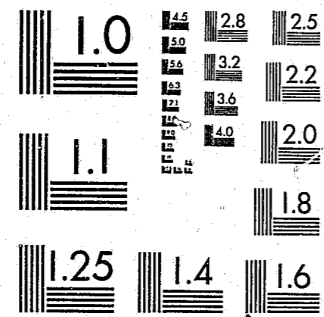


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Washington, D. C. 20531

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REPORT

THE UNITED STATES
PAROLE COMMISSION

U.S. Department of Justice
National Institute of Justice

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October 1, 1978

to

September 30, 1980

DEPARTMENT OF JUSTICE

WASHINGTON, D.C.

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ACQUISITIONS

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INTRODUCTION

The period covered by this report (October 1, 1978 to September 30, 1980) has been a period of substantial testing and evaluation as the Commission has worked to improve the regulations and procedures required to carry out its mandate under the Parole Commission and Reorganization Act (Public Law 94-233, effective 5/14/76).

April 10, 1981

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PART ONE
THE COMMISSION

The United States Board of Parole was created by Congress in 1930. In 1976, the Parole Commission and Reorganization Act (Public Law 94-233, effective 5/14/76) retitled the agency as the United States Parole Commission. Placed within the Department of Justice for administrative purposes, the Commission is an agency with independent decision-making powers set forth by statute. The Commission has parole jurisdiction over all eligible federal prisoners, wherever confined, and continuing jurisdiction over those who are released on parole or as if on parole (mandatory release).

The Parole Commission and Reorganization Act provides for nine Commissioners, appointed by the President by and with the advice and consent of the Senate. One Commissioner is designated as Chairman. Each of the five Regional Offices of the Commission is under the supervision of a Commissioner, and three Commissioners comprise a National Appeals Board.

On a cooperative basis, the Commission uses the services of staff employed by the Bureau of Prisons, who are assigned to the correctional institutions throughout the Nation. That staff prepares classification summaries, progress reports, and other reports concerning parole applicants.

Field supervision of released prisoners is provided by United States Probation Officers, who are employed by the United States District Courts. According to statute, they function as "parole officers" for federal prisoners. Reports concerning the adjustment of parolees and mandatory releasees are prepared by these officers and submitted to the Commission.

PART TWO
PROGRAM HIGHLIGHTS
THE PAROLE COMMISSION AND REORGANIZATION ACT

The Parole Commission and Reorganization Act became effective May 14, 1976 (Public Law 94-233). This Act retitled the Board of Parole as the United States Parole Commission. It provides for a nine member Commission, the use of hearing examiner panels to conduct parole interviews and revocation hearings, the establishment of explicit guidelines for decision-making, provision of written reasons for parole denial, and a two level appeals system.

The primary provisions of the Act are listed below.

- ° The U.S. Parole Commission is created with a membership of nine Commissioners. No less than five Regions are mandated; a Regional Commissioner is placed in charge of each. Three Commissioners comprise a National Appeals Board. Authority and responsibilities of the Commission, the Chairman, and the Regional Commissioners are set forth.
- ° Explicit Guidelines for Decision-Making are mandated.
- ° Reasons for denial of parole must be provided to the prisoner in writing. Decisions outside the guidelines must be for 'good cause' and must provide specific written reasons for such departure.
- ° Parole applicants have the right to examine their own case file (with limited exceptions) prior to the parole hearing.
- ° Parole applicants may be accompanied at their hearings by a representative of their choice, who may make a statement on the applicant's behalf.
- ° If a prisoner's sentence is less than seven years, the case must be reviewed no later than at 18 month intervals after the initial hearing. If this sentence is seven years or more, the case must be reviewed no later than at 24 month intervals following the initial hearing.
- ° Prisoners with terms of five years or more must be paroled after service of two-thirds of the term, unless the Commission finds that there has been serious misbehavior while confined or that there is a 'reasonable probability' of further crime.

- ° A two-level appeal system is provided.
- ° Regular and special conditions of release are set by the Commission and may be modified only after an opportunity has been offered to the releasee to comment on the proposed modifications.
- ° The Commission must review a parolee's progress under supervision after two years and annually thereafter, and may terminate such supervision prior to completion of the sentenced term. Termination of supervision ends the jurisdiction of the Commission over the releasee.
- ° After five years of supervision in the community, the Commission must terminate jurisdiction unless it finds, after a hearing, that there is a likelihood of further crime.
- ° At the discretion of the Commission, alleged violators may be summoned to a hearing in lieu of being arrested on a warrant, and may be released under supervision pending a revocation hearing.
- ° A parole violation warrant placed as a detainer, while a prisoner is serving a subsequent sentence, must be reviewed within 180 days and a decision made with regard to disposition of the warrant.
- ° Alleged parole violators have the right to confront "adverse" witnesses at a preliminary interview and at any local revocation hearing held in the community. At such interview or at any revocation hearing, the alleged violator may be represented by an attorney (either retained or court-appointed). Voluntary witnesses may also be present.
- ° A preliminary interview is not necessary if the releasee has been convicted of a crime committed while under supervision.
- ° The Commission may subpoena witnesses in revocation proceedings.
- ° Following revocation, the parolee receives credit for time under supervision in the community unless convicted of a crime committed while under supervision. A parolee who has absconded from supervision is credited with the time from the date of release to supervision to the date of such absconding.
- ° Attorney representation, privately retained or court-appointed, is permitted in revocation proceedings, at termination hearings scheduled after five years on parole, and in proceedings relative to disposition of detainers filed by the Commission.

STRUCTURE OF THE COMMISSION

One Member of the Commission is assigned to each of the five Regional Offices. The Chairman and the three-member National Appeals Board are located in Bethesda, Maryland. Regional Offices are in the following locations:

Philadelphia, Pennsylvania
 Atlanta, Georgia
 Kansas City, Missouri
 Dallas, Texas
 Burlingame, California (near San Francisco)

Each Regional Office is responsible for the parole functions pertaining to federal prisoners confined in any of the correctional institutions within its boundaries. It also has jurisdiction over all federal parolees and mandatory releasees within its boundaries, who are supervised by United States Probation Officers assigned to the United States Courts.

A corps of Hearing Examiners is assigned to the Regional Offices. One Examiner in each Region is designated as an Administrative Hearing Examiner and supervises, under the direction of the Regional Commissioner, the staff assigned to the Region. The Chief Hearing Examiner is located at the Headquarters Office in Bethesda, Maryland.

The Headquarters Office is responsible for the administrative management of the Commission and contains four functional sections:

Case Operations
 Legal
 Research
 Administration

These sections are managed by the Chairman of the Commission. The National Appeals Board is also located in the Headquarters Office.

Policy is determined by the Commissioners meeting together at quarterly and special meetings. Rules and regulations of the Commission are published in the Federal Register of the United States as part of the Code of Federal Regulations in accordance with the Administrative Procedure Act. The Chairman is the Commission's Chief Executive Officer and has substantial powers and responsibilities of management established by law.

EXPLICIT GUIDELINES FOR DECISION-MAKING

Operating out of the Regional Offices, Hearing Examiners conduct personal hearings with federal prisoners who are eligible by law for parole consideration. They also conduct personal hearings with alleged parole or mandatory release violators retaken on the basis of a warrant or summons issued by the Commission. Examiners travel in two-man panels to each of the Bureau of Prisons institutions on a bi-monthly schedule. They also hold hearings as required at certain state institutions where federal prisoners may be confined and at United States Courthouses where local revocation hearings may be scheduled.

After review of the examiners' recommended decision at the Regional Office, a written notice and reasons are provided to the subject on an official Notice of Action. If the Regional Commissioner wishes to reverse a recommended decision of the panel or to modify it outside certain prescribed limits, he must refer the case to the Commissioners stationed at the Headquarters Office for a concurring vote.

To establish a national paroling policy, promote a more consistent exercise of discretion, and enable fairer and more equitable decision-making, the United States Parole Commission has established explicit guidelines for parole release decision-making. These guidelines are set forth at 28 Code of Federal Regulations 2.20 and 2.21.

Developed from a three year project funded by the Law Enforcement Assistance Administration, the guidelines indicate the customary range of time to be served before release for various combinations of offense (severity) and offender (parole prognosis) characteristics. The time ranges specified by the guidelines are established for cases with good institutional behavior.

When the circumstances warrant, decisions may be made outside of the guidelines, either above or below. However, when the Commission makes a decision outside the guidelines, specific written reasons must be provided. In this manner, discretion is structured and checked without removing the ability for individual case decision-making.

The Commission considers revision of the guidelines periodically. Proposed changes are published for public comment in accordance with the Administrative Procedure Act.

APPELLATE REVIEW

Any prisoner who is not paroled may file an appeal to the Regional Commissioner. A special form for this purpose is provided. The prisoner has thirty days in which to file an appeal after he receives his official Notice of Action. The Regional Commissioner may affirm, modify, or reverse the decision in compliance with the Commission's procedural rules.

If the prisoner wishes to appeal the ruling of a Regional Commissioner, he may file an appeal with the National Appeals Board. Decisions of the National Appeals Board are final.

The permissible grounds for appeal are explicit. The grounds for appeal specified by the Commission are:

- That the guidelines were incorrectly applied.
- That a decision outside the guidelines was not supported by the reasons or facts as stated.
- That especially mitigating circumstances justify a different decision.
- That a decision was based on erroneous information and the actual facts justify a different decision.
- That the Commission did not follow correct procedure in deciding the case, and a different decision would have resulted if the error had not occurred.
- There was significant information in existence but not known at the time of the hearing.
- There are compelling reasons why a more lenient decision should be rendered on grounds of compassion.

REVISION OF PAROLING POLICY GUIDELINES

In October 1978, the Commission began a periodic review of its Paroling Policy Guidelines at 28 C.F.R. 2.20 and 2.21. In addition to the usual publication and posting of the proposal, copies were sent to over 1,000 interested persons and public hearings were held. Atlanta, Georgia, Denver, Colorado and Washington, D.C. were locations for hearings. In addition, hearings were conducted at the Atlanta and Englewood facilities of the Bureau of Prisons. Testimony was received from 69 witnesses generating over 3,000 pages of transcript. Those giving their views included representatives from the Judiciary, defense and prosecution attorneys, federal prisoners, enforcement agencies, the Bureau of Prisons, the Probation Service, state correctional systems, and scholars in the field.

The purpose of revision was threefold. First, there were certain listed offenses which needed to be defined more specifically. These modifications reflected a clarification of Commission policy.

Second, there were offense behavior examples that needed to be added to the table because the Commission was encountering such cases more frequently than before.

Third, there were modifications that represented an actual change of Commission policy. In response to feedback from both Commission personnel and others, certain offense behaviors were moved from one severity category to another for the reason that the behavior in question was considered to be either more or less serious than the other offenses with which it was grouped. In other cases an already existing example was divided into two examples to distinguish certain aggravating or mitigating circumstances, with these more specific newly defined examples then placed in different severity categories.

Furthermore, changes were made in certain of the guideline ranges, and in the guideline calculations for parole violators and certain youth cases.

The revised statement of policy resulted in a more detailed and specific document. The guideline revision became effective on June 4, 1979.

DEVELOPMENT OF GUIDELINES FOR DECISIONS TO RESCIND, RETARD-OR ADVANCE PAROLE

Decisions to rescind or retard parole are sanctions employed by the Commission to assist the Bureau of Prisons in the maintenance of institutional discipline. These sanctions also uphold the integrity of the condition that release on the established date is contingent upon the prisoner's continued good conduct. During the reporting period, Guidelines were established for these decisions. These guidelines are set forth at 28 C.F.R. 2.36.

Interim hearings consider significant developments or changes in the prisoner's status which may have occurred since the initial hearing. Following an interim hearing the Commission may advance a presumptive parole date. It is the policy of the Commission, however, that once set a presumptive parole date shall be advanced only for sustained superior program achievement or other clearly exceptional circumstances. Furthermore, the advancements permitted for superior program achievement are deliberately kept modest. It is the intent of the Commission to encourage voluntary program participation, not superficial attendance in programs merely in an attempt to impress the parole decision-makers. Guidelines setting forth the advancements were developed during the reporting period and are stated at 28 C.F.R. 2.60.

PRESUMPTIVE PAROLE PROCEDURES

After a pilot test the Commission instituted a parole procedure called "presumptive parole" in September 1977. The purpose of the presumptive parole procedure is to provide the prisoner at the beginning of his service of sentence a date on which it is presumed that release will take place, provided that the prisoner maintains a good institutional conduct record and has developed adequate release plans. The procedure is designed to remove much of the dysfunctional uncertainty and anxiety surrounding the parole process, while retaining the flexibility to deal with substantial changes in circumstances.

All prisoners except those with a minimum term of ten years or more are heard within 120 days of commitment, or as soon thereafter as practicable. Prisoners who have sentences with a minimum term of ten years or more are heard during the month before completion of the minimum term.

At the initial hearing, the Commission may:

- ° set an effective date of parole within six months of the date of the hearing;
- ° set a presumptive release date (by parole or mandatory release) more than six months but not more than ten years from the date of hearing;
- ° continue for a ten year reconsideration hearing;
- ° continue to expiration of sentence if within ten years.

In addition, statutory interim hearings at eighteen month intervals for those with sentences of less than seven years (and twenty-four month intervals for those with sentences of seven years or more) are scheduled subsequent to the initial decision to consider whether there are substantial positive or negative changes in circumstances (e.g., sustained superior institutional program achievement, disciplinary infractions) that may warrant modifying the presumptive date originally set.

A pre release record review is conducted prior to each presumptive date. This review is to determine whether the conditions of a presumptive release date have been satisfied. Parole may be retarded up to one-hundred twenty days for development and approval of release plans. A parole rescission hearing may be ordered where misconduct appears to be present.

During the reporting period the presumptive parole procedures were significantly expanded. Under the original presumptive parole procedure, prisoners with sentences of seven years or more with a minimum term were not heard until the month preceding completion of the minimum term, and presumptive dates were not set more than four years away. Effective March 5, 1979, the presumptive date procedure was expanded as noted above.

PAROLE SYMPOSIUM - PAROLE IN THE 1980's

From April 9th through 11th, 1980, the U.S. Parole Commission, in joint sponsorship with the National Institute of Corrections, conducted a National Parole Symposium. The site of the conference was the University of Maryland at College Park.

This was the third national conference on parole. The first was held in 1939 at the request of President Roosevelt. The second was held in 1956 and Chief Justice Warren gave the keynote address. At this third conference the theme was: Parole in the 1980's. United States District Judge Frank A. Kaufman, Governor Brendan T. Byrne of New Jersey, and Charles Silberman, author of Criminal Violence, Criminal Justice, were featured speakers.

Approximately eighty invited representatives of the fifty states, U.S. territories and Possessions, and the Dominion of Canada were funded by the National Institute of Corrections. Fifty delegates of the Parole Commission, National Institute of Corrections, and Department of Justice, and one-hundred twenty self-funded delegates attended.

A luncheon, two panel discussions, and a reception and banquet made up the first day's agenda. Six additional panel discussions, two workshops, and two luncheon speaker programs on the following two days completed the program. Thorough and provocative review of the issues surrounding the development and employment of the explicit guidelines for parole decision-making developed by the Parole Commission resulted from both formal and informal discussions.

PART THREE

LEGAL

The primary functions of the General Counsel's Office are to advise Commissioners and staff on interpretation of the agency's enabling statute and other applicable federal law, draft implementing rules and regulations, and assist U.S. Attorneys' Offices in defending the Commission against lawsuits brought by prisoners and parolees. The office is also a resource for staff on problems involving the processing of requests for information under the Privacy Act (5 U.S.C. §552a), and counsel's office responds directly to requests submitted under the Freedom of Information Act (5 U.S.C. §552). A total of almost 6,000 informational requests from both sources was processed during the past two years. Legal counsel has responsibility for analyzing applications for exemption from prohibitions imposed by federal law against persons convicted of certain crimes from occupying labor union, management, or pension fund positions, and ensuring the conduct of appropriate hearings under the Administrative Procedure Act. The General Counsel's Office is also required under the Government in the Sunshine Act to certify agency actions in closing Commission meetings, or portions thereof, to the public.

LITIGATION

During the reporting period, the Commission directly participated either as a party or as amicus curiae in several cases in the United States Supreme Court. The issues of these cases reach the essence of parole decision-making. They are set forth below as topical headings.

THE AUTHORITY FOR THE RELEASE DECISION

In Addonizio v. United States,^{1/} the Third Circuit Court of Appeals had held in 1978 that a sentencing judge could vacate a prisoner's sentence (under 28 U.S.C. §2255) when the Parole Commission denied parole contrary to his expectations at time of sentencing. The Addonizio case involved a regular adult sentence (now 18 U.S.C. 4205 (a)) with parole eligibility at the one-third mark. The Supreme Court granted our petition to review the Third Circuit's decision and in United States v. Addonizio, 442 U.S. 178 (1979) held that a claim that an alleged postsentencing change in the Parole Commission's release guidelines which results in longer imprisonment than the judge intended will not furnish a basis for collateral attack on the sentence. The Supreme Court also noted that the sentencing court can alter its sentence only under the 120-day limits of Rule 35 of the Federal Rules of Criminal Procedure. The Court held that the statutory scheme clearly provides that a sentencing judge has no enforceable expectations as to time of release of a sentenced defendant short of his statutory term.

Following the Supreme Court decision, the Courts of Appeals extended this holding concerning release expectations to sentences under 18 U.S.C. §4205(b)(2), which make the prisoner immediately eligible for parole consideration. The theory that judicial expectations concerning the time of parole release form an essential part

of the court's sentence had flowered in recent years in the context of cases sentenced under this procedure, with the Eighth Circuit's opinion in Kortness v. United States,^{2/} and became known as the Kortness doctrine. Following Addonizio, the Eighth Circuit ruled in United States v. Washington, 608 F.2d 292 (1979) that the Kortness doctrine had been overruled by Addonizio. The Ninth Circuit, dealing with similar claims that the (b)(2) sentence implied that the judge expected early release if good prison conduct occurred, irrespective of guideline rating of the severity of the offense, likewise ruled that the Addonizio decision made it clear that release decisions were entrusted entirely to the Parole Commission, in Petrone v. Kaslow and Izsak v. Sigler.^{3/} The Fifth Circuit had been the first to recognize the necessary extension of the Addonizio principle to 18 U.S.C. 4205(b)(2) sentences in Shahid v. Crawford.^{4/} The Second Circuit in Moore v. Nelson^{5/} likewise held that sentences under 18 U.S.C. 4205 (b)(2) as well as sentences under 18 U.S.C. 4205(a) are properly handled for parole consideration by virtue of the Parole Commission and Reorganization Act of 1976 (PCRA), under the same guideline criteria of offense severity and parole prognosis.

ISSUES CONCERNING THE PAROLE GUIDELINES

In Geraghty v. United States Parole Commission,^{6/} the Third Circuit Court of Appeals in October 1977, had reversed a District Court's dismissal of an attempted class action lawsuit by Geraghty, on behalf of all prisoners eligible for parole, challenging the validity of the parole release guideline system. In its opinion, the Court of Appeals suggested that the guideline system as utilized might possibly be found in violation of the parole statute or the Constitution, as invading the spheres of the judiciary in sentencing; and the legislature in setting prison terms. The Supreme Court granted the Parole Commission's petition for certiorari and on March 19, 1980, vacated the Third Circuit's opinion, holding, however, that the case was not mooted by Geraghty's intervening release, and remanding to permit attempted certification of a class action.^{7/} The Supreme Court issued no ruling on the merits of the claim concerning the guidelines. At this time the case is back in the District Court for attempted certification of a class of prisoners affected by the Commission's guidelines, in order to permit litigation of the challenge to their use by the Commission. Meantime, the Second Circuit Court of Appeals has twice ruled on similar claims, holding that it disagreed with the Third Circuit's suggestion of possible violation of the parole statute or the Constitution, in the Commission's use of its guidelines.^{8/}

One of the Constitutional violations in guideline usage suggested in the vacated Geraghty opinion had been violation of the ex post facto clause by use of guidelines which might have changed after commission of the crime. However, the Appellate Courts of the Ninth, Seventh and Sixth Circuits have consistently ruled (most decisions occurring during the period covered by this report) that since the guidelines are not

fixed rules of law, ex post facto issues are not involved.^{9/} The same holding was made on the ex post facto claim by Justice Rehnquist, in an in-chambers opinion in Portley v. Gross, _____ U.S. _____, 48 U.S.L.W. 3498 (2-1-80).

DUE PROCESS IN PAROLE DECISION-MAKING

The long-pending issue of the applicability of due process procedures reached the Supreme Court in Greenholtz v. Inmates, et. al., 442 U.S. 1, (1979). Because the issue raised in this State case was so basic to all parole authorities, we sought and received permission to brief the issues and participate through the Solicitor General's Office as amicus curiae. In June 1979, the Supreme Court held that, in contrast to the parole revocation situation, no liberty interest is involved in the parole release setting by the mere existence of a parole statute, and hence due process procedures are not required. The Court held that a statute's terms (like Nebraska's) which provided that the parole applicant "shall be released" unless certain specified conditions were found, could create an expectancy of release entitled to some measure of constitutional protection. The Court also held that the procedures of the Nebraska system satisfied all Constitutional requirements.

In applying the reasoning of Greenholtz to the federal parole system, the Fifth Circuit in Shahid v. Crawford, supra,^{10/} found that the Supreme Court had confirmed that Circuit's established position that a denial of parole release is not to be judged by due process standards. The Court held that the federal parole statute did not create an expectation of parole in the manner of the Nebraska statute. The Ninth Circuit in Bowles v. Tennant, 613 F.2d 776 (1980), holding that the Parole Commission provided the due process protections applied by the Supreme Court in Greenholtz, found it unnecessary to decide whether the federal parole statute created a liberty interest requiring due process standards.

LIABILITY OF PAROLE AUTHORITY FOR INJURIES INFLICTED BY A PAROLEE'S CRIMINAL CONDUCT

In another major case, the Commission sought and received permission for participation as amicus curiae in a case which came to the Supreme Court from California on the issue of liability of a Parole Commission for damages suffered at the hands of a parolee who had raped and murdered a young girl shortly after his release. The Supreme Court held that a California statute granting absolute immunity to parole officials in discharge of their duties was not unconstitutional. Such immunity parallels that afforded judges and prosecutors based on the nature of their responsibilities. The Court also found the connection between the release and the crime too remote to hold the paroling officials responsible.

ACTUAL OFFENSE BEHAVIOR

In all parole release decisions, the Commission, under its statutory mandate to consider the nature and circumstances of the offense, 18 U.S.C. §4206, rates the offense severity under its guidelines by the actual facts of the offense behavior--what actually occurred rather than a reduced charge to which the prisoner may have pled guilty, but which fails to reflect the real behavior that occurred. In evaluating the facts as to actual offense behavior the Commission's rules require that only reliable and substantial information be used, and it weighs this information by the preponderance of evidence standard. Litigation challenging the use of actual offense behavior continues, though the courts that have considered the practice have seen it as the Commission's right and obligation. The leading case on the subject is Billiteri v. U.S. Board of Parole, decided by the Court of Appeals for the Second Circuit.^{11/} The latest Circuit Court endorsement of the practice occurred in U.S. ex. rel. Goldberg v. Warden^{12/} by the Third Circuit Court of Appeals.

TREATIES

Under treaties with Mexico, Canada, Bolivia, Colombia, and Peru, prisoners may be transferred to or from the United States to serve their sentences in their home countries. In addition, under the legislation implementing the Panama Canal Treaty of 1977, a number of Panamanian nationals have been transferred to the United States to serve sentences imposed by the United States District Court for the District of the Canal Zone. The General Counsel's Office has coordinated the work of the Parole Commission on these cases with other units of the Department of Justice and has provided information on the parole system for prisoners considering transfers and for the United States Magistrates and public defenders who participates in transfer consent hearings.

FOOTNOTES

1. Addonizio v. United States, 573 F.2d 147 (3rd Cir. 1978).
2. Kortness v. United States, 514 F.2d 167 (8th Cir. 1975).
3. Petrone v. Kaslow, 603 F.2d 779 (9th Cir. 1979) and Izsak v. Sigler, 604 F.2d 1205 (9th Cir. 1979)
4. Shahid v. Crawford, 599 F.2d 666 (5th Cir. 1979).
5. Moore v. Nelson, 611 F.2d 434 (2nd Cir. 1979).
6. Geraghty v. United States Parole Commission, 579 F.2d 238 (3rd Cir. 1978).
7. United States Parole Commission v. Geraghty, 445 U.S. 388 (1980).
8. Moore v. Nelson, supra and Priore v. Nelson, 626 F.2d 211 (2nd Cir. 1980).
9. Rifai v. U. S. Parole Commission, 586 F.2d 695 (9th Cir. 1978); Zeidman v. U. S. Parole Commission, 593 F.2d 806 (7th Cir. 1979); and Ruip v. United States, 555 F.2d 1331 (6th Cir. 1977).
10. Fn. 4, supra.
11. Billiteri v. U. S. Board of Parole, 541 F.2d 938 (2nd Cir. 1976).
12. U. S. ex. rel. Goldberg v. Warden, 622 F.2d 60 (3rd Cir. 1980).

PART FOUR

RESEARCH

Since 1973, the Commission has carried on an active program of research. During the reporting period, the Commission's research program added the following research papers to those previously issued:

- ... Revalidating the Salient Factor Score: A Research Note, Report 21, August 1979.
- ... The Salient Factor Score - A Non Technical Overview, Report 22, September, 1979.
- ... Guideline Application Manual (Revised), Report 23, October, 1979 (adopted by the Commission as Appendix IV of the Procedures Manual, effective October 1, 1979).
- ... Reliability in Guideline Application: A Preliminary Assessment, Report 25, May 1980.
- ... The Effects of Presumptive Parole Dates on Institutional Behavior: A Preliminary Study, Report 27, September 1980.

During the reporting period, articles prepared by Commission Research staff have been published in various professional journals. These include:

- ... "Reform in the Determination of Prison Terms: Equity, Determinacy, and the Parole Release Function", Hofstra Law Review, 7 (1978), 89-121.
- ... "Post Release Arrest Experience of Federal Prisoners", Journal of Criminal Justice, 7 (1979), 193-216.
- ... "Reporting Recidivism Rates: The Criterion and Follow-up Issues", Journal of Criminal Justice, 8 (1980), 53-60.
- ... "The Salient Factor Score: A Nontechnical Overview," Federal Probation", 44 (1980), 44-53.
- ... Revalidating the Salient Factor Score", Journal of Criminal Justice, 8 (1980), 185-188.

Current Research projects include:

- ... Development of methods for increasing inter-rater reliability in guideline assessments.
- ... Refinement of the offense severity and salient factor score scales used by the Commission.

- ... Further assessment of the effects of the expanded, presumptive parole date procedures.
- ... Participation in development of the joint Bureau of Prisons - United States Marshals - Parole Commission Sentry system for automated data processing of offender information.

In addition, the research unit has provided assistance in the development of criteria and guidelines for decision-making to numerous other parole jurisdictions (Florida, New York, Oregon, Nebraska, Washington, D.C., Canada, and the Virgin Islands). The unit has also provided an active part of the Commission's training capacity by participating in seminars for federal judges and probation officers, and conducting inhouse seminars for Parole Commission staff. Research staff have also presented lectures and papers at various professional conferences and addressed university classes on related topics.

PART FIVE
WORKLOAD AND
DECISION TRENDS

The following tables are designed to display statistical highlights of the Commission workload and decision trends during the period from October 1978 to September 1980.

TABLE I
HEARING EXAMINER WORKLOAD:
HEARINGS AND RECORD REVIEWS

A. HEARINGS							
TYPE OF HEARING	FISCAL YEAR	REGION					
		All Regions	Northeast	Southeast	South Central	Western	North Central
Initial	1978	11,980	2,103	2,925	1,935	2,486	2,531
	1979	11,872	2,199	2,879	1,800	2,448	2,546
	1980	10,379	2,260	2,991	1,402	1,839	1,887
Revocation: Institutional	1978	1,535	287	345	226	367	310
	1979	1,771	332	423	320	387	309
	1980	2,042	417	499	345	364	417
Revocation: Local	1978	240	45	45	25	71	54
	1979	275	31	46	46	68	84
	1980	319	32	49	33	96	109
Recission	1978	618	129	184	99	115	91
	1979	937	196	253	153	174	161
	1980	1,096	245	273	177	194	207
Statutory Review/Interim	1978	1,002	197	206	91	263	245
	1979	2,004	393	387	227	477	520
	1980	1,790	322	399	228	456	385
One Third	1978	1,044	181	212	128	285	238
	1979	141	26	30	11	39	35
	1980	10	0	4	1	1	4
Regular Review	1978	1,946	404	557	235	290	460
	1979	310	38	84	43	34	111
	1980	13	3	0	0	1	9
Other	1978	366	78	55	45	48	140
	1979	307	65	83	33	38	88
	1980	393	85	125	51	61	71

TABLE I
HEARING EXAMINER WORKLOAD:
HEARINGS AND RECORD REVIEWS
(Continued)

B. RECORD REVIEWS							
TYPE OF REVIEW	FISCAL YEAR	REGION					
		All Regions	Northeast	Southeast	South Central	Western	North Central
Pre-Hearing/ Presumptive Date	1978	4,574	1,017	1,197	586	884	890
	1979	4,578	1,018	1,104	756	673	1,027
	1980	5,478	1,051	1,499	868	1,030	1,030
Retroactive	1978	-	-	-	-	-	-
	1979	723	217	101	241	72	92
	1980	366	92	41	26	73	134

C. TOTAL CONSIDERATIONS							
TYPE OF CONSIDERATION	FISCAL YEAR	REGION					
		ALL REGIONS	Northeast	Southeast	South Central	Western	North Central
Hearings (Part A)	1978	18,731	3,424	4,529	2,784	3,925	4,069
	1979	17,617	3,280	4,185	2,633	3,665	3,854
	1980	16,042	3,364	4,440	2,237	3,012	3,089
Record Reviews (Part B)	1978	4,574	1,017	1,197	586	884	890
	1979	5,301	1,235	1,205	997	745	1,119
	1980	5,844	1,143	1,540	894	1,103	1,164
Total	1978	23,305	4,441	5,726	3,370	4,809	4,959
	1979	22,918	4,515	5,390	3,630	4,410	4,973
	1980	21,886	4,507	5,880	3,131	4,115	4,253

Notes to Table I:

1. With the implementation of presumptive date procedures in September 1977, One Third Hearings have been phased out. Statutory Review Hearings have been replaced by Statutory Interim Hearings; and Pre-Hearing Reviews have been replaced by Presumptive Date Record Reviews. An increase in Recission Hearings is accompanied by a larger reduction in Regular Review Hearings. A Retroactive Review is a special type of consideration resulting from a revision of the parole decision guidelines (28 C.F.R. 2.20 and 2.21) in June 1979.
2. Some considerations included as Hearings (Part A) were actually on the record because the prisoner was serving concurrent federal and state sentences in a state institution. The actual number of in-person hearings conducted in each region may be obtained from Table V (A + B).

Table II
PAROLE GRANTS AND WARRANTS

FISCAL YEAR	REGION					
	All Regions	Northeast	Southeast	South Central	Western	North Central
A. PERCENT GRANTED PAROLE/REPAROLE ON ADULT SENTENCES - FINAL DECISIONS ONLY						
1978	54.3	50.7	55.7	45.9	55.7	59.9
1979	65.8	60.3	71.4	59.8	62.3	71.3
1980	69.7	63.8	74.1	67.2	68.7	72.0
B. NUMBER OF EFFECTIVE PAROLE/REPAROLE GRANTS - ADULT SENTENCES ONLY						
1978	5,260	861	1,322	683	1,064	1,330
1979	6,427	1,113	1,727	939	1,084	1,564
1980	6,722	1,149	1,988	977	1,254	1,354
C. NUMBER OF EFFECTIVE PAROLE/REPAROLE GRANTS - ALL SENTENCE TYPES						
1978	7,490	1,397	1,884	950	1,646	1,613
1979	8,314	1,608	2,225	1,197	1,499	1,785
1980	8,383	1,545	2,411	1,193	1,677	1,557
D. WARRANTS ISSUED FOR PAROLE AND MANDATORY RELEASE VIOLATORS - ALL SENTENCE TYPES (does not include supplemental charges)						
1978	2,576	487	509	505	535	540
1979	2,948	624	678	433	554	659
1980	3,566	873	654	529	716	794

Notes to Table II:

1. While the percentage granted parole has traditionally served as an indicator of paroling policy, it has several limitations. First, it is affected by changes in types of offenders entering the system. For example, the rate of parole grants for auto thieves (whose number entering the federal system appears to be declining) may not be the same as for narcotic dealers (whose number appears to be rising). Second, the measure may be affected by changes in sentencing practices. For example, everything else being equal, the longer the sentence, the greater is the likelihood of parole at some point before sentence expiration.
2. "Final Decisions Only" refers to cases granted effective parole vs. cases continued to expiration without further review.
3. The above figures do not reflect decisions modified under the Commission's appellate or reopening provisions.

TABLE III
GUIDEINE USAGE:
PERCENT OF DECISIONS WITHIN, ABOVE, AND BELOW
PAROLING POLICY GUIDELINES

RELATION TO GUIDELINES	FISCAL YEAR	REGION					
		All Regions	Northeast	Southeast	South Central	Western	North Central
A. INITIAL HEARINGS							
Within	1978	79.3	79.4	79.1	78.0	82.5	77.2
	1979	80.7	81.8	77.4	78.4	82.3	83.2
	1980	82.6	83.9	80.8	78.3	83.5	86.3
Above	1978	10.6	10.9	8.4	16.7	7.6	11.1
	1979	9.4	10.5	6.7	15.0	6.0	10.9
	1980	10.8	10.9	8.9	18.5	9.3	9.4
Below	1978	10.1	9.7	12.4	5.5	10.0	11.7
	1979	10.0	7.7	15.9	6.6	11.7	5.9
	1980	6.6	5.2	10.3	3.1	7.2	4.3
Total Number of Decisions	1978	11,790	2,079	2,886	1,924	2,424	2,477
	1979	11,801	2,184	2,864	1,796	2,422	2,535
	1980	10,376	2,261	2,994	1,402	1,834	1,885
B. REVOCATION HEARINGS							
Within	1978	79.8	80.7	78.7	87.1	80.5	74.2
	1979	80.2	84.6	76.0	81.7	80.5	79.5
	1980	80.3	79.7	82.9	74.1	85.4	78.0
Above	1978	8.2	9.8	8.6	10.5	3.3	10.6
	1979	8.5	8.3	10.3	11.8	2.9	10.1
	1980	13.3	15.6	9.3	24.3	5.2	14.8
Below	1978	12.1	9.5	12.8	2.4	16.3	15.3
	1979	11.3	7.2	13.7	6.6	16.6	10.4
	1980	6.4	4.7	7.9	1.6	9.4	7.2
Total Number of Decisions	1978	1,749	327	384	248	430	360
	1979	2,032	363	466	366	452	385
	1980	2,361	449	548	378	460	526

Note to Table III:

For this table, only discretionary decisions outside the guidelines are counted as above or below. Thus, decisions to deny parole where the mandatory release date is below the guideline range, and decisions to grant an effective parole date above the guideline range only because of time needed to develop a suitable release plan, or because the minimum sentence is above the guideline range, are counted as within. Also, decisions below the guideline range because of policy limitations (i.e., continuances for four year reconsiderations) are excluded.

TABLE IV
PRESUMPTIVE DATE PRE-RELEASE REVIEWS:
PERCENT GRANTED EFFECTIVE PAROLE

FISCAL YEAR	REGION					
	All Regions	Northeast	Southeast	South Central	Western	North Central
1978	92.4	89.7	90.2	91.0	95.5	95.6
1979	92.7	92.5	93.5	91.6	90.7	94.0
1980	93.0	89.8	96.1	91.4	91.8	94.1
Total Number of Decisions						
1978	1,348	301	287	222	264	274
1979	4,140	945	992	699	602	902
1980	5,465	1,048	1,499	868	1,029	1,021

Note to Table IV:

The presumptive date procedure was implemented in September 1977.
Therefore, the first releases under these procedures occurred in 1978.

TABLE V
REPRESENTATION:
PERCENTAGE OF PAROLE CONSIDERATION HEARINGS WITH REPRESENTATIVES

FISCAL YEAR	REGION					
	All Regions	Northeast	Southeast	South Central	Western	North Central
A. HEARINGS (OTHER THAN REVOCATION)						
1978	32.9	34.6	30.3	23.7	29.9	43.3
1979	36.9	37.4	34.9	26.0	34.0	48.5
1980	35.6	40.9	33.4	26.8	34.6	39.9
Total Number of Hearings						
1978	16,481	2,988	3,975	2,457	3,401	3,660
1979	15,073	2,746	3,594	2,189	3,145	3,399
1980	13,160	2,794	3,635	1,786	2,467	2,478
B. REVOCATION HEARINGS						
1978	44.0	44.4	42.6	31.6	50.5	46.0
1979	43.8	46.4	37.8	32.1	51.7	49.9
1980	40.4	41.2	37.8	25.4	50.4	44.4
Total Number of Hearings						
1978	1,770	331	390	250	436	363
1979	2,032	360	466	358	455	393
1980	2,326	447	535	370	454	520

TABLE VI
REGIONAL APPELLATE DECISIONS:

ACTION	FISCAL YEAR	REGION					
		All Regions	NE	SE	SC	W	NC
PERCENT							
A. Prior Decision	1978	91.2	96.9	98.9	90.5	84.5	85.6
Affirmed	1979	86.1	94.9	68.6	92.0	89.5	83.1
	1980	89.6	95.0	78.8	93.1	91.0	93.6
B. Prior Decision	1978	-	-	-	-	-	-
Revised Pursuant	1979	1.9	1.7	3.1	0.0	0.0	4.2
to Retroactive	1980	0.1	0.1	0.2	0.0	0.3	0.0
Application of							
Guidelines							
C. Remanded for	1978	1.0	1.1	0.2	0.8	0.5	2.0
Rehearing	1979	0.9	0.6	2.8	0.1	1.1	0.5
	1980	0.9	0.7	1.6	0.5	0.6	0.5
D. Prior Decision	1978	7.8	2.0	0.9	8.7	15.0	12.4
Modified or	1979	11.1	2.8	25.5	7.9	9.4	12.1
Reversed	1980	9.5	4.2	19.4	6.3	8.1	5.9
NUMBER OF APPEALS							
	1978	4,087	901	735	735	682	1,034
	1979	3,958	812	664	872	642	968
	1980	4,757	1,038	1,268	779	663	1,009

TABLE VII
NATIONAL APPELLATE DECISIONS

ACTION	FISCAL YEAR	REGION					
		All Regions	NE	SE	SC	W	NC
PERCENT							
A. Prior Decision	1978	73.4	70.6	75.2	66.9	74.8	79.8
Affirmed	1979	65.9	65.7	69.0	54.2	74.3	72.6
	1980	73.6	75.0	78.3	64.5	73.3	77.4
B. Prior Decision	1978	-	-	-	-	-	-
Revised Pursuant	1979	3.0	4.0	2.5	4.2	0.6	2.3
to Retroactive	1980	1.1	1.5	0.5	1.0	1.2	1.4
Application of							
Guidelines							
C. Remanded for	1978	0.6	0.6	0.7	0.3	0.8	0.6
Rehearing	1979	0.7	1.0	0.7	0.4	0.3	1.0
	1980	0.9	0.5	2.0	1.3	0.0	0.6
D. Prior Decision	1978	26.0	28.8	24.1	32.8	24.4	19.6
Modified or	1979	30.4	29.4	27.8	41.2	24.9	24.1
Reversed	1980	24.4	23.1	19.3	33.3	25.5	20.6
NUMBER OF APPEALS							
	1978	2,015	451	363	429	326	446
	1979	2,727	643	452	691	336	605
	1980	3,244	722	659	718	435	710

PART SIX
THE COMMISSIONERS

CECIL C. MCCALL (Georgia), Chairman

Mr. McCall was appointed to the Parole Commission on November 11, 1977, and designated by the President as Chairman.

Immediately prior to joining the Commission, Mr. McCall was a member of the Georgia State Board of Pardons and Paroles, and had served as Chairman of that Board from 1972 to 1976. Formerly he had been Deputy Commissioner of the Georgia Department of Offender Rehabilitation; Director of the Georgia Department of Probation; and Southeastern Regional Director of the National Foundation.

Mr. McCall is an honor graduate of the University of South Carolina and has done post-graduate work in criminal justice at Georgia State University.

Mr. McCall is a member of the American Correctional Association, National Council on Crime and Delinquency, and Association of Paroling Authorities, and has written numerous articles for professional journals and association publications.

BENJAMIN J. MALCOLM (New York), Vice Chairman

Mr. Malcolm was appointed to the Commission on November 11, 1977, and designated as Vice Chairman/Chairman of the National Appeals Board.

Mr. Malcolm holds a bachelor's degree from Morehouse College and a master's degree in Public Administration from New York University. From 1948 to 1967 he was a Parole Officer, and Deputy Chief Parole Officer for the New York City Parole Commission. During this 20-year span, Mr. Malcolm was credited with organizing one of the first drug treatment units in New York City for ex-offenders. He also established and directed an intensive parole unit for adolescents for which he was cited in the New York Times Magazine.

From 1967 to 1970 he served as Assistant Director of Labor Relations for the City of New York.

In December 1970 he was appointed Deputy Commissioner of the New York City Department of Corrections, and in January 1972 was appointed Commissioner to head one of the largest correctional systems in the country. During his six years as Commissioner, Mr. Malcolm was credited with making many improvements in the City's correctional system. He was cited for his work by many civic, community, educational and governmental bodies. From 1972-1977, he was an adjunct Associate Professor at John Jay College, Long Island University, and West Point.

He has authored several articles and has lectured extensively in colleges, universities, civic organizations and before Governmental bodies across the country. He served on the Mayor's Criminal Justice Coordinating Council and the Governor's Crime Control Planning Board and various other civic organizations.

He is presently a member of the National Urban League's Advisory Council on Criminal Justice, American Correctional Association, and the Association of Paroling Authorities.

During World War II, he served in both the European and Pacific Theaters of Operation as a First Lieutenant.

WILLIAM E. AMOS (Arkansas)

Dr. Amos was appointed to the Commission July 17, 1969 and served as Chairman of the Youth Corrections Division from May 1, 1972 until the consolidation of Youth and Adult functions under the Parole Commission and Reorganization Act in May 1976. Dr. Amos served as the Regional Commissioner of the South Central Region. Subsequent to this reporting period, Dr. Amos retired on January 10, 1981.

Dr. Amos received a BSE degree from the State College of Arkansas, an MA degree from the University of Tulsa, and an MA and EeD from the University of Maryland. He also received a certificate as a School Psychologist from American University. Dr. Amos has served as a psychologist for a child guidance clinic, and as a principal and superintendent of public schools in Arkansas. While in the United States Army, he was director of education at the United States Disciplinary Barracks. He has also served as a Special Agent in the United States Secret Service, as Superintendent of the Cedar Knoll School for juvenile delinquents, as Assistant Director of the President's Commission on Crime for the District of Columbia, and as Chief of the Division of Counseling and Test Development in the United States Department of Labor. Dr. Amos was President of the Western Society of Criminology from 1975-1976 and President of the American Society of Criminology from 1976-1977.

O. J. KELLER (Florida)

Mr. Keller was appointed to the Commission on September 1, 1978, and designated Regional Commissioner for the Southeast Region. Subsequent to this reporting period, Mr. Keller was designated to the National Appeals Board on January 11, 1981.

Mr. Keller received a BA degree from Williams College and an MA degree from Northern Illinois University. In 1960, he was appointed Chairman of the Illinois Youth Commission and served as a member of the Commission from 1961 through 1963. Between 1965 and 1967 he worked as a research fellow for the Center for Studies in Criminal Justice at the University of Chicago. This work resulted in a book, co-authored with Benedict Alper, entitled "Halfway Houses: Community-Based Corrections." In 1967, he was appointed Director of the Florida Division of Youth Services, and in 1973 as Secretary of the Florida Department of Health and Rehabilitative Services. In 1975, he joined the criminal

justice faculty of the University of Florida. During his last year and a half at the university, he directed a federally-funded project involving the diversion of juvenile delinquents from the formal court process.

Mr. Keller is a past president of the National Association of State Juvenile Delinquency Program Administrators and of the American Correctional Association. He was a member of the Corrections Task Force of the National Advisory Commission on Criminal Justice Standards and Goals, vice-chairman of the "Children in Trouble" forum of the 1970 White House Conference on Children and Youth, chairman of the Florida Task Force on Juvenile Delinquency, and a member of the Governor's Commission on Criminal Justice Standards and Goals.

RICHARD T. MULCRONE (Minnesota)

Mr. Mulcrone was appointed to the Commission on October 18, 1978, and designated Regional Commissioner for the North Central Region.

Until his appointment to the Parole Commission, Mr. Mulcrone served as Chairman of the Minnesota Corrections Board since its creation as Minnesota's first full-time paroling authority in 1973.

Mr. Mulcrone has been a police officer, worker with street gangs, probation officer, family court referee, and a county court administrator during his twenty-two year career in Minnesota.

Mr. Mulcrone is past president of the Minnesota Association of County Probation Officers and of the Minnesota Corrections Association. He served on the Governor's Commission on Crime Prevention and Control for seven years and was a member of the Minnesota Sentencing Guidelines Commission.

JOSEPH A. NARDOZA (New York)

Mr. Nardoza was appointed to the Commission November 24, 1975, and designated as Regional Commissioner for the Northeast Region.

Mr. Nardoza received a BBA degree from the Baruch School of the City University of New York in 1965, and received a master's degree in Public Administration from the City University of New York in 1968.

He began his career with the New York City Police Department in 1948, completing twenty years of service in 1968 as a Lieutenant. In 1969 he became a Law Enforcement Program Specialist in Organized Crime for the Law Enforcement Assistance Administration, and in 1971 became the Regional Administrator for the New York Region of that agency. Beginning in 1973 he served as the Assistant Administrator of the Office of Regional Operations of the Law Enforcement Assistance Administration, stationed in Washington, D.C.

DOROTHY PARKER (Virginia)

Mrs. Parker was appointed to the Commission on October 19, 1976, and was designated a member of the National Appeals Board.

Mrs. Parker received an LL.B degree from Columbia Law School in 1938, after having received a BA degree from Barnard College in 1936. She engaged in the private practice of law in New York City between 1938 and 1964, except during 1942, when she was Executive Director of the Independent Citizens' Committee to Re-elect Mayor La Guardia, and 1945 when she was Executive Assistant to the Director, UNRRA Clothing Collection.

Between 1965 and 1970 she served in various capacities in the Office of General Counsel, Department of Health, Education, and Welfare. Beginning in 1970 she was the Minority Counsel for the Senate Committee on the Judiciary and in that capacity served on the Subcommittee on Constitutional Amendments and Subcommittee on Refugees and Escapees.

AUDREY ANITA ROJAS KASLOW (California)

Mrs. Rojas Kaslow was appointed to the Commission on November 23, 1977, and designated as Regional Commissioner for the Western Region.

Mrs. Rojas Kaslow is a graduate of the University of California at Los Angeles receiving her BA and MA in clinical psychology and an MS at the University of Southern California.

Prior to her appointment as a Commissioner Mrs. Kaslow was a Probation Director in the Administrative Division of the Los Angeles County Probation Department.

Her experience spans over 20 years in the field of Corrections beginning as a street-gang group worker establishing delinquency prevention programs in the community. She has worked in the development of the Las Palmas School Psychiatric Treatment Center for adolescent delinquents, in Adult Corrections, and in Correctional Administration.

Throughout her career Mrs. Rojas Kaslow has been active in professional, community, and civic affairs. She has been cited for her work by many community and civic organizations. She has served on numerous committees, boards, and as a consultant to national and international governmental bodies. Mrs. Rojas Kaslow was a member of California's State Judicial Council Committee, State Social Welfare Board, State Committee on Public Education, Consultant to U.S. Department of Labor, Consultant/Advisor with the U.S. Department of State, Agency for International Development, and Fulbright Lecturer, and is a recognized leader on Hispanic affairs.

ROBERT VINCENT (Oklahoma)

Dr. Vincent was appointed to the Commission on November 11, 1977, and designated as Regional Commissioner for the North Central Region. On August 1, 1978, Dr. Vincent was designated as a Commissioner with the National Appeals Board in Washington, D.C. Subsequent to this reporting period, Dr. Vincent was designated as Regional Commissioner for the South Central Region on January 11, 1981.

Dr. Vincent attended Oklahoma State University and the University of Oklahoma where he received a B.A., M.S., and Ph.D. in Psychology. He then held positions as Research Psychologist at Battelle Memorial Institute, and President of two research and consulting companies. From 1972 until the time of his appointment to the Parole Commission, he held the position of Assistant Chancellor for Governmental Affairs, Oklahoma Regents for Higher Education.

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