, A Way Out of Wonderland, (N.J.A.C.: February 1975).
12. Ad Hoc Parole Committee, Public Information Report #1, The Parole Denial Process in New Jersey, (Dallas, Texas: Taylor Publ. Co.), February 1975.
13. N.J.S.A. 30:4-123.2.
14. Senate, No. 1122, introduced July 17, 1972.

Appendix B

AVERAGE NUMBER OF PERSONS ON PAROLE BY INSTITUTION TYPE
(Fiscal Years 1971 - 1974)



Source: Compiled by OFA staff from correctional information system data, November 21, 1974.

Appendix C:

SENTENCING CLASSIFICATION OF OFFENDERS

Persons in the judicial segment of the New Jersey criminal justice system are classified by one of two statutory designations for offense: a disorderly persons offense, or an indictable offense which includes misdemeanors and high misdemeanors. An offender can be further classified as a special offender if convicted under the Narcotics and Drug Abuse or Sex Offender statutes. Other statutory classifications are based on the number of previous offenses as in multiple or habitual offenders; or age, as a juvenile, youth, or adult offender.

General Statutory Classification

Disorderly persons offenses go before municipal court on a filed complaint.¹ The maximum sentence for a disorderly persons offense is six months incarceration and a fine of \$500. Disorderly persons do not come under the jurisdiction of any paroling authority since no sentence for such offenses exceeds one year.

Indictable offenses are divided into misdemeanors and high misdemeanors. The Supplement to the Sentencing Manual for Judges further categorizes crimes as: misdemeanors punishable under the general provisions of N.J.S.A. 2A:85-7;² high misdemeanors punishable under the general provisions of 2A:85-6;³ and "crimes in which the punishment limitations are contained in the substantive statute."⁴

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1. The prosecutor can also "downgrade" a case from an indictable offense to a disorderly persons offense.
 2. New Jersey Administrative Office of the Courts, Supplement to Sentencing Manual for Judges (November 1972), pp. 16-34.
 3. Ibid., pp. 35-39.
 4. Ibid., pp. 40-55.

Most misdemeanors are generally categorized under 2A:85-7:

Any persons found guilty of a crime which by statute is declared to be a misdemeanor, and for which no punishment is specifically provided, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 3 years, or both.

However, there are crimes which are defined by statute as misdemeanors, with a specific punishment also spelled out by the statute, as in:

2A:112-3. Bookmaking and pool selling

Any person who, . . . conducts the practices commonly known as bookmaking or pool selling, . . . is guilty of a misdemeanor, and shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment in the State prison for not less than 1 year nor more than 5 years, or both.

High misdemeanors are also classified by both general statute and specific statute. Like misdemeanors, the majority of statutory provisions for high misdemeanors are provided by a general statute.

N.J.S.A. 2A:85-6 is the general statute that applies to crimes designated as a high misdemeanor where no punishment is specified.

Any person found guilty of a crime which by statute is declared to be a high misdemeanor, and for which no punishment is specifically provided shall be punished by a fine of not more than \$2,000, or by imprisonment for not more than 7 years, or both.

N.J.S.A. 2A:94-2 is an example of a statute for a high misdemeanor which specifically provides for punishment.

2A:94-2. Use of high explosives in breaking or entering

Any person who willfully or maliciously breaks or enters . . . with intent to kill, rob or steal, and who, for the purpose of effectuating such intent, uses or attempts to use . . . high explosive, is guilty of a high misdemeanor, and shall be punished by a fine of not more than \$5,000, or imprisonment for not more than 40 years, or both.

In summary, there are 680 misdemeanors and 139 high misdemeanors provided for in New Jersey statutes.⁵ Most misdemeanors (465 or 68 percent) and high misdemeanors (98 or 70 percent) are included under the general punishment provisions of 2A:85-7 and 2A:55-6, respectively.

There are also 256 substantive statutes in which the type of crime and punishment limitations are specified. These substantive statutes cover a wide variety of crimes and punishments - from a minimum of a \$25 fine for "the use of common drinking cup, an undoubted source of communication of infectious diseases",⁶ to maximums of life imprisonment⁷ with fines as high as \$100,000.⁸ Most statutes specify crimes and punishments between these extremes.

Special Offenders Statutes

Legislation relating to Drug and Sex Offenses is often referred to as special offenders legislation. Some of these statutes specify penalties providing for traditional sentences incarceration and fines. However, N.J.S.A. 24:21-19 to 24,

5. Ibid., Tables 1, 2 and 3, pp.

6. N.J.S.A. 26:4-10.

7. N.J.S.A. 2A:113-4, first degree murder, 2A:118-1 kidnapping with ransom demand, 2A:148-6 assaulting President with intent to kill.

8. N.J.S.A. 2A:105-5, threatening injury to induce repayment of loan.

24:21-16, and 24:21-29 include no minimum sentences; penalties imposed under these statutes are indeterminate. In addition, N.J.S.A. 24:21-27 provides that when the charge is for a first offense of simple possession or use of controlled dangerous substances, the court may, before adjudication of guilt, place the offender under supervisory treatment. This action does not constitute a conviction and the offender is not sentenced to a correctional institution.

The Sex Offender statutes, N.J.S.A. 2A:164-3 et seq., also provide special categorization for sentencing purposes. In these cases, "whenever a person is convicted of the offense of rape, carnal abuse, sodomy, incest, private lewdness, open lewdness, indecent exposure, or impairing the morals of a minor, or of an attempt to commit any of the aforementioned offenses, or assault with intent to commit rape, carnal abuse, or sodomy, the judge shall order the commitment of such person to the Diagnostic Center for a period not to exceed sixty days. While confined in the said Diagnostic Center, such person shall be given a complete physical and mental examination."⁹ If the Diagnostic Center finds that "the offender's conduct was characterized by a pattern of repetitive, compulsive behavior, and . . . if either violence was utilized . . ., or the victim was under the age of fifteen years, it shall be the duty of the court, upon recommendation of the Diagnostic Center, to submit the offender to a program of specialized treatment for his mental and physical aberrations."¹⁰

The sex offender can either be confined for an indeterminate period to the Special Treatment Unit at Rahway,¹¹ or placed on probation, with treatment as a condition of probation, "but in no event shall the person be confined or subject to parole supervision for a period of time greater than that provided by law for the crime of which such person was convicted."¹²

9. N.J.S.A., 2A:164-3.

10. N.J.S.A., 2A:164-5.

11. According to the Attorney General, a sex offender can legally refuse treatment in which case he is housed with the general prison population; however, he retains his indeterminate sentence. It has been estimated that twenty to thirty offenders in the system today have chosen that option.

12. N.J.S.A., 2A:164-6.

Classification by Previous Offenses

Offenders are also classified according to the number of previous convictions. Under N.J.S.A. 2A:85-8 et seq., multiple offenders statutes, defendants convicted of a misdemeanor, or high misdemeanor, who have been previously convicted of a high misdemeanor or its equivalent in another jurisdiction, may have their sentences increased. In order for defendants to be designated as multiple or habitual offenders, they must be so charged by the County Prosecutor either at the time of indictment for the (high) misdemeanor or at any time after conviction but prior to sentencing for the current (high) misdemeanor. The defendant must have a trial or hearing on the charge of being a multiple or habitual offender and be found guilty of the charge before the judge can impose sentence under the statute. The statute is rarely used. Three cases have been successfully indicted by one prosecutor in the past three and one-half years.¹³

Classification by Age

The defendant's age is the basis for the final statutory classification. The offender's age alone determines the statutory culpability for crime (2A:85-4):

A person under the age of 16 years is deemed incapable of committing a crime.

Persons under thirty years of age may be sentenced as youth offenders if they have been convicted of a crime punishable by imprisonment in the State Prison and have not been previously sentenced to and incarcerated in a State Prison. Offenders who are between sixteen and thirty years old, previously sentenced to a State Prison, or determined by the court to be a habitual offender, or charged with "an offense of heinous nature", may be sentenced as adult offenders.¹⁴ Any person over the age of thirty is sentenced as an adult offender.

13. Interview with C. Judson Hamlin, Prosecutor, Middlesex County, New Jersey, January 13, 1975.

14. N.J.S.A. 2A:4-15.

Appendix D

SCHEDULE FOR GOOD BEHAVIOR CREDIT:
N.J.S.A. 30:4-140

A Minimum and Maximum Sentences in Years	B Progressive Credits for Minimum and Maximum Sentences in Years (days)	C Credits for Each Full Month of Fractional Part of a Year in Excess of Column A (days)
1	72	7
2	156	8
3	252	8
4	348	8
5	444	8
6	540	8
7	636	10
8	756	10
9	876	10
10	996	10
11	1,116	10
12	1,236	11
13	1,368	11
14	1,500	11
15	1,632	11
16	1,764	11
17	1,896	12
18	2,040	12
19	2,184	12
20	2,328	12
21	2,472	12
22	2,616	13
23	2,772	13
24	2,928	13
25	3,084	15
26	3,264	15
27	3,444	15
28	3,624	15
29	3,804	15
30	3,984	16

Any sentence in excess of 30 years shall be reduced by time credits for continuous orderly deportment at the rate of 192 days for each such additional year or 16 days for each full month of any fractional part of a year. Nothing herein contained shall be deemed to limit or affect a convict's eligibility for parole consideration as provided for in section 10, chapter 84, P.L. 1984, as amended, in any situation where the sentence or consecutive sentences imposed upon a convict shall exceed 25 years. As amended L.1957, c.27, p.52, § 1.

Appendix E

STATE PAROLE BOARD ACTIVITIES

	Full Time Board		Part Time Board	
	July June 73 - 74	July June 72 - 73	July June 71 - 72	July June 70 - 71
I. State Parole Hearings ¹ :				
TOTAL		<u>2490</u>	<u>2161</u>	<u>2043</u>
Approved		1259	1133	1132
Denied		1182	1028	911
Other ²		49		
II. County Parole Hearings:				
TOTAL		<u>114</u>	<u>66</u>	<u>46</u>
Approved		52	36	32
Denied		60	29	14
Other	N.A.	2	1	
III. Total State and County Hearings ³		<u>2604</u>	<u>2227</u>	<u>2089</u>
IV. Discharges from Parole Prior to Max				
TOTAL		<u>75</u>	<u>44</u>	<u>59</u>
Approved		33	17	14
Denied		42	27	44
Other				1
V. Paroles Revoked ⁴		144	163	248

1. Includes Trenton, Rahway, Leesburg, only.
2. Includes those cases deferred.
3. Parole violation hearings held prior to June, 1972 are not included in total number of hearings.
4. Number of Declarations of Delinquency issued.

Source: Compiled by OFA staff from SPB data.

SUMMARY OF PAROLE REVOCATION PROCEDURES

Whenever District Parole Supervisors have reasonable cause to believe that a parolee within their jurisdiction has violated the conditions of parole, they may require the parolee to appear before a hearing officer for a Probable Cause Hearing. At least 4,122 Probable Cause Hearings have been held since New Jersey first implemented them in March 1973.¹

Notice of the Probable Cause Hearing is sent by registered mail to the last known address of the parolee. Frequently, the District Parole Supervisor issues a warrant for those cases who present a danger to the community, or when it appears that a mailed notice would be insufficient to insure a parolee's appearance. The warrant authorizes the parolee to be held in county jail, or city lock-up. The Board is notified on a weekly basis of the issuance of these warrants.²

The Bureau conducts a hearing within ten days of the service of notice, or the execution of a warrant. Depending upon whether or not probable cause is found, the determination is also made whether to apprehend, detain, or continue the parolee in custody pending the final hearing. The Board has the power to overrule either decision by a majority vote.

"Within a reasonable time" of the Probable Cause Hearing, the Board's hearing officers conduct a Final Revocation Hearing.³ For purposes of the hearing, the parolee may request the appearance of witnesses, and has the right to counsel, either retained or appointed.⁴ This hearing forms the basis for a final evaluation by the full Board of all the facts relevant to consideration of the alleged violation(s), and a final determination as to whether parole will be revoked.

-
1. Division of Correction and Parole, Correctional Information Systems, March 5, 1975.
 2. Robert Reed, Esq., Parole Revocation Hearing Office, in telephone interview, March 14, 1975.
 3. New Jersey State Parole Board, "Procedural Guidelines Covering Parole Revocation", 1975.
 4. The appointment of counsel from the Office of the Public Defender was formerly based on an informal agreement with Governor Cahill. A Parole Revocation Defense Program is now formerly organized under a SLEPA grant.

The entire revocation process generally takes ninety days. Time standards in the guidelines specify only that a Probable Cause Hearing take place within ten days of the issuance of a warrant. The time lapse between the Probable Cause and Final Revocation Hearing generally amounts to sixty days. Final decisions for revocation cases are reviewed monthly by the Board so that a final determination does not take more than four weeks from the time of the hearing. The Board's hearing officers have been conducting in excess of twenty Final Revocation Hearings per month.⁵

The Division of Corrections and Parole employs two hearing officers who conduct the Final Revocation Hearings for the Youth Complex. While the hearing officers sit with the Board of Trustees during their revocation decisions, the Trustees have the ultimate authority for revocation decisions. These hearing officers conduct on the average of 65-75 hearings per month at Yardville.⁶

5. Reed, op. cit.

6. John Gregoria, Parole Revocation Hearing Officer for the Youth Complex, in a phone interview, November 1974.

STATE LAW ENFORCEMENT PLANNING AGENCY PROGRAMS

The State Law Enforcement Planning Agency (SLEPA) is responsible for administering Federal Law Enforcement Assistance Administration (LEAA) funds and State monies that supplement or match these Federal funds. Both LEAA and SLEPA came into existence to implement the provisions of the Federal Omnibus Crime Control and Safe Streets Act of 1968. New Jersey SLEPA was created by an executive order of Governor Hughes in 1968.

While nearly every facet of the criminal justice system has been affected by a SLEPA sponsored program, attention is focused here on those programs having to do specifically with parole. There are three such programs: Volunteers in Parole Program, Special Parole Projects, and Final Parole Revocation Hearing Program.¹ SLEPA allocated \$288,000 to these programs in 1974. The State and local contribution amounted to \$32,000 for that grant year.

Volunteers in Parole Program

The Volunteers in Parole Program is jointly sponsored by the Bureau of Parole and the New Jersey Bar Association and has been in operation since January 1972. The program recruits and trains volunteers, primarily lawyers, to assist parolees in a variety of areas, including employment, education, and social concerns. Program activities are described in the grant application:

"Since the inception of the program, 290 parolees have been assisted by the volunteers. More than 50 parolees have been assisted in obtaining and maintaining meaningful employment. Volunteers have assisted 25 parolees in obtaining schooling after release from institutions. Of the 290 parolees who have been assisted by volunteers, 13 (4%) have been terminated because of the commission of a new offense, 14 (4%) have been terminated because of parole violations, and 9 (3%) have absconded."²

SLEPA funding of this project was \$22,500 in fiscal 1974.

-
1. Criminal Justice Plan for New Jersey, 1974, pp. 135-6.
 2. Individual Action Application Review, General Summation No. 1687, SLEPA, 1974, p. 5.

Special Parole Project

The Special Parole Project has two components which are both administered by the Bureau of Parole: Specialized Treatment Caseloads and Re-Orientation Community Program. The Specialized Treatment Caseloads Program has provided intensive individual counseling and drug utilization monitoring for a small group (180) of parolees since June 1973. Its program goals are to prevent these parolees from returning to custody and to upgrade counseling skills of the assigned parole officers.

The Re-Orientation Community Program segment of the project provides basic services to persons released at the expiration of their maximum term. Eligible inmates are contacted prior to prison release. The program's services are offered to them; however, participation is strictly voluntary. Project staff help the inmate plan for release and, upon release, assist the client in becoming self-supporting. Since the start of activities in June 1973, 127 clients have been assisted. SLEPA funding of this project was \$212,651 in fiscal 1974.

Final Parole Revocation Hearing Program

The Final Parole Revocation Hearing Program, initiated July 1, 1973, is administered by the Office of the Public Defender. "The specific goal of the program is to enable all indigent parole violators to have necessary legal and investigative assistance in order that they might effectively present evidence in support of a denial of violation of parole or mitigation of the violation(s)."³ From July 1, 1973 to February 28, 1974, forty parolees received legal counsel through this program. SLEPA funding of this project in fiscal 1974 was \$52,848.

3. Individual Action Application Review, General Summation No. 1972, SLEPA, 1974, p. 5.

Appendix H STATE PAROLE BOARD: CERTIFICATE OF PAROLE CONDITIONS OF PAROLE

1. From the date of your release on parole and until the expiration of the maximum of your sentence(s), unless sooner discharged from parole, you shall continue to be in the legal custody of the Chief Executive Officer of the Institution from which you are released and under the supervision of the Bureau of Parole of the Department of Institutions and Agencies.
2. You shall be required to abide by the rules and regulations formulated by the State Parole Board for the supervision of persons on parole.
3. As a condition of your being on parole, you are required to:
 - a. Conduct yourself in society in compliance with all laws and ordinances;
 - b. Conduct yourself with due regard to moral standards;
 - c. Demonstrate that your conduct on parole has been good at all times;
 - d. Demonstrate that you are a fit person to be at liberty;
 - e. Make restitution for your crime, when required;
 - f. Contribute to the support of your dependents;
 - g. Abstain from the use or sale of narcotics and the excessive use of intoxicating beverages;
 - h. Refrain from association with persons of bad character or those who are considered by the Parole District Supervisor or his designated representative, to be undesirable companions;
 - i. Refrain from conduct while on parole which shall give reasonable cause to believe that you have resumed, or are about to resume, criminal conduct or associations;
 - j. Reside in a place approved by the Bureau of Parole;
 - k. Seek employment diligently and render to your employer the best service of which you are capable;
 - l. Report to or notify your Parole District Supervisor or his designated representative:
 - (1) As soon as possible but in any event within forty-eight hours after your release on parole from the institution;
 - (2) Whenever you are in any kind of trouble or in need of advice;
 - (3) As soon as possible after an arrest on any new charge;
 - (4) Whenever you are instructed to report by the Parole District Supervisor, his designated representative, or other competent authority;
 - (5) Before paying any fine or attempting to obtain bail;
 - m. Obtain permission from your Parole District Supervisor or his designated representative:
 - (1) Before marrying or applying for a divorce;
 - (2) Before purchasing a motor vehicle, obtaining a learner's permit, a driver's license, or applying for a motor vehicle registration;
 - (3) Before entering any form of conditional sales agreement or borrowing money or articles of substantial value;
 - (4) Before entering any business, changing your place of residence, or changing your employment;
 - (5) Before leaving the State of your approved residence;
 - (6) Before applying for a permit to carry a firearm, securing a hunting license, or carrying a firearm for any purpose.
4. This parole may be revoked without notice:
 - a. If you violate any of the conditions of your parole, other than by subsequent conviction of crime, you shall be required to serve the time remaining on your sentence(s), to be computed from the date you are declared delinquent, unless said revocation is rescinded or unless reparaed.
 - b. If you are convicted of a crime while on parole, or commit an offense on parole which subsequently results in a conviction of a crime, you shall be required to serve the time remaining on your sentence(s) to be computed from the date of your release on parole, unless said revocation is rescinded or unless reparaed.

NOTE: In cases where the prisoner is paroled from a county penitentiary, the term "Chief Probation Officer" shall be substituted for the term "District Parole Supervisor" in the above conditions of parole.

SPECIAL CONDITION(S)

Witness: _____

Dated _____ 19 _____

Signature

Appendix I

TOTAL APPROPRIATED EXPENDITURES FOR CORRECTIONAL
INSTITUTIONS AND PAROLE, FY 70-74

	Fiscal Years				
	Total Appropriated Expenditures				
	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>
State Prisons					
Trenton	3,921,970	4,572,171	5,357,021	7,515,090	8,720,143
Rahway	3,045,017	3,548,421	4,461,309	4,837,173	5,689,001
Leesburg	<u>1,311,371</u>	<u>2,271,594</u>	<u>3,144,505</u>	<u>3,893,010</u>	<u>4,541,206</u>
	8,278,358	10,392,186	12,962,835	16,245,273	18,950,350
Youth Correction					
Bordentown	2,830,169	3,300,103	3,729,718	4,038,290	4,511,544
Yardville	3,219,824	3,704,967	4,359,342	4,551,665	4,987,560
Annandale	<u>2,480,512</u>	<u>2,882,411</u>	<u>3,166,014</u>	<u>3,545,842</u>	<u>3,875,717</u>
	8,530,505	9,887,481	11,255,074	12,135,797	13,374,821
Women's Correction					
Clinton	<u>1,846,568</u>	<u>2,259,832</u>	<u>2,432,142</u>	<u>2,593,143</u>	<u>2,812,020</u>
	1,846,568	2,259,832	2,432,142	2,593,143	2,812,020
Total	18,655,431	22,539,499	26,650,051	30,974,213	35,137,191
Parole					
State Parole					
Board	90,477	85,259	89,602	195,058	256,152
Parole	1,820,913	2,114,801	2,614,652	2,863,098	3,313,839
Community Programs		72,787			
Div. Mgt. & Gen. Support	<u>347,719</u>	<u>342,937</u>	<u>395,747</u>	<u>550,800</u>	<u>702,662</u>
	2,257,109	2,615,784	3,100,001	3,608,956	4,272,653

Source: N.J. Executive Budget Message, FY 70-74.

BIBLIOGRAPHY

- Ad Hoc Parole Committee. The Parole Denial Process in New Jersey. Public Information Report #1. Dallas, Texas: Taylor Publishing Co., 1973.
- Arluke, Nat R. "A Summary of Parole Rules - Thirteen Years Later." Crime and Delinquency, (April, 1969).
- California Assembly. Report of the Select Committee on the Administration of Justice. Parole Board Reform in California: Order Out of Chaos. March, 1970.
- Citizen's Inquiry on Parole and Criminal Justice, Inc. Report on New York Parole. March 5, 1974.
- Florida Senate. Committee on Criminal Justice. Staff Report on Corrections, Parole and Probation. Vol. I and II, February, 1974.
- Glaser, Daniel. The Effectiveness of a Prison and Parole System. Abridged ed. New York: Bobbs-Merrill Co., Inc., 1969.
- Leiby, James. Charity and Corrections in New Jersey. Rutgers, N.J.: Rutgers U. Press, 1967.
- National Advisory Commission on Criminal Justice Standards and Goals. Corrections. Washington, D.C.: Government Printing Office, 1973.
- National Council on Crime and Delinquency, National Parole Institutes. Selection for Parole. April, 1966.
- N.J. Administrative Office of the Courts. Sentencing Manual for Judges. July, 1971.
- N.J. Bureau of Parole, Division of Correction and Parole, Department of Institutions and Agencies. Annual Report (s), FY 1969-74.
- _____. Annual Arrests and Dispositions Report (s), FY 1971-73.
- N.J. Commission to Study the Causes and Prevention of Crime in N.J. Staff Report: A Survey of Crime Control and Prevention in New Jersey. 1968.

- N.J. Legislature. Jt. Committee to Study Crime and the System of Criminal Justice in New Jersey. Public Hearings, Vol. I-8. April, 1968.
- N.J. Senate. Committee on Institutions, Health and Welfare. Public Hearings on Senate Bill 1122 (Sentencing and Parole). June, 1973.
- N.J. State Law Enforcement Planning Agency. Criminal Justice Plan for New Jersey, 1975. February, 1975.
- N.Y. Office of the Comptroller. Audit Report on the Rehabilitation Programs of the Department of Correctional Services As Of December 31, 1973. Report No. AL-St-39-74, 1974.
- Newman, Charles L. Sourcebook on Probation, Parole and Pardons. 3rd ed. Springfield, Illinois: Charles C. Thomas, 1970.
- O'Leary, Vincent and Nuffield, Joan. "A National Survey of Parole Decision-Making." Crime and Delinquency, 19 (July, 1973), pp. 378-393.
- Parker, William. Parole (Origins, Development, Current Practices and Statutes). College Park, Md.: Am. Correc. Assoc., May, 1972.
- Report of the Special Study Committee on Parole Reform of the New Jersey Association on Correction. Steven H. Gifis, Chairman. A Way Out of Wonderland. February 12, 1975.
- Robinson, J.O. and Smith, G. "The Effectiveness of Correctional Programs." Crime and Delinquency, 17 (January, 1971).
- Servill, Michael S. "Profile/New Jersey." Corrections Magazine, Vol. 1, No. 2 (Nov./Dec., 1974), pp. 3-12; 25-30.
- Stout, Ellis. "Women in Probation and Parole." Crime and Delinquency, 19 (January, 1973).

Appendix K

AGENCY RESPONSE

Note: As the result of the agency responses to the confidential draft of this report, a few changes were made in the final report in order to incorporate new information and eliminate potential misinterpretation.

In Chapter Two, comments about parole eligibility from county institutions were updated based on 1975 case law from Davis v. Heil, 132 N.J. Super. 283 (App. Div. 1975). Two other points regarding Supreme Court Rule 3:21-2 and indeterminate sentencing were also clarified.

In order to clarify the meaning without changing the intent, one word was changed in Recommendation Number Three, and several were added to the discussion on parole decision-making on page 36.

ADMINISTRATIVE OFFICE OF THE COURTS

STATE HOUSE ANNEX

TRENTON, NEW JERSEY 08625

ARTHUR J. SIMPSON, JR.
JUDGE, SUPERIOR COURT
APPELLATE DIVISION
ACTING ADMINISTRATIVE DIRECTOR

JAMES R. HEANEY
DEPUTY ADMINISTRATIVE DIRECTOR

CYNTHIA M. JACOB
DIRECTOR OF CIVIL PRACTICE

EDWIN H. STERN
DIRECTOR OF CRIMINAL PRACTICE



July 17, 1975

RECEIVED
DIVISION OF
PROGRAM ANALYSIS

JUL 24 9 45 AM '75
800-292-1887

OFFICE OF
FISCAL AFFAIRS

Mr. Gerald D. Silliphant
Director
Division of Program Analysis
Office of Fiscal Affairs
State House, Suite 232
Trenton, New Jersey 08625

Dear Mr. Silliphant:

Judge Simpson has forwarded your letter of July 1, 1975 to me for response. The Supreme Court has not had an opportunity to review the analysis prepared by the Office of Fiscal Affairs with regard to the New Jersey Parole System. Accordingly, we cannot, at this time, take any position with regard to the findings or recommendations contained therein.

We, nevertheless, make the following factual observations, reserving our rights to more generally comment on the report and its recommendations:

1. Finding 3(b) states that "There are no provisions for parole from a county jail or workhouse," but the recent case of Davis v. Heil, 132 N.J. Super. 283 (App. Div. 1975), certification granted, ___ N.J. ___ (1975) extends parole eligibility to inmates of county workhouses with regard to sentence over one year and to inmates of county institutions serving consecutive sentences aggregating more than one year in duration. A copy of that opinion is enclosed.
2. We think that the relevant statements contained in Chapter 2 should be clarified to make clear that indeterminate sentences to the Youth Institution Correction Complex and under the Sex Offenders Act, must, in all cases, be subject to the statutory maximum for the offense involved. A sentence to the Youth Institution Correction Complex is indeterminate subject to a maximum of five years unless (a) the statutory maximum for the offense is below five years in which event that maximum controls, or (b) the maximum is above five years and the court, for good cause shown, raises the maximum above five to the statutory maximum for the offense involved.

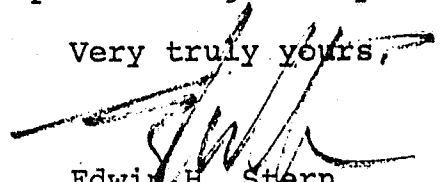
Mr. Silliphant

-2-

July 17, 1975

3. This office has recently advocated the position noted on pages 66-67 of your report to the effect that probation departments should not have the responsibility for collecting fines and costs imposed on inmates sentenced to custodial terms at State Prison and later released without payment of fines and costs. Due to the fact the defendant in such cases is not on probation, probation cannot be revoked for the failure to pay.
4. It might be beneficial to expand upon the new court Rules, briefly described in Chapter 2 of the report, which require a statement of reasons for each sentence imposed and which require the placement of those reasons in the judgment of conviction which, together with the presentence report, is transmitted to the institution for review both at the time of classification and parole eligibility.

Very truly yours,


Edwin H. Stern
Director of Criminal Practice

EHS/cd

attachments

cc: Hon. Arthur J. Simpson, Jr.



State of New Jersey
DEPARTMENT OF INSTITUTIONS AND AGENCIES
135 WEST HANOVER STREET TRENTON 08625

ANN KLEIN
Commissioner

July 24, 1975

Gerald D. Silliphant, Director
Division of Program Analysis
Office of Fiscal Affairs
State House, Suite 232
Trenton, New Jersey 08625

RE: Analysis of New Jersey Parole System

Dear Mr. Silliphant:

We appreciate very much the opportunity you have provided this Department to respond to the draft report prepared by your Division of Program Analysis of the New Jersey parole system. Our comments with respect to the sixteen recommendations contained in your report are as follows:

RECOMMENDATION 1: We agree that N.J.S.A. 30:4-155; 4-123.43; and 8-28 should be revised to conform to judicial rulings.

RECOMMENDATION 2: We agree that a committee should be formed of representatives of the judiciary and the parole system for the purpose of increasing judicial-correctional communications.

RECOMMENDATION 3: We agree that there should be a more effective standardization of the system for determining parole eligibility, but disagree with the idea of eliminating distinctions between different types of offenders.

RECOMMENDATION 4: We agree that the State Parole Board should have access to up-to-date actual sentence calculations at the time of the parole hearing, but additional staff would be required to meet this recommendation.

RECOMMENDATION 5: We agree with the proposal of extending fundamental due process procedures to parole hearings which is provided for in the Governor's Parole Bill presently before the Legislature.

RECOMMENDATION 6: We agree that parole criteria should be established for a more adequate means of evaluating parole decisions, and we believe that the Governor's Parole Bill addresses this issue.

RECEIVED
DIVISION OF
PROGRAM ANALYSIS

JUL 25 12 43 PM '75

OFFICE OF
FISCAL AFFAIRS
Deputy Commissioner

ROBERT E. MULCAHY, III
Deputy Commissioner

RECOMMENDATION 7: We agree that parole release be effectuated as soon as possible once the Parole Board judges an eligible person fit for parole.

RECOMMENDATION 8: We agree that the Legislature as a matter of public policy, or the judiciary as a specific determination in individual cases, should determine whether a new conviction should be served consecutively or concurrently with a revoked parole term.

RECOMMENDATION 9: We agree with the need for reorganizing the system for offender-related data collection, but suggest that additional staffing will be necessary, particularly in view of the Division's plans to eliminate the use of inmate classification clerks who have access to classification material and inmates' records.

RECOMMENDATION 10: We agree that the Parole Bureau should continue its new policy of mixed (male-female) caseload assignments.

RECOMMENDATION 11: We disagree that the Parole Board should reject every parole plan that does not reflect a suitable arrangement for obtaining and maintaining employment, since this would be inconsistent with Recommendation 7 and would not be necessary if Recommendation 15 (furnishing more extensive post-release services) is adopted. Moreover, when this was tried over 20 years ago, it resulted in serious overcrowding when more than 200 inmates were backed up in Trenton Prison pending verification of employment. Finally, and most importantly, such a policy would be fundamentally unfair to those under their control.

RECOMMENDATION 12: We agree with the need for a revision of the parole conditions contained in the parole certificate which concern is also dealt with in the Governor's Parole Bill.

RECOMMENDATION 13: We disagree with the idea that the Parole Bureau should be the collection agency for fines payable to the Counties and because there is no way to force payment except through the revocation of parole, which we believe is too drastic a remedy as a matter of general application.

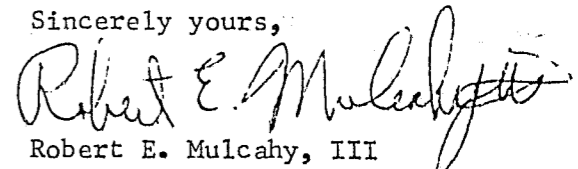
RECOMMENDATION 14: We agree, in general, that release on parole should not be affected by institutional population pressures. However, given periodic episodes of serious overcrowding, and taking into account our responsibility to provide adequate housing conditions, we feel that population pressures should be given consideration by the Parole Board, when extraordinary circumstances exist, through the mechanism of earlier release dates for inmates who have received favorable parole hearings.

RECOMMENDATION 15: We agree with the need for developing a uniform information system for monitoring parole outcome and determining cause and extent of recidivism, together with the need for furnishing more extensive post-release services.

RECOMMENDATION 16: We agree that the Bureau of Parole should participate in the nationwide parole information system.

We would like to add that the report prepared by your Office is obviously the product of extensive research and thoughtful deliberation and no doubt would be a great assistance to those who are concerned with the parole system in the State.

Sincerely yours,


Robert E. Mulcahy, III
Acting Commissioner

REM:amm



State of New Jersey

STATE PAROLE BOARD
STATE OFFICE BUILDING
135 WEST HANOVER STREET
TRENTON, NEW JERSEY 08625

RECEIVED
DIVISION OF
PROGRAM ANALYSIS
2:20
JUL 30 4 52 AM '75
OFFICE OF
FISCAL AFFAIRS

MARIO R. RODRIGUEZ
VERNER V. HENRY
Associate Members

Chairman

July 29, 1975

Mr. Gerald Silliphant, Director
Office of Fiscal Affairs
New Jersey State Legislature
State House
Trenton, NJ 08625

Dear Mr. Silliphant:

The New Jersey State Parole Board would like to commend you and your staff for your serious and intensive study as reflected in the Program Analysis of the New Jersey Parole System. The Board sincerely appreciates the fact that you have extended the opportunity for us to have input into the course of study and to offer comment on the final document.

In reviewing the Program Analysis, the Board finds some areas of agreement, some of disagreement, and some which we feel are in need of clarification. Considering the potential significant impact of your study, the Board has taken the liberty of commenting on each of the recommendations contained in the report. In the interests of brevity and readability, we have made every effort to condense our comments.

The following represents the considered opinion of the New Jersey State Parole Board. The Board would add at this point, its major concern with the Program Analysis that while there is no doubt that this analysis has succeeded in gathering valuable data and in offering concrete recommendations directed at correcting what the authors perceive to be the failures or inequities of the presently operative N. J. State Parole System, we are concerned that these recommendations are the result of a process of review and interpretation of the law conducted by laymen. Therefore, the analysis at times is characterized by errors of fact as a result of a misreading of both statutory and case law. We note in particular where existing case law was supportive of conclusions reached by the authors of the report it was cited. However, in instances where existing case law was contrary to the conclusions drawn it was conspicuous by its absence. Specifically, the Board's comments are:

Recommendation No. 1 - The Parole Board agrees that a clarification of legislative intent is in order for the specified statutes.

Finding No. 2, Sub-Section B - The statement that the judiciary shares certain decision making authority regarding parole with the paroling authorities is not accurate. While the judiciary, vis a vis the sentencing court, has a definite effect on parole eligibility through the sentencing function, it cannot accurately be stated that the judiciary shares concurrent authority in regard to parole itself, and there is a significant body of case law which stands for the proposition that Parole is not a judicial function.

We would note that in discussing sentencing alternatives, the report lists post-conviction relief from an appellate court as a judicial action which will divert the offender from a custodial sentence. The Board would comment that while post-conviction release may relieve an inmate from further incarceration, it, in fact, does not divert him from a custodial sentence before the fact.

In discussing decision making, the analysis states that the judiciary has the power to determine the sentence, but the paroling authority has the power to alter the terms of that sentence. The Board would submit that this statement is not factually accurate in that while it is true that the paroling authority may, after the inmate reaches the statutorily determined eligibility date, effect the amount of time spent in custody, it is not true that this constitutes any "alteration" of the terms of the sentence as imposed by the court.

Recommendation No. 2 - The Parole Board heartily endorses the formation of the committee outlined in Recommendation No. 2. We would, in fact, expand this recommendation to make this committee responsible for offering suggestions via the submission of bills to the State Legislature.

Recommendation No. 3 - There appears to be no rationale provided to support this recommendation other than the assertion that differences exist. It is surprising that the authors equate disparity of treatment with some sort of invidious discrimination without even a cursory discussion of why certain classes of offenders are treated differently from others for the purposes of both sentencing and parole.

Recommendation No. 4 - The Parole Board strongly supports any recommendation which would require the various classification departments to maintain and provide accurate, up-to-date sentence calculations for inmates. We have on numerous occasions voiced our concern over the existing system, but the problems unfortunately persist. At present it is only by means of extraordinary efforts initiated by the State Parole Board that up-to-date calculations are provided.

Recommendation No. 5 - In recommending that the Legislature consider establishing due process provisions for parole hearings, the Program Analysis urges the Legislature to require by statute what the courts have consistently stated is not required.

The N. J. State Supreme Court in the case of Beckworth et. al. vs. the N. J. State Parole Board stated "we did not call for, and indeed sought to avoid the full trappings of adversary trial type proceedings which would in all likelihood so burden and delay the entire parole release process as to disadvantage the very interests of the inmates themselves, as well as the public interest". We believe this recommendation will in effect establish an adversary relationship between the Board and the inmates which does not, and should not exist in these circumstances.

The recommendation continues by recommending the issuance of a written statement as to the evidence relied on and the reasons for denying parole. The Parole Board would submit that consistent with the directive issued by the N. J. State Supreme Court in the Monks case this procedure has been followed since approximately, 1972. The contents of the Notices of Decision provided by the Parole Board have been the subject of numerous legal challenges and the notices as prepared and issued by the State Parole Board have been consistently upheld.

The Board notes that the recommendation does not provide for, as does the Monks decision, such reasonable exceptions as may be essential to rehabilitation and the sound administration of the parole system. Inactment of this recommendation would, therefore, require the Board to provide each inmate with full documentary evidence. This must be presumed to include psychiatric and psychological evaluations; disclosure of the contents of which would, at the very least, jeopardize the integrity of the therapeutic relationship and could conceivably endanger the safety of the reporting Psychologist and/or Psychiatrist.

Finding No. 6 - The Parole Board would submit that the assertion that no criteria exists for parole decision making is a conclusion based upon subjective evaluation which would more correctly be stated as opinion rather than fact. The Parole Board would state that a multitude of pertinent factors are considered in determining the compatibility of an inmate's parole with the welfare of society. As outlined in the Beckworth decision, these factors include, but are not limited to psychological change, participation in institutional programs, institutional adjustment, prior criminal history, prior experience under community supervision, parole plan, circumstances of the commitment offense, the minimum sentence as imposed by the court, and the nearness of the mandatory release date.

We would urge the reader of this report to recognize that the legislature intended parole to be a discretionary function and, therefore, by its very nature no discretionary function is totally objective.

Recommendation No. 6 - In arriving at this recommendation which argues for the establishment of parole criteria, the Program Analysis states that "on the basis of policy it certainly appears that the Board should consider no characteristic or combination of factors to be more significant than any others in determining parole release. Therefore, regardless of their personal characteristics or prior criminal history each eligible offender should be equally considered for release on parole." The Parole Board would submit that this is a rather naive statement, which is subjectively drawn and wholly unsupported by data.

Given enactment of this recommendation the Board is at a loss to understand on what our determinations will be based if we are precluded from considering personal characteristics or prior criminal history. We would again draw the readers attention to the statements of the N. J. State Supreme Court in the Beckworth decision "of course, the striking facts surrounding the murder are immutable . . . but the Board clearly had the right to consider them and indeed would be derelict in its duty if it failed to do so." And, also, in the recent Campbell decision - "there is no question . . . that the Board has the right and the duty to consider the petitioners past conduct".

The authors of this report seem to suggest that because differences exist they are malum in se. The Board would maintain that there are valid reasons why certain classes of offenders are granted or denied parole more or less often than others. The Parole Board cannot conceive of any rationale which would indicate that the same standards for determining parole suitability be applied to a rapist and to a bookmaker ---- that a contract killer be treated identically to the individual whose homicide was the result of inflamed passions.

Finding No. 7 - The Parole Board believes a clarification is needed concerning the statement that a parole plan is rendered invalid after six months from the date of the parole hearing. The report continues by stating that release dates set more than six months in advance are technically illegal since they are established without benefit of a revised plan.

The Board would merely comment that the revised plan consists of verifying the present applicability of the provisions of the original plan. It should not be interpreted as being an entirely new plan, or requiring extensive reinvestigation. What is done, is that the inmate's place of residence and proposed employment are verified as remaining available to him. The Board would challenge the contention that these releases are illegal, since the six months revision is an administrative procedure instituted by the Bureau of Parole and there are no statutory specifications as to the date at which a parole plan becomes invalid.

Recommendation No. 7 - Under the existing policy of the State Parole Board every inmate eligible for parole will be scheduled for a parole rehearing or a parole release date no more than one year from the date of his current parole hearing (sex offenders excepted). The Parole Board wishes to note that in many instances when an inmate appears for a parole hearing, although his institutional adjustment has been favorable the Board cannot completely resolve their reservations about the compatibility of the inmates release with the welfare of society. In such cases, the establishment of a parole date some months after the date of the hearing renders the inmate eligible for participation in a number of community release programs, which enables the Board as well as the institutional authorities better able to observe the inmate in a tightly structure release circumstance. Further, participation in such programs affords the inmate the opportunity for a gradual re-entry into the community.

We would also note that the Board is bound to consider the intentions of the sentencing court by reviewing the date established by that court as the minimum amount of time for which the inmate has been sentenced.

Recommendation No. 8 - The Parole Board is strongly supportive of any action which would result in increased direction from the sentencing court.

Recommendation No. 9 - The State Parole Board has consistently and frequently raised the issue of incomplete and inaccurate classification material with the Department of Institution & Agencies. We have voiced our concern over this material on both qualitative and quantitative grounds, and, more recently, over the fact that such material in some cases has not been made available to the Board until the very day of an inmate's parole hearing.

Our willingness to cooperate with the Department of Institutions & Agencies in solving these problems is evidenced by the fact that several months ago the Board was instrumental in the formation of a committee consisting of Institutional Psychologists and Psychiatrists, Representatives from the Division of Correction and Parole, and Representatives of the Parole Board, whose primary function would be the development of improved format for pre-parole psychological and psychiatric evaluations.

Recommendation No. 11 - In response to the observations from which this recommendation is drawn that the Board is not fulfilling its legislative responsibility as established in NJSA 30:4-123.19, the Parole Board would remind the author of this report that the above cited statute indicates that release on parole shall not be effected unless the Board is reasonably satisfied that the prison has a suitable community parole plan with visible means of support, or is likely to be suitably

employed in self-sustaining employment on his release. The Parole Board would submit that in many cases visible means of support can be considered to be food and shelter as provided by a concerned relative or friend.

The Parole Board would suggest that in those cases where the Board has made the determination that an inmate will assume his proper and rightful place in society without violation of the law, and that his release is not incompatible with the welfare of society, to continue his incarceration for failure to obtain employment may very well border on "cruel and unusual punishment". While we sympathize with the spirit of this recommendation we would submit that in a State with an unemployment rate of approximately 13%, it is unworkable and unrealistic.

Recommendation No. 12 - The Parole Board believes this recommendation is validly drawn and deserves serious consideration.

Recommendation No. 13 - Although this recommendation does not apply directly to the N. J. State Parole Board, but rather to the Bureau of Parole, we feel that is significant and deserving of our comments.

The Program Analysis states that while County Probation Depts. are designated the collection agent for outstanding fines, they have no direct authority over the parolee. The Board would submit that the County Judiciary, the County Prosecutor, and the County Council would serve the County Probation Department as sources of authority for the resolution of unpaid fine cases. The Parole Board would consider it ill-advised to place the function of fine collection within the Bureau of Parole, and certainly believes that the paroling authority has neither the power nor the right to authorize the Bureau of Parole to file court action for elimination or reduction of fines.

Recommendation No. 14 - The Parole Board strongly supports this position.

Recommendation No. 15 - The Parole Board heartily endorses any effort directed at broadening the presently all too sparse post-release services available to inmates.

In general, we would suggest that the authors of this report review each of the findings and recommendations in which the N. J. State Parole Board is referred to directly. It would seem in many instances the more proper reference would be to the paroling authorities as many of the recommendations are not limited to the Parole Board but also to the Youth Correctional Institutions Board of Trustees.

Finally, the Board would address one comment to the information contained on Page 31 of this report in reference to the number of cases heard each hearing day, and the average length of time of each hearing. It should be noted that prior to the time of an inmate's hearing he is afforded the opportunity for an in depth interview with the Parole Counselor; the purpose of which is to review any and all records relevant to the inmate's case to which the Board will refer at the time of his hearing. Also, the inmate is given the opportunity at this interview to prepare an in depth personal statement, prepared by the Parole Counselor and given to the inmate prior to the hearing, which he is free to edit. Therefore, by stating that the average hearing lasts 1 1/2 minutes does not accurately reflect the amount of time each inmate is given by the Parole Board in conjunction with his parole hearing.

As we have stated, we believe that this Program Analysis of the New Jersey Parole System is a serious and intensive study which has gathered valuable data. Hopefully, our criticisms will be viewed as constructive ones, and together with your report will form the basis for continued study of effecting meaningful change in the presently operative system.

Sincerely,

STATE PAROLE BOARD

Mario R. Rodriguez *Verner V. Henry*
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Associate Members

MMR, VVH:slr

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END

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