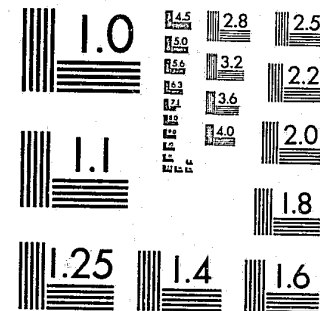


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AN ANALYSIS OF PAROLE BOARD USE OF
DECISION-MAKING GUIDELINES IN NEW YORK STATE

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Introduction

The Board of Parole in New York State is a twelve member quasi-judicial body appointed by the Governor to perform duties pursuant to powers spelled out in Article 12-B of the Executive Law. Those powers and duties include:

- determining which inmates serving an indeterminate sentence may be released, when and under what conditions
- determining conditions of release
- determining whether or not to revoke the parole or conditional release of any person under supervision
- granting and revoking certificates of relief from disabilities and certificates of good conduct

The purpose of this report is to provide an analysis of the Board's parole decision-making through the utilization of written guidelines.¹ The analysis conducted by the Division's research staff is based on Board decisions made in 1980. The specific aims of the analysis are:

- to assess the volume and type of Parole Board decisions
- to assess the characteristics of inmates seen by the Board
- to assess the ability of the guidelines to structure and reflect the Board's parole decision-making policy.

The Parole Board's Organization and Composition

The Parole Board is an administrative body within the State Division of Parole possessing the powers and duties specified in the Executive Law, Section 259c. The Board consists of twelve members appointed by the Governor, with the advice and consent of the Senate. Each member serves six years, except in cases where he/she is chosen to fill the vacancy of an unexpired term. The chairperson is designated by the Governor.

The qualifications for Board membership are graduation from an accredited four-year college or university with a degree in criminology, administration of criminal justice, law enforcement, sociology, law, social work, corrections, psychology, psychiatry, or medicine; or at least five years experience in one or more of the above fields.

Currently, the composition of the Board is:

	<u>Expiration of Term</u>
Edward R. Hammock, Chairman	February 7, 1987
William J. Barnwell	June 2, 1987
Maurice F. Dean	June 18, 1982
John J. Maffucci	June 18, 1985
Gerald M. Burke	June 16, 1984
Wilhelmina Holliday	June 18, 1982
Theodore Kirkland	December 31, 1983
Manuel Parron	June 18, 1984
Irving Greenberg	June 18, 1986
Maria Rivera Buchanan	June 18, 1987
Joseph Salo	May 4, 1983
Samuel Sherrid	June 18, 1986

Responsibilities of the Board

The Board of Parole has the power and duty to determine which inmates serving an indeterminate sentence of imprisonment may be released on parole, when and under what conditions. It has the power and duty to determine the conditions of release of any person who may be conditionally released under an indeterminate sentence of imprisonment, and to determine which inmates serving a definite sentence of imprisonment may be released, when and under what conditions.

As each inmate is received by the Department of Correctional Services, the Board determines the need for further investigation into the background of the inmate and ensures that such investigation is completed as soon as practicable. The results of the investigation, together with all other relevant information, including the complete criminal record and family court record of the inmate, are readily available when the parole of the inmate is considered. The Board has the duty to establish written guidelines for its use in making parole decisions. The Board is responsible for certifying parole jail time.

The Board is empowered to revoke the parole or conditional release of any person under supervision and has the power to authorize the issuance of a warrant for the re-taking of such person as provided by law. The Board has the authority to grant or revoke certificates of relief from disabilities and certificates of good conduct.

When requested by the Governor, the Board has the power and performs the duty of reporting the facts, circumstances, criminal records and social, physical, mental and psychiatric conditions and histories of inmates under consideration by the Governor for pardon or commutation of sentence, and of applicants for restoration of rights of citizenship.

For the purpose of any investigation conducted in the course of its duties, the Board or any member thereof has the power to issue subpoenas and to compel the attendance of witnesses and the production of books, papers and other documents relevant to its inquiry. The Board has the power to authorize any member thereof and duly appointed hearing officers to administer oaths and to take testimony of persons under oath. The Board shall also make rules for the conduct of its work; a copy of such rules and of any amendments thereto are filed by the Chairman with the Secretary of State. A report of the work of the Board of Parole for the preceding calendar year is transmitted to the Governor and the Legislature annually.

Types of Hearings

The New York State Parole Board conducts four types of hearings: Minimum Period of Imprisonment (MPI) interview, Release interview, Revocation and Rescission hearings.

Minimum Period of Imprisonment

The Parole Reform Act of 1977 requires that inmates serving indeterminate sentences where the court had not fixed the minimum period of imprisonment appear before the Board within 120 days of reception at a state correctional facility or as soon thereafter as practicable, for determination of the minimum term to be served by such inmates prior to their appearance before the Board for consideration for release on parole.² Subsequent legislation, however, required that the Court fix a minimum period of imprisonment in all cases where an individual is sentenced to an indeterminate sentence in a state correctional facility.³

For those inmates subject to the prior law the procedure is as follows: After conducting a MPI interview, the Board members establish the minimum period to be served in prison prior to parole consideration. The inmate is informed in writing of the term imposed and the reasons therefor. The reasons are based on the facts and circumstances of the individual case. A MPI set at such an interview provides the inmate with a realistic parole date.

Release

An inmate who has served his/her minimum period of imprisonment is legally eligible for parole release consideration. This is the first opportunity that the inmate has to be considered for release by the Parole Board. If parole is not granted after the interview, the inmate will be informed in writing of the reasons for denial of parole. The reasons will be in detail and not in conclusory terms. The Board must set a reappearance date no longer than 24 months from this initial appearance interview at which time the Board will re-examine the inmate for parole release.

Description of New York State Parole Board Guidelines

Theoretical Aspects of Guidelines

Following are the theoretical premises upon which guideline information is based: (1) most decisions are made with a limited number of information items; (2) decisions within an organizational context are made on two distinct, yet dependent, levels, first, the individual or case-by-case determination and second, the aggregate of case-by-case decisions which result in policy or agency-level decisions; (3) statistical methods can identify factors which are significant in determining the case-by-case decision (i.e., for similarly situated offenders convicted of offenses with comparable severity); (4) guidelines represent a frame of reference and should never be considered a substitute for the careful exercise of discretion in an individual case; and (5) decision-makers should retain the discretion to alter any guideline recommendation before finalizing their decision.

parole guidelines are descriptive, rather than prescriptive. In other words, the guidelines describe the present policy and allow the given decision-makers an opportunity to re-evaluate their current policy and make an informed decision as to whether to continue or modify that policy.

Purpose of Guidelines

The basic objectives of the parole guidelines are: 1) to produce more equitable treatment of similarly situated offenders, through consistent decision-making; 2) to provide a decision policy that is explicit and open; and 3) to preserve discretion in this function of the criminal justice system but within a structure that, to the extent possible, guards against abuse. In this sense, the guidelines attempt to reduce unwarranted and irrational disparity in decision-making by the Parole Board.

Composition of the New York State Parole Board Guidelines

The guidelines adopted represent the policy of the Board concerning the customary total time to be served before release, based primarily upon the seriousness of the crime and the individual's prior criminal history. Mitigating and aggravating factors may result in decisions above or below the guideline time ranges.

There are six levels of Offense Severity determined by the crime of conviction with two modifiers, weapon involvement and victim contact. The following represents the three offense severity measures with their assigned points.

OFFENSE SEVERITY SCORE		
Item 1	Felony Class of Conviction	Item 2 Weapon Possession
	A = 5	No = 0
	B = 4	Yes = 1
	C = 3	
	D = 2	Item 3 Forcible Contact
	E = 1	None = 0
	YO = 1	Force/Physical Injury = 1
		Serious Injury = 2
		Death = 3
		Total Offense Score _____

The second dimension, prior criminal history score, is composed of six items: (1) prior misdemeanor convictions; (2) prior jail terms (90 days or more); (3) prior felony convictions; (4) prior prison terms; (5) prior probation or parole revocations; and (6) whether the person was on probation or parole at the time of the present offense. The prior criminal history score ranges from zero to a high of eleven points which in turn forms three prior record categories: good (0-1); moderate (2-5); and serious (6-11). The following are the items and points which are added to form a prior record score.

PRIOR CRIMINAL HISTORY					
Item 1	Number of Prior Misdemeanor Convictions	Item 2	Number of Jail Terms	Item 3	Number of Prior Felony Convictions
	Zero to Two = 0 Three or More = 1		Zero to One = 0 Two to Three = 1 Four or More = 2		Zero = 0 One = 1 Two = 2 Three or More = 3
Item 4	Number of Prior Prison Terms	Item 5	Prior Probation or Parole Revocation	Item 6	On Parole/Probation at Time of Current Offense
	Zero = 0 One = 2 Two or More = 3		No = 0 Yes = 1		No = 0 Yes = 1
Total Prior Criminal History Score _____					

To derive the guideline time range, the appropriate cell is located on the parole decision-making grid where the Offense Severity and Prior Criminal History Scores intersect. The Offense Severity Score is located on the vertical axis, the Prior Criminal History Score on the horizontal axis. The cell on the guideline grid where the two scores intersect indicates the suggested time to be served based on these two major factors. The chart below presents the current New York State Parole Guidelines. For example, application of the guidelines in the case of an offense score of 5 and a prior criminal history score of 4 yields a range of 32-40 months.

GUIDELINES FOR PAROLE BOARD DECISION MAKING

Offense Severity Score	PRIOR CRIMINAL HISTORY SCORE		
	0 - 1 (GOOD)	2 - 5 (MODERATE)	6 - 11 (SERIOUS)
8 - 9 most severe	Specific ranges are not given due to the limited number of cases and the extreme variation possible within the category.		
7	40 - 48 Months	48 - 60 Months	60 - 90 Months
6	32 - 40 Months	40 - 50 Months	50 - 60 Months
4 - 5	26 - 32 Months	32 - 40 Months	40 - 50 Months
2 - 3	18 - 26 Months	26 - 34 Months	34 - 44 Months
1 least severe	12 - 18 Months	18 - 24 Months	24 - 36 Months

PAROLE BOARD WORKLOAD

There was a slight decrease (6%) in the total amount of Board interviews conducted in State correctional facilities from 1979 to 1980. Table 1 displays the individual interviews and hearings held and the percent change from 1979 to 1980 for each type.

Table 1: Comparison of Board Activity by Interview/Hearing Type for 1979 and 1980

Type of Interview/Hearing	1979	1980	Percent Change 1979 To 1980
Minimum Period of Imprisonment	3,249	2,186	- 33%
Initial	6,670	7,158	+ 7%
Reappearance	2,340	2,371	+ 1%
Violator Re-Release	800	913	+ 14%
Parole/CR Revocation	520	244	- 53%
Rescissions	45	69	+ 53%
Other Release	250	172	- 31%
Administrative Hearings	157	69	- 56%
	14,031	13,182	- 6%

The average number of all interviews or hearings conducted by each Board member during the year of 1979 was 1,275. In 1980, it was 1,198. The drop in the average Board member workload was due to a decline in the number of MPI interviews between 1979 and 1980. However, if initial release interviews are partialled out as a major Board responsibility, there was a significant workload increase in this area. For 1980, each Board member conducted on the average 651 initial release interviews; the average for the preceding year was 606.

MPI DECISIONS

The MPI as well as the other statistics above in Table 1 refer to the number of interviews and hearings held, not the number of actual decisions rendered. An individual inmate may have more than one interview or hearing, due to administrative postponements, e.g., need to obtain more complete records.

During 1980, the Parole Board set 2,063 minimum periods of imprisonment. As stated above, this was a substantial decrease from the previous year. In 1979, the Board set 3,002 MPIs. The reason for this decline was a change in legislation that went into effect in 1980.⁴ This law required that the courts fix a minimum term in all cases where an individual is sentenced to an indeterminate sentence of imprisonment in a State Correctional Facility.

After grouping the MPIs into four general categories of violent, property, drugs and miscellaneous crimes, an in-depth examination was made. In 1980, violent crimes accounted for 737 cases or 36%; property crimes were 701 cases or 34%; the miscellaneous group contained 498 cases or 24%; and drug conviction accounted for 6% or 127 cases. This breakdown was vastly different from the 1979 MPI Interviews. Table 2 compares the MPI populations for both years.

The average maximum sentence for the 2,063 cases was four years and two months. The average minimum period set for those cases was 26 months, which is approximately half of the average maximum sentence. In comparison, for 1979 the average judicially-imposed maximum sentence was slightly higher (four and one-half years) with the average Board-set minimum at 28 months, still approximately half the average maximum sentence.

Table 2: Comparison of Crimes for Which MPIs Had To Be Determined By The Board

Generic Crime Grouping	1979		1980	
	N	%	N	%
Violent	1,506	50%	737	36%
Property	779	26%	701	34%
Drug	133	5%	127	6%
Miscellaneous	584	19%	498	24%
	3,002	100%	2,063	100%

Table 3 on the following page summarizes the violent crimes. Sixty percent of the violent group was accounted for by the crime of robbery with 438 cases. Within this robbery category most cases (293 or 67%) were convicted of Attempted Robbery 2° or Robbery 3°, for which the Board had to set a MPI. The MPIs for a conviction of robbery ranged from 24 months for Attempted Robbery 3° to 43 months for Robbery 1°.

The range of the average MPIs for the entire violent crime group was 18 to 54 months for the crimes of Attempted Reckless Endangerment and Attempted Murder 2°, respectively. The average maximum sentences ranged from a low of 36 months for Attempted Reckless Endangerment to a high of 152 months for Manslaughter 1°. Of the thirty-one violent crime types displayed in Table 4, only nine (Assault 1°, Manslaughter 1°, Manslaughter 2°, Attempted Murder 2°, Attempted Rape 1°, Rape 1°, Attempted Robbery 1°, Robbery 1° and Robbery 2°) did not have average MPIs set at half the average maximum sentence.

Table 3:

Outcome of Minimum Period of Imprisonment Determinations Between January 1 to December 31, 1980

GENERIC CATEGORY: VIOLENT
(N = 737)

Crime of Conviction	Average MPI Mos.	Average Maximum Mos.	Percent That MPI Is to Max	Number of Cases
Attempt. Assault 1°	27	48	56%	15
Assault 1°	38	79	48%	9
Attempt. Assault 2°	27	43	63%	16
Assault 2°	27	50	55%	73
Coercion 1°	35	66	53%	2
Criminal Negligent Homicide	27	40	68%	17
Incest	40	48	82%	2
Attempt. Manslaughter 1°	39	60	65%	1
Manslaughter 1°	68	152	44%	22
Attempt. Manslaughter 2°	26	48	54%	3
Manslaughter 2°	41	95	43%	35
Attempt. Murder 2°	54	118	46%	5
Attempt. Rape 1°	36	96	38%	8
Rape 1°	36	82	43%	13
Rape 2°	43	72	60%	4
Rape 3°	35	45	77%	4
Attempt. Reckless Endangerment	18	36	50%	2
Reckless Endangerment	27	47	57%	11
Attempt. Robbery 1°	35	88	40%	18
Robbery 1°	43	100	43%	54
Attempt. Robbery 2°	25	43	57%	181
Robbery 2°	27	56	48%	33
Attempt. Robbery 3°	24	41	58%	40
Robbery 3°	26	48	53%	112
Attempt. Sexual Abuse 1°	24	41	59%	8
Sexual Abuse 1°	29	52	57%	35
Attempt. Sexual Perf. Child	48	84	57%	1
Sodomy 1°	40	78	52%	5
Sodomy 2°	27	48	56%	5
Sodomy 3°	27	48	56%	2
Unlawful Imprisonment 1°	44	48	92%	1

Property crimes were the second largest group for which MPIs had to be set by the Board, ranging from Criminal Mischief 3° to Burglary 1°. Burglary accounted for 64% of the property MPIs, Burglary or Attempted Burglary 3° the most frequent with 379 cases. The average MPIs ranged from 12 to 120 months, with the average maximum sentence ranging from 36 to 180 months. Property MPI averages ranged from 36 to 100 percent of the maximum sentence lengths.

Table 4: Outcome of Minimum Period of Imprisonment Determinations Between January 1 to December 31, 1980

GENERIC CATEGORY: PROPERTY (N = 701)				
Crime of Conviction	Average MPI Mos.	Average Maximum Mos.	Percent That MPI Is to Max	Number of Cases
Attempt. Arson 2°	29	60	48%	3
Arson 2°	120	180	67%	1
Attempt. Arson 3°	25	50	50%	17
Arson 3°	25	67	38%	5
Arson 4°	20	41	50%	5
Bribery 1°	18	36	50%	1
Attempt. Bribery 2°	17	36	46%	2
Bribery 2°	32	69	46%	4
Bribe Receiving 2°	18	42	43%	1
Burglary 1°	59	176	34%	6
Attempt. Burglary 2°	25	50	51%	57
Burglary 2°	26	57	45%	8
Attempt. Burglary 3°	21	40	52%	125
Burglary 3°	24	44	54%	254
Attempt. Criminal Mischief 2°	12	48	25%	1
Criminal Mischief 2°	20	41	50%	5
Criminal Mischief 3°	21	36	63%	5
Criminal Possession of Forged Instrument 1°	18	36	50%	1
Attempt. Criminal Poss. of Forged Instrument 2°	22	40	55%	3
Criminal Possession of Forged Instrument 2°	20	44	46%	10
Attempt. Criminal Poss. of Stolen Prop. 1°	19	42	45%	2
Criminal Poss. of Stolen Prop. 1°	26	51	51%	24
Criminal Poss. of Stolen Prop. 2°	20	39	52%	25
Attempt. Criminal Usury 1°	27	40	67%	3
Forgery 1°	34	72	47%	1
Attempt. Forgery 2°	22	41	54%	5
Forgery 2°	21	46	46%	10
Attempt. Grand Larceny 2° (Auto)	18	42	43%	2
Grand Larceny 2° (Auto)	20	36	56%	2
Grand Larceny 3° (Auto)	23	42	55%	4
Attempt. Grand Larceny 1°	29	48	60%	2
Grand Larceny 1°	36	36	100%	1
Attempt. Grand Larceny 2°	22	39	56%	4
Grand Larceny 2°	22	43	52%	36
Grand Larceny 3°	22	41	54%	65
Attempt. Forgery 1°	14	48	29%	1

The miscellaneous group had 498 cases. The crimes of conviction varied greatly, for example, from Criminal Trespass 1° to Conspiracy 2° with an average maximum of 36 to 110 months respectively. Youthful Offenders were 65% of the miscellaneous category with the average minimum set at 21 months and the average maximum 42 months. Table 5 displays similar information regarding the average MPI and maximum for this group.

Table 5: Outcome of Minimum Period of Imprisonment Determinations Between January 1 to December 31, 1980

GENERIC CATEGORY: MISCELLANEOUS (N = 498)				
Crime of Conviction	Average MPI Mos.	Average Maximum Mos.	Percent That MPI Is to Max.	Number of Cases
Abscond. Temporary Release 1°	34	36	94%	1
Bail Jump 1°	20	43	46%	5
Attempt. Conspiracy 2°	24	48	50%	1
Conspiracy 2°	51	110	46%	5
Conspiracy 4°	15	42	36%	2
Criminal Facilitation	18	48	38%	1
Attempt. Criminal Possession of Weapon 2°	24	43	57%	14
Criminal Possession of Weapon 2°	39	83	48%	19
Attempt. Criminal Possession of Weapon 3°	24	39	61%	32
Criminal Possession of Weapon 3°	27	48	55%	61
Criminal Solicitation 2°	24	48	50%	1
Criminal Trespass 1°	12	36	33%	1
Attempt. Escape 1°	24	36	67%	1
Escape 1°	18	42	43%	2
Escape 2°	19	39	48%	8
Operating Motor Vehicle While Intox.	18	38	47%	13
Other Felonies	25	50	50%	7
Promoting Prison Contraband 1°	21	36	58%	2
Youthful Offender	21	42	49%	322

The final conviction category was composed of drug crimes. The average MPIs for this group ranged from 16 to 31 months; and the average minimums were from 36 to 68 percent of the maximum sentences.

Table 6: Outcome of Minimum Period of Imprisonment Determinations Between January 1 to December 31, 1980

GENERIC CATEGORY: DRUGS
(N = 127)

Crime of Conviction	Average MPI Mos.	Average Maximum Mos.	Percent That MPI Is to Max	Number of Cases
Criminal Sale of Controlled Substance 3°	22	56	39%	27
Criminal Sale of Controlled Substance 4°	20	42	47%	9
Attempt. Criminal Sale of Controlled Substance 5°	27	44	68%	4
Criminal Sale of Controlled Substance 5°	22	50	44%	31
Attempt. Sale of Controlled Substance 6°	16	36	44%	1
Criminal Sale of Controlled Substance 6°	17	36	46%	3
Criminal Sale of Marihuana 2°	31	48	65%	2
Criminal Sale of Marihuana 3°	16	36	44%	1
Attempt. Criminal Possession of Controlled Substance 3°	21	48	44%	4
Criminal Possession of Controlled Substance 3°	20	43	47%	8
Criminal Possession of Controlled Substance 4°	22	52	42%	4
Attempt. Criminal Possession of Controlled Substance 5°	24	42	57%	4
Criminal Possession of Controlled Substance 5°	22	54	41%	12
Attempt. Criminal Possession of Controlled Substance 6°	21	41	51%	5
Criminal Possession of Controlled Substance 6°	22	41	53%	5
Criminal Possession of Marihuana 1°	22	48	46%	2
Criminal Possession of Marihuana 2°	16	36	44%	2
Criminal Possession of Dangerous Drug 2°	21	96	22%	1
Felony Drug Crime	24	48	50%	2

Characteristics of MPI Determinations

During 1980, approximately 36% of the MPI cases had been adjudicated Youthful Offenders or convicted of an E felony. Those convicted of D felonies represented 47% of the minimums set. Only 9% were convicted of Class C felony offenses. The remaining 8% were those who had been convicted of B felonies. A substantial majority of Board-set minimums (83%) were for lower felony class offenses (E - D) and Youthful Offender adjudications.

Weapon involvement occurred in less than half (44%) of the MPI cases. The guideline manual definition for weapon involvement is inclusive from an authentic revolver to a toy gun.

The third item in the offense score is forcible contact measured as none, force or physical injury, serious injury and death. There was no force or injury in 51% of the MPI cases; 31% involved some force and/or minor physical injury; 11% serious injury; and 7% involved a death.

Twenty-three percent of the MPI cases had three or more misdemeanor convictions. Only 10% had received two or more jail terms of 90 days or more. The breakdown of prior felony convictions was: 14% one prior; 2% two prior; and 1% with 3 or more priors. The majority of 1980 MPI cases, 83%, had no prior felony convictions. A small percentage of MPI cases, 7%, had received a prior sentence to State or Federal Correctional Facilities with only 1% sentenced to prison more than twice. Only 9% had a prior parole or probation revocation. At the time the instant offense occurred, 1 of 4 cases were under probation, furlough, temporary release or parole supervision. Consistent with 1979 findings, the 1980 Board-determined minimums were for offenders with little or no prior felonious history.

The comparison of 1979 and 1980 minimum-sets can be seen in Table 7. The major difference appeared to be in the offense severity dimension with 1980 cases being less severe.⁵

Table 7: Comparison of 1979 and 1980 MPI Guideline Characteristics

Guideline Items	Percents	
	1979	1980
Offense Severity	N=3,002	N=2,063
Felony Class:		
B	14%	8%
C	21%	9%
D	36%	36%
E/YO	29%	47%
Weapon Involvement:		
No	47%	56%
Yes	53%	44%
Forcible Contact:		
None	41%	51%
Force/Physical Injury	39%	31%
Serious Injury	12%	11%
Death	9%	7%
Prior Criminal History:		
Prior Misdemeanor Convictions:		
Zero - Two	75%	77%
Three or More	25%	23%
Prior Jail Terms 90 Days Or More:		
Zero - One	88%	90%
Two - Three	9%	7%
Four or More	3%	3%
Prior Felony Convictions:		
Zero	83%	83%
One	14%	14%
Two	2%	2%
Three or More	1%	1%
Prior Prison Terms:		
Zero	92%	93%
One	7%	6%
Two or More	1%	1%
Prior Probation/Parole Revocation:		
No	90%	91%
Yes	10%	9%
On Parole/Probation:		
No	77%	76%
Yes	23%	24%

The table below displays the characteristics of the 1980 minimums set by the parole guideline dimensions of offense severity and prior criminal history. The majority of cases (1,862) or 90% were in the lower offense severity scores, one through five. More importantly, three-fourths of the minimums set had no or minimal prior criminal histories. Only 2% of those appearing for a Board-set minimum had serious prior criminal histories and only 2% had been convicted of a serious offense. This may have been due in part to the second felony offender law which mandates the court to impose a minimum sentence which is half of the maximum sentence.

Table 8: Offense Severity and Prior Criminal History Characteristics of Inmates For Whom the Parole Board Determined MPIS During 1980

Offense Severity	PAROLE GUIDELINE MATRIX			Number %
	PRIOR CRIMINAL HISTORY			
	Good Zero - One	Moderate Two - Five	Serious Six - Eleven	
Eight-Nine	Unspecified Number of Cases 27 Avg. MPI 71 Mos. Avg. Max. 165 Mos.	Unspecified Number of Cases 7 Avg. MPI 75 Mos. Avg. Max. 177 Mos.	Unspecified Number of Cases 1 Avg. MPI 120 Mos. Avg. Max. 300 Mos.	35 2%
Seven	40 - 48 Months Number of Cases 54 Avg. MPI 45 Mos. Avg. Max. 104 Mos.	48 - 60 Months Number of Cases 6 Avg. MPI 58 Mos. Avg. Max. 126 Mos.	60 - 90 Months Number of Cases 3 Avg. MPI 56 Mos. Avg. Max. 160 Mos.	53 3%
Six	32 - 40 Months Number of Cases 88 Avg. MPI 33 Mos. Avg. Max. 71 Mos.	40 - 50 Months Number of Cases 11 Avg. MPI 43 Mos. Avg. Max. 98 Mos.	50 - 60 Months Number of Cases 4 Avg. MPI 44 Mos. Avg. Max. 69 Mos.	103 5%
Four-Five	26 - 32 Months Number of Cases 433 Avg. MPI 26 Mos. Avg. Max. 49 Mos.	32 - 40 Months Number of Cases 96 Avg. MPI 29 Mos. Avg. Max. 47 Mos.	40 - 50 Months Number of Cases 11 Avg. MPI 33 Mos. Avg. Max. 43 Mos.	540 26%
Two-Three	18 - 26 Months Number of Cases 691 Avg. MPI 22 Mos. Avg. Max. 44 Mos.	26 - 34 Months Number of Cases 243 Avg. MPI 27 Mos. Avg. Max. 45 Mos.	34 - 44 Months Number of Cases 20 Avg. MPI 30 Mos. Avg. Max. 51 Mos.	954 46%
One	12 - 18 Months Number of Cases 252 Avg. MPI 18 Mos. Avg. Max. 40 Mos.	18 - 24 Months Number of Cases 105 Avg. MPI 22 Mos. Avg. Max. 41 Mos.	24 - 36 Months Number of Cases 11 Avg. MPI 25 Mos. Avg. Max. 40 Mos.	368 18%
Totals	Cases 1,545 Percent 75%	468 23%	50 2%	2,063 100%

Table 8 above shows the number of cases in the individual cells of the parole guideline matrix with the average minimum set by the Board and the average maximum sentence imposed for each respective cell. The average minimum set was calculated by adding all the minimums and dividing by the number of cases in a particular cell. The same method was used to obtain an average maximum.

As can be seen in Table 8, the average minimums set for the individual cells range from 1 1/2 years in the least severe cell to 10 years in the most severe cell. Similarly, the average maximum sentences ranged from 3 1/3 years in the least severe cell to 25 years in the most severe cell. As previously noted, the average minimums set were not one-third of the average maximum sentence but closer to one half.

The individual cells of the parole guideline matrix represent inmates with similar offense severity and prior records. By comparing the suggested time ranges to the average minimums set by the Parole Board, all but five cells were within the guidelines. The five cells are outlined in Table 8, and the average minimums set were below the recommended guideline ranges. Four of the five cells were in the serious prior record category, but the small amount of cases involved may account for the deviation.

Guideline Application for MPI Interviews

Table 9 on the following page illustrates the proportion of 1980 Board-set MPIs that fell within, above and below guideline ranges for each cell of the matrix. The table also contains the number of cases for each cell with the most frequently represented crime and/or adjudication. Only three cells (shaded) out of the eighteen had less than fifty percent within the guideline time range. The cells with the largest amount of cases had a range of within the guidelines from 56% (offense severity 4-5 and prior record of good) to 87% (offense severity one and a moderate prior record).

The overall rate of MPI cases within guideline ranges presented in the Parole decision-making matrix was 71% (1,468 cases). Of these, 35 cases were in the most severe offense score of eight and nine wherein there is no specified guideline range. Approximately 9% of the MPIs set by the Board were above the recommended range, with an additional 20% below the guideline time ranges.

The most frequent crime listed in nine out of eighteen cells was robbery. Robbery was listed in the more severe offense and offender cells, i.e., the top half of the guideline matrix. In the lower portion of the offense severity cells burglary was most frequently cited with Youthful Offender Adjudication listed where there was no or minimal prior criminal history.

Table 9:

Summary of MPI Decisions And
The Guideline Ranges Determined
By the Parole Board During 1980

Offense Severity Score	PAROLE GUIDELINE MATRIX					
	Good		Moderate		Serious	
	Range	Unspecified	Range	Unspecified	Range	Unspecified
Eight-Nine	Inside 100% Above - Below - Number of Cases 27 Most Frequent Crime: Manslaughter 1°		Inside 100% Above - Below - Number of Cases 7 Most Frequent Crime: Robbery 1°		Inside 100% Above - Below - Number of Cases 1 Most Frequent Crime: Robbery 1°	
Seven	Range 40-48 Inside 60% Above 20% Below 20% Number of Cases 54 Most Frequent Crime: Manslaughter 2°		Range 48-60 Inside 68% Above 16% Below 16% Number of Cases 6 Most Frequent Crime: Robbery 1°		Range 60-90 Inside 67% Above - Below 33% Number of Cases 3 Most Frequent Crime: Robbery 1°	
Six	Range 32-40 Inside 50% Above 15% Below 35% Number of Cases 88 Most Frequent Crime: Robbery 1°		Range 40-50 Inside 27% Above 27% Below 46% Number of Cases 11 Most Frequent Crime: Robbery 1°		Range 50-60 Inside 50% Above - Below 50% Number of Cases 4 Most Frequent Crime: Robbery 1°	
Four-Five	Range 26-32 Inside 56% Above 10% Below 34% Number of Cases 433 Most Frequent Crime: Attempted Robbery 2°		Range 32-40 Inside 47% Above 2% Below 51% Number of Cases 96 Most Frequent Crime: Attempted Robbery 2°		Range 40-50 Inside 18% Above - Below 82% Number of Cases 11 Most Frequent Crime: Assault 2°	
Two-Three	Range 18-26 Inside 82% Above 7% Below 11% Number of Cases 691 Most Frequent Adjud.: Youthful Offender		Range 26-34 Inside 74% Above 2% Below 24% Number of Cases 243 Most Frequent Crime: Burglary 3°		Range 34-44 Inside 50% Above - Below 50% Number of Cases 20 Most Frequent Crime: Burglary 3°	
One (Least Severe)	Range 12-18 Inside 79% Above 21% Below - Number of Cases 252 Most Frequent Adjud.: Youthful Offender		Range 18-24 Inside 87% Above 6% Below 7% Number of Cases 105 Most Frequent Crime: Attempted Burglary 3°		Range 24-36 Inside 64% Above - Below 36% Number of Cases 11 Most Frequent Crime: Attempted Burglary 3°	

The results for 1980 were compatible with the 1979 figures even though the number of MPI interviews dropped. By combining minimums set for 1979 and 1980, a two year experience with the guidelines can be examined. When determining minimums, the Board was very consistent in its application of the guidelines over time whether within, above or below recommended ranges.

Table 10: Comparison Of MPI Decisions For The 1979-1980 Period And The Guideline Outcome

Guideline Outcomes	1979 N=3,002	1980 N=2,063	2 Years Combined N=5,065
Within	68%	71%	69%
Above	11%	9%	10%
Below	21%	20%	21%

RELEASE DECISIONS

During the year, the overall paroling rate from State correctional facilities was 52% or 5,536 inmates paroled to community supervision. Release decisions were granted to 3,448 initial applicants (inmates who became eligible for parole release after service of their minimum sentence during the twelve months of 1980). This figure represents little less than half (48%) of those inmates initially eligible who were released to parole supervision. Reappearance interviews rendered 1,343 release decisions (57%) for inmates who were eligible for parole release prior to 1980, but were denied release and became eligible again during 1980. Approximately 70% of the re-release interviews for violators resulted in 644 inmates released to the community. The other release interviews resulted in 101 inmates (59%) being granted parole. (See Table 11)

The decisions rendered at the various release interviews are summarized in the following table:

Table 11: Type of Release Interviews and the Decision Rendered by The Parole Board Between January 1 and December 31, 1980

Release Interview	Released <u>a/</u>		Postponed <u>a/</u>		Denied <u>a/</u>	
	Number	%	Number	%	Number	%
Initial (7,158)	3,448	48.2%	416	5.8%	3,294	46.0%
Reappearance (2,371)	1,343	56.5%	235	9.9%	793	33.4%
Violator Re-Release (913)	644	70.5%	98	10.7%	171	18.7%
Other (172)	101	58.7%	17	9.8%	54	31.3%
Grand Total (10,614)	5,536*	52.2%	766	7.2%	4,312	40.6%

a/ Percentages may not total 100 due to rounding.

The overall paroling rate for 1979 was 55%, as contrasted with 52% for 1980. Despite this 3% difference, the actual number of inmates released by the Board remained fairly constant over the two years. As shown below, the actual percentage change in number of releases between 1979 and 1980 was negligible, less than half of one percent.

Table 12: Comparison of Board Releases by Type of Category 1979 Versus 1980

Type of Interview	Releases		% Change	
	1979	1980	1979 To 1980	
Initial	3,473	3,448	-	.7%
Reappearance	1,346	1,343	-	.2%
Violator Re-Release	575	644	+	12.0%
Other	118	101	-	14.0%
	5,512	5,536	+	.4%

Initial Release Cases

In assessing the Board's use of the guidelines in rendering release decisions, the focus of the study was on initial release cases. These represented over two-thirds of all release interview cases during 1980. Moreover, a focus on the initial cases provided an opportunity to analyze Board decision-making in regard to inmates who became for the first time parole-eligible. The reappearance and violator re-release cases involved individuals who had previously seen the Board for a release consideration. An analysis of these latter release types will be included in a subsequent report.

A majority of the initial applicants had been convicted of a robbery, burglary, or drug offense. In most cases, those convicted of robbery or burglary received a court-imposed maximum sentence of 5 years or less; those convicted of a drug offense tended to receive a maximum of more than 5 years.

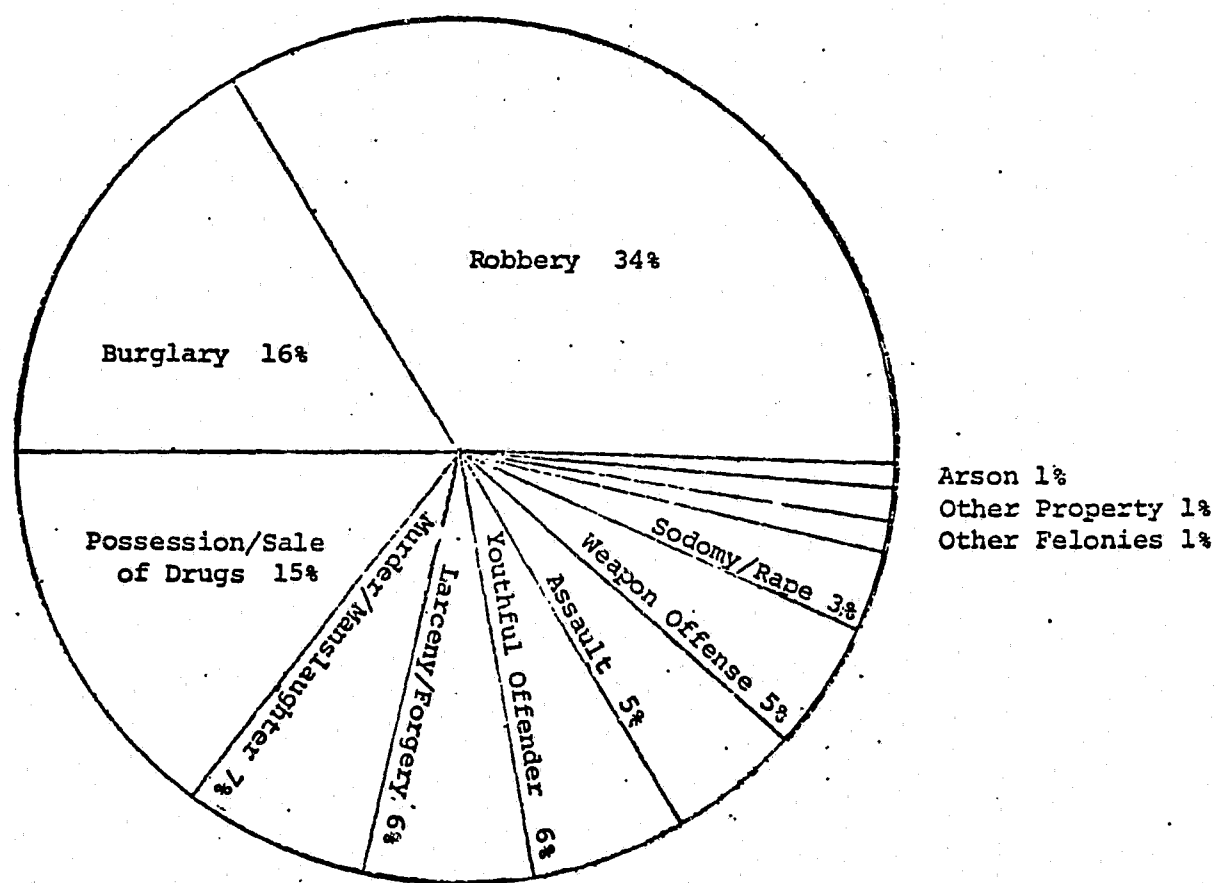


Figure 1: Initial Applicants For Release Consideration By Offense Groups (1980)

Individuals convicted of a kidnapping, murder/manslaughter or a sodomy/rape offense received a maximum sentence of more than 5 years. All other conviction offenses carried a maximum 5 years or less.

Table 13: Crimes Involved In 1980 Initial Parole Interviews by Their Maximum Sentence

Crimes of Conviction	Maximum Sentence		Totals
	5 Years or Less	More Than 5 Years	
Arson	60%	40%	65
Assault/Reckless Endangerment	64%	36%	350
Burglary	83%	17%	1,142
Larceny/Forgery	95%	5%	444
Kidnapping/Unlawful Imprisonment	33%	67%	12
Murder/Manslaughter	14%	86%	527
Possession/Sale of Drugs	45%	55%	1,036
Robbery	51%	49%	2,432
Sodomy/Rape	35%	65%	248
Weapon Offense	79%	21%	351
Youthful Offender	100%	-	405
Other Property Offenses	68%	32%	68
Other Felonies	87%	13%	76
Totals	4,309	2,847	7,156*
	60%	40%	100%

* NOTE: Two cases lacked essential information and were thus excluded from this analysis.

Based on an analysis of the guidelines data related to the initial parole applicants, a weapon was involved in over half of the conviction offenses (54%). The forcible contact variable revealed that there was no force or physical contact in 45% of the initial cases; minimal contact was evidenced in 36% of the cases. Serious injury and death occurred in 11% and 8% of the cases, respectively.

Approximately 44% of the cases had three or more prior misdemeanor convictions. Eight percent had received four or more jail terms equal to or greater than ninety days. Additionally, thirteen percent had received two or three jail terms ninety days or more. The remaining 79% had no or only one prior jail term.

Fifty-six percent of the cases had no prior felony convictions. Thirty percent had one prior felony conviction. Two prior felony convictions were evident in ten percent of the cases. Only four percent involved three or more priors.

An examination of the prior prison term variable revealed that a remarkable percentage of the initial interviewees (74%) had never previously received a sentence to a state or federal correctional facility. Nineteen percent had served time once in a state or federal prison. A small percent (7%) had received a prison sentence two or more times.

Table 14, compares the guideline profile for both 1979 and 1980. As can be seen from the data for both years the characteristics of initial applicants have remained fairly constant. The only apparent shift involved the forcible contact item; the 1980 cases had slightly more violence associated with their offenses.

Table 14: Comparison of 1979 and 1980 Initial Applicants

Guideline Items	Percents	
	1979	1980
	N=6,670	N=7,158
Offense Severity		
Felony Class:		
A	11%	11%
B	16%	18%
C	23%	25%
D	26%	25%
E/YO	24%	21%
Weapon Involvement:		
No	47%	46%
Yes	53%	54%
Forcible Contact:		
None	53%	45%
Force/Physical Injury	32%	36%
Serious Injury	8%	11%
Death	7%	8%
Prior Criminal History		
Prior Misdemeanor Convictions:		
Zero - Two	64%	66%
Three - More	36%	44%
Prior Jail Terms 90 Days or More:		
Zero - One	75%	79%
Two - Three	17%	13%
Four or More	8%	8%
Prior Felony Convictions:		
Zero	54%	56%
One	30%	30%
Two	11%	10%
Three or More	5%	4%
Prior Prison Terms:		
Zero	73%	74%
One	19%	19%
Two or More	8%	7%
Prior Probation/Parole Revocation:		
No	74%	79%
Yes	26%	21%
On Parole/Probation		
No	74%	75%
Yes	25%	

Guideline Application for Initial Interviews

The Board's actual application of its guidelines is limited by court parameters, that of the minimum and maximum sentence imposed. Two types of exclusion can occur, first the court may set a minimum sentence that is longer than the high range of the guideline for a given cell or the maximum sentence is shorter than the suggested guideline range. Fifteen percent of the 7,158 initial cases were automatically below or above the parole guideline time ranges due to lower maximums or longer minimums. Table 15 shows those cases wherein the Board had discretion to utilize the guidelines (6,110).

Some interesting observations can be made based on an examination of the individual matrix cells below (Table 15). First, there was no single pattern of decision-making across all of the matrix cells. This was seen as consistent with Board policy that release decisions be made on an individual case basis, rather than as if all offenders are the same.

Table 15: SUMMARY OF INITIAL CASES AND THE GUIDELINE RANGES

Offense Severity	Prior Criminal History					
	Good		Moderate		Serious	
Eight-Nine	Range	Unspecified	Range	Unspecified	Range	Unspecified
	Inside	100%	Inside	100%	Inside	100%
	Above	-	Above	-	Above	-
	Below	-	Below	-	Below	-
	Number of Cases	208	Number of Cases	102	Number of Cases	27
Seven	Range	40-48	Range	40-60	Range	60-90
	Inside	38%	Inside	48%	Inside	63%
	Above	28%	Above	26%	Above	6%
	Below	34%	Below	26%	Below	31%
	Number of Cases	155	Number of Cases	73	Number of Cases	32
Six	Range	32-40	Range	40-50	Range	50-60
	Inside	46%	Inside	49%	Inside	61%
	Above	13%	Above	19%	Above	29%
	Below	41%	Below	32%	Below	10%
	Number of Cases	394	Number of Cases	141	Number of Cases	61
Four-Five	Range	26-32	Range	32-40	Range	40-50
	Inside	38%	Inside	47%	Inside	53%
	Above	9%	Above	12%	Above	15%
	Below	53%	Below	41%	Below	32%
	Number of Cases	1,358	Number of Cases	792	Number of Cases	210
Two-Three	Range	18-26	Range	26-34	Range	34-44
	Inside	78%	Inside	63%	Inside	46%
	Above	11%	Above	6%	Above	10%
	Below	11%	Below	31%	Below	44%
	Number of Cases	742	Number of Cases	608	Number of Cases	342
One	Range	12-18	Range	18-24	Range	24-36
	Inside	82%	Inside	77%	Inside	78%
	Above	18%	Above	20%	Above	2%
	Below	-	Below	3%	Below	20%
	Number of Cases	250	Number of Cases	411	Number of Cases	204

Second, the Board appeared to have made differential use of the two major guideline factors (offense severity and prior history), depending on the specific offense. For individuals who fell within the medium to high levels of offense severity (4-7), the Board tended to make decisions more within the recommended time ranges as the seriousness of the prior criminal history increased. These particular individuals had been primarily convicted of robbery or manslaughter. Given the seriousness of these crimes, the Board seemed to pay particular attention to: the extent to which these offenders had committed crimes in the past, and previous involvement with the criminal justice system.

In regard to individuals who fell within the lower levels of offense severity (1-3), prior criminal history seemed to be less associated with Board decisions within the recommended time ranges. Individuals in this group had been primarily convicted of burglary (attempted burglary) or adjudicated as a Youthful Offender.

There are two, at least tentative conclusions that can be drawn from these observations and a look at Table 15. The first is that in cases of offenses involving physical violence, the Board appears to weight prior criminal history more in its decisions on release; whereas in offenses involving little or no physical violence to a victim, the Board's emphasis on the prior criminal history is not as great. The second conclusion, and one which does not necessarily preclude the first, is that the recommended time ranges for the lower offenses of the guidelines reflect actual Board decision-making more than the ranges associated with higher offense severity levels. The basis for this latter conclusion is that a greater percentage of Board decisions were made within the recommended time ranges for lower levels of offense severity than for the upper levels. In most cases of individuals with higher offense severity, a substantial proportion of the Board decisions were below recommended time ranges. (See upper Offense severity cells in Table 15.)

As stated above, these conclusions are tentative. The issues discussed require further analysis before any definitive conclusions can be offered. What can be said in the interim, however, is that in the overall the Board rendered decisions within the guideline ranges most of the time, i.e., in 58% of the initial release cases in 1980, and 56% in 1979.

It is noteworthy that the Board as a working group of individual decision-makers, has been able to apply the guidelines consistently in making release decisions from one year to the next. Despite the changing membership on the Board between 1979 and 1980, the outcomes of initial release interviews varied only a little. This minimal variation was reflected not only with regard to overall release approval rates, but also in terms of decisions made outside of the guideline time ranges, i.e., above and below. In view of this, the guidelines seemed to have served one of their major purposes, vis-a-vis, to provide a structure for consistent decision-making.

One other major purpose of the guidelines is to ensure that similar offenders (as defined by a matrix cell) are treated similarly by the Board unless there are compelling and articulable reasons to do otherwise.

Decision results on those granted and denied release at initial eligibility are presented next.

Initial Parole Releases Granted

During 1980 the Board of Parole granted parole release to 3,448 initial applicants. This figure represented 48% of the total number of initial interviews for the year. In 1979, the initial parole release rate was 52%. The difference between these rates, however, was due more to the fact that the Board saw more initial applicants in 1980 than 1979. The total interviews for 1980 was 7,156; in 1979 it was 6,668. In absolute numbers, the difference between the 1979 and 1980 initial release rates amounted to only 23 individuals, i.e., 23 less were released in 1980.

Seventy-one percent of the initial releasees in 1980 had maximum sentences equal to or less than five years; 22% had maximums of six to nine years and 7%, ten to fifteen years. These findings were comparable to that for 1979 initial releases.

TABLE 16: INITIAL 1980 CASES GRANTED PAROLE RELEASE WITH AVERAGE TIME SERVED, AVERAGE MAXIMUM SENTENCE AND MOST FREQUENT CRIME

		<u>PRIOR CRIMINAL HISTORY</u>		
		Good	Moderate	Serious
Eight-Nine	Range: Average Time Served: Average Maximum: Most Frequent Offense: Number of Cases:	Unspecified 51 Months Eleven Years Manslaughter 1° 75	Unspecified 92 Months Twelve Years Manslaughter 1° 22	Unspecified 138 Months Fifteen Years Manslaughter 1° 2
Seven	Range: Average Time Served: Average Maximum: Most Frequent Offense: Number of Cases:	40-48 41 Months Nine Years Manslaughter 2° 72	48-60 53 Months Eleven Years Manslaughter 2° 17	60-90 83 Months Eighteen Years Robbery 1° 2
Six	Range: Average Time Served: Average Maximum: Most Frequent Offense: Number of Cases:	32-40 33 Months Eight Years Robbery 1° 260	40-50 50 Months Ten Years Robbery 1° 88	50-60 71 Months Thirteen Years Robbery 1° 20
Four-Five	Range: Average Time Served: Average Maximum: Most Frequent Offense: Number of Cases:	26-32 26 Months Five Years Robbery 2° 1,087	32-40 35 Months Seven Years Robbery 2° 374	40-50 41 Months Eight Years CSCS 3° 56
Two-Three	Range: Average Time Served: Average Maximum: Most Frequent Offense: Number of Cases:	18-26 20 Months Four Years Youthful Offender 504	26-34 26 Months Five Years Burglary 3° 305	34-44 26 Months Five Years Burglary 3° 82
One	Range: Average Time Served: Average Maximum: Most Frequent Offense: Number of Cases:	12-18 17 Months Three Years Youthful Offender 219	18-24 18 Months Three Years Attempted Burglary 3° 215	24-36 19 Months Three Years Attempted Burglary 3° 46

An analysis was made of those granted initial release and those denied in terms of whether the Board or court set the minimum term. For initial applicants in 1980, it was found that 64% of those with a Board set MPI were granted release, compared to 39% with a court-set minimum. These results supported the fact that the Board tended to set more realistic minimum terms, especially in view of the relatively short maximum terms (i.e., five years or less for most of the initial applicants and releases). Table 17 below shows the number and percents of approved and denied releases, by who set the minimum for 1979 and 1980.

Table 17: Comparison of Initial Interviews
Conducted By The Parole Board During 1979 And 1980

Decision	Judge		Board		Both		Total	
	1979	1980	1979	1980	1979	1980	1979	1980
Released	1,511 42%	1,728 39%	1,911 65%	1,637 64%	49 45%	83 46%	3,471 52%	3,448 48%
Denied	2,110 58%	2,701 61%	1,027 35%	908 36%	60 55%	99 54%	3,197 48%	3,708 52%
Totals	3,621 100%	4,429 100%	2,938 100%	2,545 100%	109 100%	182 100%	6,668 100%	7,156 100%

Forty-three percent of initial applicants granted release in 1980 had been convicted of a violent crime (e.g., murder/manslaughter, assault and robbery); 23% had been convicted of a property crime (e.g., burglary and forgery/usury); 20% for drug sale/possession; and 14% for miscellaneous crimes (e.g., weapon possession and intoxication while driving). Those applicants granted release at initial eligibility spent a median average of four months in a local jail prior to incarceration in a state prison, and nineteen months in a prison.⁷ The total median time served before release for these individuals was twenty-four months - or about 44% of the median maximum term (fifty-four months).

Table 18: Generic Categories of Offenses With The Median Time
Served And Median Maximum Sentence For Released Initial Applicants

Crime Category	(Cases)	Median	
		Total Time Served* Months	Maximum Sentence Years
Mischief	(2)	15	3
Gambling	(3)	16	3
Driving While Intoxicated	(10)	17	3
Forgery/Usury	(57)	18	4
Larceny/Stolen Property	(184)	18	3
Youthful Offender	(279)	18	4
Escape/Hindering Prosecution	(20)	19	3
Burglary	(514)	21	4
Possession of Drugs	(149)	21	6
Possession of Weapon	(141)	21	4
Sale of Drugs	(538)	22	7
Arson	(35)	23	5
Bribery	(8)	23	3
Other Felonies	(9)	23	4
Assault	(147)	25	4
Robbery	(1,115)	28	6
Kidnapping	(9)	29	6
Rape/Sodomy	(68)	32	6
Criminal Facilitation	(1)	39	10
Manslaughter/Murder	(149)	48	10

NOTE: Eleven cases lacked essential information and were thus excluded from this table.

* This total represents both jail and prison time served.

As can be seen above, property offenders received shorter maximum sentences and served less time than drug or violent offenders. Those convicted of violent offenses served the longest amount of time imprisoned, ranging from two to four years.

Another method of examining time served can be seen by collapsing all the convictions into their respective felony class. Table 19 shows the released initial applicants and the medians for total time served and the maximum sentence.

Table 19: Felony Class and Median Time Served

Felony Class	Number of Cases	Total Time Served ^{1/}	Maximum
A ^{2/}	503	24 Months	Life
B	541	36 Months	9 Years
C	817	29 Months	6 Years
D	825	23 Months	4 Years
E/YO	762	17 Months	3 Years
Total	3,448 ^{3/}	24 Months	4½ Years

^{1/} Includes Jail and Prison Time.

^{2/} Majority of A felons were for drug offenses.

^{3/} This table contains all released cases. There was no missing information.

Characteristics of those inmates granted release by the Board were generated from the guideline items. Seventy-five percent of the inmates paroled were convicted of lower class felonies (E through C) or Youthful Offender adjudications; sixteen percent were convicted of B felonies and fifteen percent were A felonies. Slightly more than half (51%) of the offenses lacked any type of weapon involvement. The amount of force or injury involved in the commitment offense showed: fifty-three percent where none occurred; thirty-four percent with force or injury; eight percent had serious injury; and five percent involved the death of a victim.

Over three-fourths of the inmates granted parole at initial eligibility had between zero and two prior misdemeanor convictions. Eighty-six percent had no or one prior jail term of 90 days or more. In addition two-thirds of those paroled had no prior felony convictions and eighty-five percent had never been sentenced to a state or federal correctional facility. Eighty-seven percent of the released cases did not have a prior probation or parole revocation and eighty-one percent were not under community supervision at the time of the current offense.

Initial Applicants Denied Release

In 1980, there were 3,710 denials or postponements of parole for initial applicants which was approximately 52% of the total initial interviews. Postponements occurred in 416 cases primarily due to incomplete records or the nonappearance of the inmates, (e.g., out to court, or refusal). Thus, there were 3,294 initial applicants for which the Board members denied release and set a period of time to be served before parole release would be reconsidered. Sixty-nine percent of those denied parole had maximum sentences of five years or less. Additionally, seventy-three percent of those denied had minimums imposed by the court; twenty-four percent had Board determined minimum periods of imprisonment, and four percent had both a judicially and Board set minimum sentence.⁸

By grouping the denied initial applicants into four general crime categories, violent, property, drugs and miscellaneous, a closer examination can occur. (Note that seven denied cases were excluded from the analysis due to incomplete data.) Violent crimes was the largest group with 1,867 cases or 57% of those denied; property crimes had 785 cases or 24%, the miscellaneous category contained 337 cases or 10%, and the remaining 9% or 298 cases were in the drug category.

The median number of months served for parole eligibility was twenty-three months (i.e., service of minimum sentence). The median number of months the Parole Board denied applicants for was nine. The median total amount of time served (jail + prison + denial) before the next release interview was thirty-four months. The median maximum sentence was fifty-four months.

Twenty broad conviction categories were derived by further collapsing of crimes. The table below displays these categories of offenses arranged according to shortest total time to be incarcerated to longest with the corresponding holds, maximums and minimums (total and state time) medians. The crime involving violence can be found at the bottom of the table with longer time to be served.

Table 20:

Generic Categories of Offenses With The Median Time
Served Figures for the Denied Initial Applicants (1980)

(N = 3,287)

Crime of Conviction	Cases	Median Months			Maximum Sentence
		Total Time Served For P.E.	Length of Denial	Total Time To Be Served Before Reappearance	
Gambling	(2)	15	7	22	42
Bribery	(3)	23	8	25	48
Youthful Offender	(112)	20	7	26	42
Possession of Drugs	(56)	16	12	27	48
Grand Larceny/Stolen Property	(153)	17	10	27	36
DWI	(6)	23	8	28	36
Sales of Drugs	(242)	15	12	28	54
Forgery/Usury	(34)	19	10	29	39
Escape/Tampering	(15)	17	12	29	36
Other Felonies	(5)	20	9	30	48
Burglary	(567)	21	10	30	48
Possession/Sale of Weapon	(192)	20	12	32	48
Mischief	(5)	24	10	34	48
Assault	(185)	23	12	35	54
Arson	(24)	25	11	36	54
Robbery	(1,209)	24	12	36	60
Conspiracy	(4)	26	11	37	48
Rape/Sodomy	(170)	24	12	46	78
Manslaughter/Murder	(298)	47	18	65	120
Kidnapping	(5)	67	12	80	120

The denial characteristics gathered through the guideline items revealed that seventy-three percent were convicted of lower class felonies (E through C) or received Youthful Offender adjudications; twenty percent were convicted of B felonies and seven percent A felonies. Weapon involvement occurred in sixty percent of the cases. The amount of force or injury involved in the commitment offense showed thirty-eight percent had no force; thirty-seven percent with force or minimal injury; fourteen percent with serious injury and eleven percent in which a death occurred.

Further, inmates denied parole at first eligibility had three or more prior misdemeanor convictions in forty-two percent of the cases; twenty-seven percent received jail sentences of 90 days or more; forty-four percent had one or more past felony convictions; thirty-seven percent served prior prison terms; twenty-eight percent had past probation or parole revocation; and thirty percent were under supervision during the commission of the present offense.

To what extent did the Board treat similar offenders in a similar manner? There are two ways in which this question can be answered. The first involves a comparison between inmates granted release upon initial eligibility and those denied release on the basis of guideline characteristics (i.e., offense severity and prior criminal history items). If the guideline characteristics separate the initial applicants into relatively homogeneous groups that are associated with distinct decisions (release versus denied), then it can be said that there is similarity in the Board's treatment of similar offenders.

This first approach may be seen as a "macro-level" analysis in that similarity of treatment of similar type offenders is measured in a broad sense. The second approach, by contrast, is equivalent to "micro-level" analysis. Here, what is measured is the relative homogeneity within the various sub-groups of releasees and denials as a function of guideline characteristics (matrix cells) and time served in prison. The extent to which similar Board decisions are rendered for individuals who fall within a given matrix cell, would then provide an even finer measure of the Board's similar treatment of similarly defined offenders.

This second approach calls for a rather complex statistical analysis, and will be presented in a subsequent report. In the meanwhile, presented below are the results of the first analytic approach.

Those who were released and denied release in 1980 were profiled on the basis of items relating to offense severity and prior criminal history. An analysis revealed a strikingly different picture for applicants denied release as compared to those released. Those denied tended to be similar in that they had committed offenses with weapon involvement and/or some degree of victim injury sustained, and had serious prior criminal records. Whereas those released tended to be similar in that their offenses involved no or minimal forcible contact with a victim; and they had minimal or no prior criminal records. The differences between the released and denied groups were statistically significant beyond chance.⁹

Table 21: Profile Comparison of the Released and Denied Initial Applicants During 1980

Guideline Items	Released N=3,448		Denied N=3,710	
	Number	Percent	Number	Percent
<u>Offense Severity</u>				
Weapon Involvement:				
No	1,771	51%	1,532	41%
Yes	1,677	49%	2,178	59%
Forcible Contact:				
None	1,833	53%	1,424	38%
Force/Physical Injury	1,181	34%	1,384	37%
Serious Injury	277	8%	510	14%
Death	157	5%	391	11%
<u>Prior Criminal History</u>				
Prior Misdemeanor Conviction:				
Zero-Two	2,553	74%	2,139	58%
Three or More	895	26%	1,571	42%
Prior Jail Terms 90 Days or More:				
Zero-One	2,954	86%	2,702	73%
Two-Three	352	10%	607	16%
Four or More	142	4%	401	11%
Prior Felony Convictions:				
Zero	2,321	67%	1,706	46%
One	870	25%	1,242	34%
Two	193	6%	489	13%
Three or More	64	2%	273	7%
Prior Prison Terms:				
Zero	2,940	85%	2,348	63%
One	410	12%	970	26%
Two or More	98	3%	392	11%
Prior Probation or Parole Revocation:				
No	3,001	87%	2,659	72%
Yes	447	13%	1,051	28%
On Parole/Probation at Time of Current Offense:				
No	2,782	81%	2,592	70%
Yes	666	19%	1,114	30%

In view of these results it was concluded that on a broad basis, the Board did render similar release decisions to similarly defined release applicants. It is expected that results from the more finite (micro) analysis will further support this conclusion.

Some Further Statistics On Denials

The total median time served by those denied was 23 months. The median denial length was 12 months. That is, half of denied applicants were held 12 additional months or more and half were held less than 12 months. The median time to be served by those inmates denied (minimum and denial length) was 34 months. The median maximum sentence for the denials was 4 1/2 years. The Board held 356 cases (or 10% of the denials) for twenty-four months, the longest amount of time allowed by law.

Table 22: Denied Initial Applicants In 1980 and Outcome

Felony Class	Number of Cases	Median Months			
		Minimum	Hold	Time To Be Served	Maximum
A	221	15	12	28	72
B	622	46	14	59	120
C	857	28	12	40	72
D	880	23	12	32	48
E/YO	714	17	10	27	36
Total	3,294	23	12	34	54

Note: Does not include Postponements.

The Board held 1,312 inmates beyond their conditional release date. This number represented 40% of those denied. More importantly, 1,137 or 87% of the denied cases held beyond their conditional release date had maximum sentences of five years or less. Of these 1,137 cases, 63% received decisions inside the recommended guideline range.

Of the 3,710 denied or postponed decisions, approximately 88% of the cases could be considered by the guideline grid. As stated previously, long minimums and short maximums limit the application of parole guidelines. There were 447 cases which were excluded from the percentage calculation for these reasons during 1980.

For the 3,263 cases in which the guidelines could be utilized, 60% of the denied initial applicants were within the time range, 22% were above the range and 18% were below the suggested time.

When the guideline decision results are compared for denials and releases, what emerges is that the Board made denial decisions within the recommended time ranges more than it did for release decisions. The Board made within-range decisions 60% of the time for denial cases and 58% of the time for approved release cases. The difference regarding "within" decisions seemed to be related to a tendency of the Board, when it does go outside the guideline ranges, to make decisions below the guidelines for approved releases, and its tendency to go above the guidelines in denial cases. This is, admittedly, a simplistic explanation. In order to reach a more precise explanation, other factors would have to be considered, e.g., maximum term as a factor controlling Board discretion in setting time to be served by an inmate.

SUMMARY CONCLUSIONS

The New York State Parole Board decision-making guidelines have attempted to structure discretion, not eliminate it. Our analysis of this mechanism to structure discretion has resulted in the following findings. The Parole Board in setting minimum periods of imprisonment was within the guidelines during 1980, 71% of the time. This percentage was consistent with the 1979 findings of 68%. Thus, for the two years combined the Board remained within the guideline time ranges for 69% of the MPI determinations. Additionally, the percentages for above and below the guidelines remained consistent. Table 23 below shows the MPI determinations for the two year period.

Table 23: MPI Determinations For 1979 And 1980 With Guideline Outcome

Guideline Outcome	1979		1980		2 Years Combined	
	Number	Percent	Number	Percent		
Within	2,033	68%	1,468	71%	3,501	69%
Above	331	11%	182	9%	513	10%
Below	638	21%	413	20%	1,051	21%
Total	3,002	100%	2,063	100%	5,065	100%

Furthermore, by examining those inmates with 1979 MPI determinations who were within the guidelines and had an initial parole determination (1,172 cases) as of June, 1981, approximately 70% were released after serving the board imposed minimum. Overall, the Board minimum-set function revealed a higher pattern of release (65%) than judicially imposed minimums (40%) for the two year period. Approximately two out of three inmates who had their minimums determined by the Parole Board were released at first eligibility.

The consistency of the Parole Board can also be seen in its application of the guidelines for initial release appearances over time whether within, above or below the recommended ranges. Table 24 on the following page illustrates this consistency.

Table 24: Guideline Outcome For Initial Interviews During 1979 And 1980

Guideline Outcome	1979		1980		2 Year Total	
	Number	Percent	Number	Percent	Number	Percent
Within	3,204	56%	3,530	58%	6,734	58%
Above	727	12%	698	11%	1,425	12%
Below	1,824	32%	1,882	31%	3,706	31%
Total	5,755	100%	6,110	100%	11,865	100%

The Parole Board guidelines should be viewed as a dynamic decision-making tool. They are subject to revision over time, revision that may stem from changes in court sentencing legislation as well as from technical consideration by the Board to improve the usage of the guidelines.

The foregoing report has attempted to provide the reader with a picture of how Parole Board decision-making guidelines currently operate in New York State.

Footnotes

1. The Parole Reform Act of 1977 (Chapter 904 Laws of 1977) provided that the Board "establish written guidelines for its use in making parole decisions as required by law ..." The purpose of the guidelines is to provide an explicit statement of the Board's paroling policies by identifying the major decision-making criteria and indicating the customary range of time to be served for categories of offenders based on the seriousness of the offense and prior criminal record. The resulting time ranges are a reflection of the Board's past and present time-setting policies.
2. Penal Law Section 70.00; and Article 12-B, Section 259-i of the Executive Law.
3. Chapter 873 of the Laws of 1980, Amended Subdivision 3 of Section 70.00 of the Penal Law. It is important to note that during the years covered by this report, the Board was still conducting MPI interviews.
4. Ibid.
5. This may have been due in part to the second felony offender law which mandates the court to impose a minimum sentence which is half of the maximum sentence and/or the violent felony offender law which stipulates that the court impose a minimum sentence which is one-third of the maximum sentence.
6. Ibid.
7. The measure of central tendency utilized was the median because it is not sensitive to extreme scores. The median represents the midpoint. Thus, half the cases fall below the median and half lie above.
8. The establishment of Parole Board guidelines for the determination of minimum periods of imprisonment and release decisions occurred on January 1, 1978. Therefore, some of these Board determined MPIs may have been established prior to the utilization of parole guidelines.
9. The Chi square test was used to test the significant differences between groups. χ^2 is the symbol for Chi square; and "p" refers to probability of error, e.g., .001 means there is one in a thousand chances that the result obtained is in error. This statistical test was applied to the released and denied groups to assess if the differences were greater than chance. The results demonstrated that the two groups did differ in terms of Weapon Involvement ($\chi^2 = 72.92$, $p = .001$) and Forcible Contact ($\chi^2 = 227.1$, $p = .001$). The groups also differed significantly with regard to prior record: Prior Misdemeanor Convictions ($\chi^2 = 212.54$, $p = .001$); Prior Jail Terms ($\chi^2 = 193.23$, $p = .003$); Prior Felony Convictions ($\chi^2 = 408.47$, $p = .001$); Prior Prison Terms ($\chi^2 = 461.88$, $p = .001$); Prior Probation or Parole or Parole Revocations ($\chi^2 = 254.9$, $p = .001$); and whether or not the person was under supervision at the time the instant offense occurred ($\chi^2 = 91.58$, $p = .001$).

END