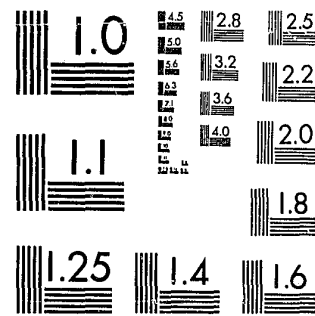


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STATE OF
WEST
VIRGINIA

26th ANNUAL REPORT

July 1, 1979 - June 30, 1980

Board of Probation and Parole

76715



WEST VIRGINIA
BOARD OF PROBATION AND PAROLE
 CHARLESTON 25305

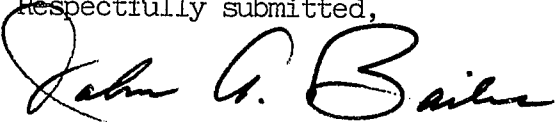
JOHN D. ROCKEFELLER IV
 GOVERNOR

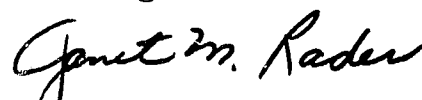
September 23, 1980

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

Dear Governor Rockefeller:

We have the honor to submit herewith the Twenty-sixth Annual Report by the West Virginia Board of Probation and Parole for the period of July 1, 1979, through June 30, 1980.

Respectfully submitted,

 John A. Bailes
 Acting Chairman


 Janet M. Rader
 Member-Secretary

JAB:JMR:ef

U.S. Department of Justice
 National Institute of Justice

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P R E F A C E

As a result of the enactment of the Enrolled Committee substitute for House Bill No. 607 (Chapter 42, Acts of the Legislature of West Virginia, 1965), the duties or functions of the West Virginia Board of Probation and Parole are limited to determinations relating to the release of inmates from penal institutions through the parole process, and the subsequent determinations as to the continuance on, or the revocation of, paroles granted.

Despite its formal title, or name, BOARD OF PROBATION AND PAROLE, the Board now has no duty or function in connection with the probation system in the State of West Virginia.

After the Board decides to grant parole in a particular case, the actual physical release of the person paroled is within the province of, and is effected by, the Department of Corrections. The field supervision of the parolee is also a function of the Department of Corrections, and the Board of Probation and Parole has no jurisdiction or authority in the matter.

This Board of Probation and Parole and the Department of Corrections have been cooperating to the fullest extent to insure the continued advancement of the parole and correctional systems in the State of West Virginia.

SELECTION AND ORGANIZATION OF THE PAROLE BOARD

The West Virginia Board of Probation and Parole consists of three members appointed by the Governor, by and with the advice and consent of the Senate, to serve at the will and pleasure of the Governor. Not more than two of the members shall at any one time belong to the same political party.

The Board is organized with a Chairman, Member-Secretary and Member. The Chairman of the Board is designated by the Governor. The Member-Secretary is named by the Board members. The main office of the Parole Board is located at 1116 Quarrier Street, Charleston, West Virginia.

REQUIREMENTS OF WEST VIRGINIA PAROLE LAW

The Legislature in enacting parole laws set up certain requirements. These provide, among other things:

- (1) That the inmate appear in person before the Parole Board.
- (2) That the inmate shall have served the minimum term of his indeterminate sentence, or shall have served one-third of his definite term, as the case may be.
- (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 in prison 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 will conduct himself in a lawful manner and that his release is not incompatible with the best interests and welfare of society generally.
- (6) If parole be denied, the prisoner shall be promptly notified.
- (7) The Board shall, with the approval of the Governor, adopt rules and regulations governing the procedure in granting of parole.

In carrying out its duties, the Parole Board is charged with the holding of summary parole violation hearings in those cases referred by the Department of Corrections. The information set forth on the following pages is an account of the activities of the Parole Board in carrying out the mandates of the parole laws.

THE PAROLE PROCESS

Parole, as a method of release from prison or jail, is not an inherent right bestowed upon the confined person. He has no "right" to be paroled, and it is not an act of clemency. Parole is a privilege granted to an inmate permitting him to serve the remainder of his

maximum time outside of the institution. The granting of parole rests upon two basic principles. The first and greatest of these is the protection of society. The second is rehabilitation of the criminal offender through incarceration and the planned program of the institution, and the further rehabilitation of the offender on return to society.

PAROLE INTERVIEWS

West Virginia parole law provides that, as to any person sentenced to the State's penal institutions, the Parole Board shall, as soon as such person becomes eligible, consider the advisability of his or her release on parole. That if, upon such consideration, parole be denied, the Parole Board shall at least once a year reconsider and review the case of every prisoner so eligible, which reconsideration and review shall be by the entire Parole Board.

The Parole Board conducts parole interviews for eligible prisoners at the following institutions of this State: the West Virginia Penitentiary, Moundsville; the Huttonsville Correctional Center, Huttonsville; and, the West Virginia Prison for Women, Pence Springs.

The Parole Board carefully reviews all progress reports received from the confining institution, together with reports of special medical, psychological and psychiatric examinations as are available. Prisoners who have maintained satisfactory conduct and

performance records during their period of confinement are personally interviewed by the Parole Board to determine their readiness and willingness to accept responsibilities to their families and to society. Release plans are proposed by those inmates who appear to be suitable prospects and are carefully investigated by the Department of Corrections' staff for acceptability prior to release on parole; however, a suitable home or job plan is not a prerequisite to the granting of parole. Release on parole is granted to the inmate, after personal interview and explanation of rules and regulations of supervision, by representatives of the Department of Corrections.

Between July 1, 1979, and June 30, 1980, the Board interviewed 694 prisoners.

PAROLES GRANTED

Of the 694 prisoners interviewed during this fiscal year 210 were granted parole. On a percentage basis 30% percent of those interviewed were granted parole, as compared with 34.17 percent for the 1978-1979 period and 37.97 percent for the 1977-1978 period.

The Board considers many factors prior to granting or denying parole. Among these are the prisoner's family background and social history in the community, his school record, youthful pattern of behavior, employment record, marital situation, the crime committed, medical and psychological reports when available, past criminal record, probation or parole violations, prison conduct, constructive use of

prison time, attitude toward crime, attitude toward the sentencing court and officials, local sentiment toward the prisoner's returning to the community, interest of family during confinement, and feasibility of a more desirable social adjustment in a different environment. These studies are made with a view of carefully screening those prisoners for release on parole who are less likely to revert to crime, thus affording as much protection to society as possible.

The Board occasionally interviews prisoners who have demonstrated their inability to assume the responsibilities of citizenship and, for the protection of society, should remain confined for the maximum period provided by law. However, in a few such cases, the Board has granted parole to inmates a short period of time before their expiration dates simply to have them placed under a period of parole supervision rather than that they be released "cold" without any supervision. Under supervision, hopefully, the released inmate is assisted in solving the immediate and often perplexing problems that occur during adjustment from a controlled life in the institution to the relative freedom in our competitive society.

At the time of interview the inmate is advised verbally of the Board's action, and in the event of denial, the reasons therefor. After the Board returns to the main office the prisoner receives a written notice of the Board's action.

As required by law, parole interviews are open hearings.

Despite the presence of a detainer filed against a prisoner by federal or local authorities, the Board may grant parole whenever the facts justify such action. Generally, such paroles are granted only when the Board feels the prisoner would be a "good risk" were the detainer lifted. In some instances, release on parole is authorized only on the specific condition that the prisoner be paroled to the detainer.

The data below indicates the Parole Board's activities as to interviews and the decisions granting or denying paroles for the 1979-1980 fiscal year:

	West Virginia Penitentiary	Huttonsville Correctional Center	West Virginia Prison for Women	Total
Interviews Held	271	392	31	694
Paroles Granted	80	113	17	210
Paroles Denied	177	272	12	461
Placed Under Further Consideration	14	7	2	23

The placing under "further consideration" is a method used by the Parole Board in an interviewed case where all pertinent material is not then available and a full and fair decision cannot be reached until such material is available. The 23 "further consideration" cases shown in the chart, after further evaluations by the Parole Board, were decided in the following manner:

Granted Parole----- 2
 Denied Parole----- 20
 Pending----- 1

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1979, THROUGH JUNE 30, 1980

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Forcible Rape	1	0	0	1
Burglary by Breaking and Entering	1	0	0	1
Receiving Stolen Goods	1	0	0	1
Accessory Before the Fact	1	0	0	1
Attempt to Commit Armed Robbery	1	0	0	1
Attempted Rape	1	0	0	1
Criminal Act	1	0	0	1
1st Degree Murder	1	0	0	1
1st Degree Arson	1	0	0	1
Breaking & Entering	18	27	0	45
Enter w/o Breaking	3	6	1	10
Grand Larceny	14	30	4	48
3rd Degree Sexual Assault	0	1	0	1
Forgery	2	6	0	8
Voluntary Manslaughter	5	4	4	13
Embezzlement	0	1	0	1
Unlawful Wounding	0	1	0	1
Uttering	0	3	0	3
Robbery by Violence	1	1	0	2

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1979, THROUGH JUNE 30, 1980

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Forgery & Uttering	1	2	0	3
Sale & delivery of marijuana	0	1	0	1
False Pretense	0	1	0	1
Delivery of marijuana	0	1	0	1
Transportation of Heroin	0	1	0	1
Escape	2	1	0	3
Transportation of marijuana	0	1	0	1
Cultivating marijuana	0	1	0	1
Armed Robbery	9	4	0	13
Fraud	0	0	2	2
Arson	0	0	1	1
Unlawful Assault	1	0	1	2
Felonious Assault	3	0	1	4
Unarmed Robbery	4	0	0	4
Conspiracy to Commit Armed Robbery	1	0	0	1
Attempted Murder	1	0	0	1
2nd Degree Murder	6	0	0	6
Daytime Burglary	2	0	0	2

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1979, THROUGH JUNE 30, 1980

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Delivery of a Controlled Substance	0	4	0	4
Burglary	4	3	0	7
Robbery by Use of a Dangerous Weapon	0	2	0	2
Transportation of Stolen Property	0	2	0	2
Shoplifting	0	1	0	1
Possession W/Intent to Deliver a Controlled Substance	0	3	0	3

PAROLES DENIED

Parole was denied 461 out of the 694 prisoners interviewed. The Board was of the opinion that these individuals were not ready to be returned to society at that time for various reasons consistent with parole policy. However, they will continue to be interviewed annually until such time as release appears proper and in the best interest of both the prisoner and society. On a percentage basis 66 percent of those interviewed were denied parole.

REVOCATION OF PAROLES

The statute provides that if at any time during the period of parole there shall be reasonable cause to believe that the parolee has violated any of the conditions of his parole, he may be arrested and lodged in jail. A warrant is issued by the Commissioner of the Department of Corrections which holds the parolee in custody without bond pending a preliminary parole violation hearing.

Due to recent Federal and State court decisions new rules of procedure have been adopted by the Board pertaining to arrest and hearing for alleged parole violators. Those rules are too complex to be set out in their entirety here, but in synopsis they provide for a preliminary hearing for each alleged parole violator. The preliminary hearings are, until a hearing officer is available to the Board, conducted by regional or area supervisors of parolees.

The Board receives a transcript and report of the preliminary hearing. The Board, after a preliminary hearing, may order a parole revocation hearing, may continue on parole without further hearing, and may make such recommendations they deem proper for the continuation of parole.

If a parole revocation hearing is ordered, then as soon thereafter as practicable, a parole violation hearing is held by a member of the Parole Board and the results of this hearing are reported to the full Board for decision. The parole violation hearings are conducted in the various counties throughout the State where the accused parole violator is being held and the parolee may employ or have court-appointed counsel and have witnesses present, if he wishes.

After carefully evaluating all facts and information relating to the particular case, the Board may revoke parole and return the prisoner to the institution from which released, or, release again to continue under parole supervision.

The new rules provide that if a parolee is under indictment or warrant for a new crime, he may give bond, relative to the new crime, if the Board permits, and the parole revocation hearing may be taken under "advisement" until the new crime has been determined by the court.

During the fiscal year 1979-1980 the Board had a total of 101 parole violation hearing cases. Action in these cases resulted in 59 revocations for technical reasons and 9 revocations for the commission of felonies. The Board released 33 parolees to be continued under supervision. Of the 101 parole violation hearing cases, 67 percent resulted in revocation of paroles.

PAROLE VIOLATION HEARING CASES

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

FISCAL YEAR 1979-1980

Parole Violation Cases conducted during 1979-1980-----	101
Paroles revoked on technical grounds-----	59
Paroles revoked on felony grounds-----	9
Parolees continued under supervision-----	33
Decision not to hold hearing-----	15

PAROLE FROM CITY OR COUNTY JAILS

West Virginia parole law provides for release of a prisoner from any city or county jail by the Board of Probation and Parole:

"In the case of any person sentenced to or confined under sentence in any city or county jail in this State, the Board shall act only upon written application for parole. If such jail prisoner be under sentence on a felony conviction, the provisions hereof relating to penitentiary prisoners shall apply to and control his release on parole. If such person be serving time on a misdemeanor conviction, he shall be eligible for parole consideration, upon receipt of his written parole application and after time for probation release by the sentencing court or judge has expired."

The Board has been very careful in its decision to release prisoners in such cases, having in mind that such sentences are often given when the offense may be of a more serious nature, and only after careful consideration of all the facts and circumstances by the prosecuting attorney and sentencing judge.

During the 1979-1980 fiscal year the Parole Board reviewed five applications from city or county jail prisoners. All prisoners were denied release on parole.

CLEMENCY REPORTS

The Governor of West Virginia under the Constitution of the State and laws made pursuant thereto, has the power to extend clemency in the form of a full and unconditional pardon, conditional pardon, commutation of sentence, respite and remission of fines.

A plea may be filed for clemency by any inmate or by someone in his behalf. When such petition is submitted to the Governor, he may request the Board, the Attorney General's Office, or the office of the Department of Public Safety to make the investigation and report the findings to him.

The Board, at the Governor's request, made 120 such clemency reports to the Governor during the 1979-1980 fiscal year.

END