PAROLE DECISION-MAKING

SUPPLEMENTAL
REPORT NINE

PAROLING POLICY GUIDELINES: A MATTER OF EQUITY

PETER B. HOFFMAN, DON M. GOTTFREDSON
Preface by Maurice H. Sigler
Introduction by Leslie T. Wilkins

...SEARCH CENTER
...L COUNCIL ON CRIME AND DELINQUENCY
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Project Staff

Don M. Gottfredson, Codirector
Leslie T. Wilkins, Codirector
Susan M. Singer, Research Associate
Carol Ann Riccio, Research Associate
Annie C. Miller, Research Assistant
Amy Levine, Research Assistant
James L. Beck, Research Assistant
Marilyn J. Nue, Research Assistant
Rhoda J. Kline, Research Assistant
James P. Curry, Research Assistant

Former Project Staff

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Gabrielle Pagin Ficklin
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LaVerne L. Holmes
E. Cordelia Mapp
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William H. Brown, Research Assistant
Judith Ingram, Research Assistant
Deborah K. Russell, Clerk-Typist

SUMMARY

In the preface, the Chairman of the United States
Board of Parole discusses the need for more explicit
definition of factors used in parole selection and the
problem of determining how various factors should be
weighted; and he points out that _implicit_ policy may
be made _explicit_ through an analysis of present prac-
tice. The major task of the parole board is to set
standards and explicit policies; in order to further
these objectives, a Federal Pilot Regionalization Pro-
ject makes use of decision guidelines which do not re-
move discretion, but enable its exercise in a fair and
rational manner. They are designed to structure and
control discretion and to provide an explicit, uniform
policy contributing to the issues of fairness and e-
quity.

In the forward, Leslie Wilkins discusses the re-
lation of fairness to justice and shows that the latter
can be addressed by research. The relation of effec-
tiveness to fairness is considered, and models which
could take these concerns into account are suggested.

The report describes the development and use of a
preliminary model intended to assist in formulating and
implementing an explicit policy, and its advantages and
limitations are discussed.

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PREFACE

by Maurice Sigler[1]

Are parole boards using the right factors for parole selection? This question calls for a straightforward answer. Unfortunately, the best answer available at this time is an unassured possibility. The problem is that we don't know. Not only do we not know whether they are the right factors, most often we do not even know what factors they are. Of course, we tell each other and the public that we consider the offense, prior record, educational history, employment history, military record, drug or alcohol problems, institutional discipline, and a host (or maybe I should say a laundry list) of other factors. But, do we know the weights we give to these factors? Does a good military record outweigh a poor alcohol history or vice versa? We may say that each case is an individual--true--but if this is totally true, we will never improve--because only if cases are similar can we learn by experience.

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[1]Adapted from an address presented before the National Conference on Criminal Justice, Washington, D.C., January 24, 1973.

In order to consider the question of whether we are using the <u>right</u> factors, we must first find out what the. <u>primary factors</u> are and what weights we give to them in practice. Then, we may be able to consider whether these are the weights we wish to give to them. In order to do this we must define some sort of measurement. Saying that certain factors are important in granting or denying parole oversimplifies the issue. The parole selection decision is not merely a yes/no decision. It is much more of a decision as to <u>when</u> an inmate is to be released than whether or not he will be paroled. Parole boards deal in time. Moreover, this fact is becoming more and more important. When sentences carried long minimums, the parole decision was one of whether or not to parole. As sentencing trends turn toward the abolition of minimum sentences, as they are currently, parole boards must take on greater responsibility. Within the limits set by statute and by the sentencing judge, the parole board must determine how much <u>time</u> the offender is to spend incarcerated before release.

Given this measurement, we have a starting point. If we can say how long for this offender and how long for that offender, we can look at the various offense, offender, and institutional characteristics and infer how much weight is being given to each.

Looking at how these weights are applied in practice will give us a measure of our unwritten and _implicit_ policy. Once we know what we are implicitly doing, we can compare it with what we _think_ we are doing or think we ought to be doing. This will put us in a much better position to make our present implicit policies more clearly defined and _explicit_.

To quote from the _Summary Report on Corrections_ (prepared by the National Advisory Commission on Criminal Justice Standards and Goals),

> The major task of the parole board is articulation of criteria for making decisions and development of basic policies. This task is to be separated from the specific function of deciding individual parole grant and revocation cases, which may be performed either by the board in smaller states or by a hearing examiner.

That is, the _board_ must set standards and explicit policies. The authority to make individual case decisions using these standards may be delegated to hearing examiners. The report continues:

> While discretion is an essential feature of parole board operations, the central issue is how to handle it appropriately.

The United States Board of Parole feels that it has taken a step toward these objectives. A Pilot Regionalization Project presently underway proposes a number of innovative features. Case decisions will be made by two-

man panels of hearing examiners using explicit decision guidelines determined by the board. The parole board will act as an appellate and policy-setting body. Inmates will be permitted to have advocates to represent them at parole interviews, limited disclosure of the file is being considered, and parole denial will be accompanied by written reasons. Unfavorable decisions may be appealed to the central parole board.

A few words about these guidelines are in order as they relate directly to the factors considered by the board. Recently, an LEAA funded study of the United States Board of Parole conducted in collaboration with the Research Center of the National Council on Crime and Delinquency identified three primary factors used in making parole selection decisions. These are (a) the severity of the offense, (b) parole prognosis, and (c) institutional performance. It is recognized that these are broad categories and that there is some overlap among them.

Guidelines for parole decision-making have been developed which relate these factors to a general policy regarding the time to be served before release. Briefly, the determination of the severity of the offense and of parole prognosis (using a predictive device developed for the parole board as a guide) indicate the expected

range of time to be served before release. These guide-
lines are presented in the form of a table with six
levels of offense severity and four categories of parole
risk. For example, a low-moderate severity offense case
(such as unplanned theft) with a very good parole prog-
nosis might be expected to serve eight to twelve months
before release. As a starting point, board decisions
during the preceding two years were analyzed and tabu-
lated to provide this policy profile. Within this range,
the subject's institutional performance and parole plan
will be considered. When unique factors are present
(such as extremely good or poor institutional perform-
ance) and a decision falling outside of the guidelines
is made, specific reasons will be required.

These guidelines will serve two functions: (1)
they will structure discretion to provide a consistent
general parole board policy; and (2) in individual cases
they will serve to alert hearing officers and parole
board members to decisions falling outside of the guide-
lines so that either the unique factors in these cases
may be specified or the decision may be reconsidered.
It is felt that the provision of guidelines in this man-
ner will serve not to remove discretion but to enable it
to be exercised in a fair and rational manner.

Every six months, feedback concerning the decision trends during the preceding six months will be presented to the board. This will prevent rigidity and allow modification of the guidelines when necessary. Furthermore, data on unusual cases (cases falling outside of the guidelines) will be recorded to identify recurring situations which then may be used to provide auxiliary examples. That is, cases with deportation warrants may provide recurring situations which call for a different policy.

It is hoped that these guidelines will accomplish a number of things. They are designed to structure and control discretion without removing it. They are designed to provide an explicit and uniform paroling policy, contributing to the issues of fairness and equity. They will force decision-makers to specify the unique factors in each case where these factors are sufficient to cause the decision to vary from established principles. By placing the consideration of severity and risk into the initial hearing, subsequent hearings (if any) may deal primarily with institutional performance. Under this system, inmates will have a clearer idea of their prospective release dates, thus reducing the psychological uncertainty engendered by the indeterminate sentence.

At a minimum these guidelines help articulate the factors used--the severity of the offense, risk of recidivism, institutional performance--and the weights given to them in determining the time to be served before release. Undoubtedly, some will feel that these weights or these factors are inappropriate. Unquestionably, a broad range of opinion in the formation of parole selection policy is desirable. However, it is also unquestionable that in the administration of this policy by individual case decision-making, consistency is necessary from the standpoint of fairness and equity. Without explicit policy to structure and guide discretion, decision-makers, whether parole board members, hearing examiners, or judges, tend to function as rugged individualists. While this may be desirable in our economic system, its suitability for our system of criminal justice is extremely questionable. However, if we can make what we are presently doing explicit and, thus, more consistent, we will be fairer and closer to justice. At that time, we can better argue over whether we are giving too much weight or not enough weight to the factors mentioned or any other factor or set of factors.

FOREWORD

SOME PHILOSOPHICAL ISSUES--VALUES

AND THE PAROLE DECISION

by Leslie T. Wilkins

Justice and Fairness

The concept of fairness is not exactly the same as
the concept of justice. There is, however, seldom any
clear distinction made in the use of the two terms in
law. Some dictionaries define "fairness" as lack of
injustice, but the absence of injustice is not the same
as the presence of justice--thus, "justice" is not de-
fined as fairness but, rather, as "an accord with truth."
That is to say, there seems to be reasonable agreement
among authorities of English usage that nothing can be
just which is unfair; but fairness is not necessarily jus-
tice; or justice includes fairness but is more demanding.
It may be that we could claim that this is because fair-
ness is a relative term, but justice implies absolute val-
ues. This is a convenient distinction and, accordingly--
since words have uses rather than meanings--we propose to
use the words in this way. In order to make clear the na-
ture of the use we intend, the diagram below may suffice:

$$\text{Comparisons} \rightarrow \quad \boxed{\text{LEX}} \qquad \text{JUSTICE (1)}$$

Cases: (a) (b) (c) ...

Cases: (a) ⟷ (b) ⟷ (c) ... FAIRNESS (2)

Comparisons
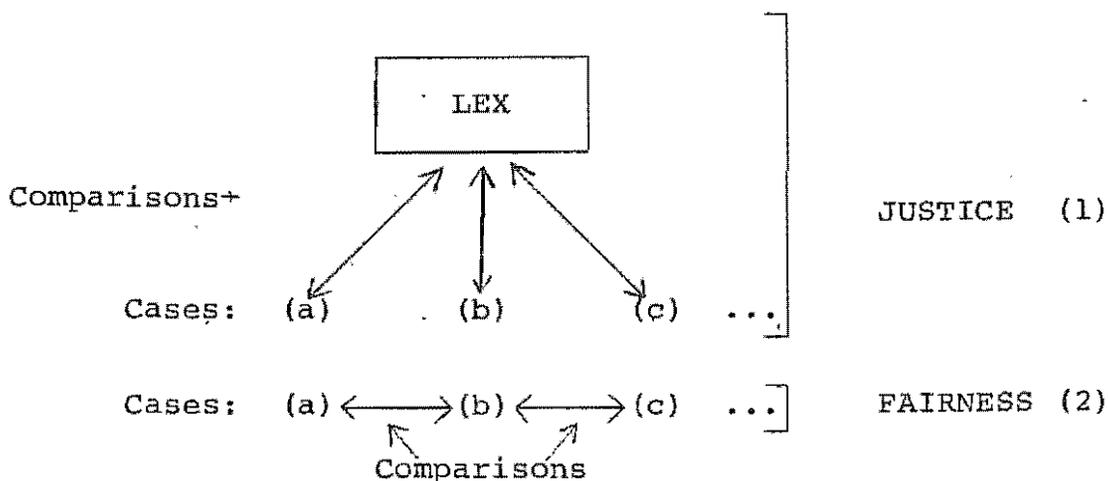
That is to say (or indicate) if a, b, c, ..., n are each
compared, in an appropriate manner, and adjusted with
respect to LEX (Equation [1]), then they will be adjusted
with respect to each other. Ensuring "justice" (accord
with truth/law) also ensures fairness. In the first case
(justice) there is an external criterion. In the second
case (fairness) (Equation [2]) the elements can be in
adjustment with each other but are not necessarily in
accord with respect to an external criterion. By "fair-
ness" we mean that similar persons are dealt with in
similar ways in similar situations. Thus the idea of
fairness implies the idea of similarity and of compari-
sons; it cannot relate to the unique individual since,
obviously, if every person is unique, there are no
grounds for comparisons and, hence, no ways in which it
is possible to discuss fairness. Will an individual,
then, see his treatment as "fair" if he sees himself as

(in all significant ways) similar to another person who received exactly similar treatment? Not quite, since it would seem to require more than one other person--it would not be unreasonable to claim that both were treated unfairly. However, as the sample of "similar" persons increases, so the idea of similar treatments among that sample becomes more likely to be regarded as "fair."

The moral, or at least metaphysical, idea of "fairness," thus, becomes closely related to statistical concepts of similarity (or variance) and sample size. Any claim on the part of a citizen or another who asserts that the parole board is "unfair" is implicitly stating that according to his beliefs (knowledge?) similar persons, involved in similar crimes, are receiving different treatments. The factors which are taken into consideration in the reference set sample of persons and characteristics may vary in some degree from one critic to another; some will look with particular care at race (unfairness which is related to racial characteristics is defined as "racism" because "race" is not seen as a reasonable or morally acceptable factor to justify differences in treatment); some will look with particular care at the type of offense; and some at both types of offenses and racial factors. However, the scale and scope of comparison upon which critics may rely are not

likely to be wider than the scale and scope of factors
which the board might consider. By the use of a model
which is built upon these common elements of comparison
(fairness criteria), the board could respond with pre-
cision to criticisms. If the board sustains a balance
with respect to probability of reconviction, crime seri-
ousness and behavior in the institutional setting, and
ignores race, it will be unlikely to be accused of
racial bias.

If the board were to have before it, in each case
in which a decision is to be made, a chart which indi-
cated the balance between the three or four most obvious
factors which arise in any discussion of "fairness," the
decision-makers could always depart from the calculated
figure; but in doing so they would be making a value
judgment of further factors not included in the model.
If these further factors were made explicit in the deci-
sion (this may seem similar to the recent requirement of
the courts for boards to "state reasons"), a sound case
for each decision would seem to be made. However, the
general policy of the board would not be defended by
such a model; but, clearly, the decisions within the
model would be "fair." The question of justice is one
of beliefs; but we can, by the use of research methods
and the preparation of models, address the question of

fairness. If attention were diverted from individual cases ("...his case was not fairly determined....") to questions of general principles of parole, the understanding and control of the system would, it seems, be increased in great measure. Human attention could then be more thoroughly devoted to humanitarian considerations because the routine comparative work (even although highly complex) could be delegated to "models" of "fairness."

In addition to and moderating the idea of fairness is the idea of effectiveness. We may also see the idea of effectiveness as modulated by "fairness." This interaction is presently without specification of intensity or direction. Estimates of the probability of reconviction would, of course, be included in the "model"; and the expectation of reconviction would have to be reasonably equal among offenders (who were also otherwise similar) for the treatment to be expected to be equal. This would not hold, of course, if the idea of probability of reconviction were ruled as outside the consideration of parole on policy, moral, or other grounds. The effect upon the pattern of decisions which would be probable under changed emphasis upon the probability of reconviction or seriousness of crime could be examined. Thus, if the board were known to be taking into account

the seriousness of the offense and the courts determined
that this was inappropriate, the effect of removing this
variable could be plotted. Again, if the behavior of
the offender in the institution were thought to be given
too little attention relative to other factors, the
model could be changed. If the model takes a factor or
factors into account, it is possible to show what the
expected results would be if any of those factors were
changed or eliminated.

The similarity between these recommended procedures
and practice in the insurance field will be obvious. If
one wishes to insure a car, the agent will want to know
the model, year of car, where it is kept, age and sex of
drivers, and perhaps one or two other facts. On the
basis of these facts, the premium to be paid is calculated.
We can say how much of the premium is determined by the
various elements: if, for example, a young male driver
is included, the premium will increase by a large per-
centage; and if a different vehicle is purchased, the
premium will change in predictable ways. It is still
possible for a particular company to modify the particu-
lar equations used by any general consortium and to jus-
tify such changes in the light of their particular
experience. Individual insurance policy holders may con-
sider their premiums to be unfair; but the basis of the

calculation is a set of items of information which relates to the "experience of the company"; and individual objections on grounds of fairness are difficult to sustain. If the insurance system is accused of unfairness, the accusation has to be made in terms of general parameters such as the reduction of total costs; and thus support can be found for "no fault" methods of coverage.

There is, of course, one difficulty with this analogy. The insurance field is competitive in terms of money. The economy moves information as it moves money; indeed, there is a one-to-one correspondence between the flow of money and the flow of information. If fewer people are buying my insurance policies, I may assume that there is something wrong with them or that others are providing a more attractive service. The feedback in terms of money/information is only slightly delayed. In the parole system we have no similar money/information feedback. The customer pays by taxation and does not buy a particular product. Indeed, we cannot yet say exactly what products are packaged together into the decisions of the criminal justice process and at what costs. If the sentence of an offender were not made in terms of years or kinds of incarceration and quasi-liberty, but in terms of the money which could be spent

upon that particular offender or in respect of his particular offense, there would be a more direct analogy with insurance. If judges and parole boards were allocated a given sum to spend and each decision were costed in dollars, the demand of the public and the press could take a rather different form. However, there is no doubt that an economic philosophy is being strongly advocated in the criminal justice area at this time; and pressures upon agencies to demonstrate "performance" are becoming quite strongly felt. Measures of performance do not yet exist; rather, we have measures of activity. Costs are related to activity, yet no known relationships exist between activity and performance.

Models of the kind discussed could be developed to provide a basis for support for policies and activity which could become closer approximations to measures of performance. The probability of reconviction is a measure of risk which attaches to a decision either to release or to retain an offender in custody. There is an anticipated saving in terms of the delay afforded by longer incarceration, which may be estimated by taking into consideration both the seriousness of the "expected" crime (i.e., its "cost") and its probability. This provides a measure of the "utility" of detention. This utility can be compared with the costs of such further

detention. There are many elements which such comparisons do not afford, but the measure affords a comparison which does not now exist. There is no point in developing such models for comparison unless and until it is known what proportion of the parole decision is accounted to the "probability" of reconviction and what proportion to other considerations. Furthermore, the cost of detention for an additional period beyond the normal release date for individuals who have violated prison rules is one which could be estimated once the elements in the decision can be apportioned.

Estimated economic costs can provide a basis for a more reasoned assessment of moral values. Perhaps our value systems reveal themselves in terms of the strategies by which we dispose of available resources, normally cash. Moral values should override economic considerations but are no justification for ignorance of comparative costs.

PAROLING POLICY GUIDELINES: A MATTER OF EQUITY

The National Advisory Commission on Criminal Justice
Standards and Goals recently argued that the most impor-
tant function of a parole board is to set standards and
make explicit policies. The citation by Maurice Sigler,
in the preface to this report, is critical. They stated
the major task of a parole board should be the

> ...articulation of criteria for making
> decisions and development of basic policies.
> This task is to be separated from the specific
> function of deciding individual parole grant
> and revocation cases, which may be performed
> either by the board in smaller states or by a
> hearing examiner.[2]

Thus, the authority to make individual case decisions
using these standards may be delegated to hearing
examiners.

The issue of explicit general policy is, of course,
related to concerns of individual discretion in decision-
making; the report cited continues: "while discretion
is an essential feature of parole board operations, the
central issue is how to handle it appropriately."[3]

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[2]National Advisory Commission on Criminal Justice
Standards and Goals, Report of the Task Force on Cor-
rections: Summary Report on Corrections, Texas: Office
of the Governor, Criminal Justice Council, 1972, p. 39
(working draft).

[3]Loc.cit.

These issues have been considered by a number of
authors.[4] A principal suggested method for controlling
discretion is the giving of written reasons for parole
denial. Several parole boards (including the United
States Board of Parole) presently are giving or "experi-
menting" with giving such reasons.

While giving reasons for parole denial is a start
in the right direction, it cannot, by itself, attend to
the issue of equity. It may be agreed that the inmate
has a right to know the basis for his continued depriva-
tion of liberty, that he may be aided thereby in taking
corrective action to improve the likelihood of rehabili-
tative gains, and that he may be assisted in increasing
the probability of parole at a later consideration.
Similarly, it may be asserted that the paroling author-
ity may profit from the exercise by learning to state
more explicitly what often are impressions vaguely felt
and difficult to verbalize in precise terms. But these
expected gains do not address the whole of the issue of
fairness.

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[4]Davis, K. C., Discretionary Justice, Baton Rouge:
Louisiana State University Press, 1969; Bixby, F. L.,
"A New Role for Parole Boards," Federal Probation, 34
(2):24-28, June, 1970; Remington, F., et al., Criminal
Justice Administration, Indianapolis: Bobbs-Merrill
Co., Inc., 1969.

Providing reasons for parole denial can identify the criteria used but not the weights given to them. For example, the Model Penal Code lists four primary reasons for parole denial:

    (a)   There is a substantial risk that he will not conform to the conditions of parole; or

    (b)   His release at that time would depreciate the seriousness of his crime or promote disrespect for law; or

    (c)   His release would have a substantially adverse effect on institutional discipline; or

    (d)   His continued correctional treatment, medical care or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life when released at a later date.[5]

If parole selection were truly a dichotomous decision (parole/no parole), as it may be in jurisdictions with long minimum sentences, such reasons might suffice. However, when minimum sentences are short or are not given (as is presently a sentencing trend), parole selection is, in reality, more of a deferred sentencing decision (a decision of when to release) than a parole/no parole decision. In this case, merely giving reasons for denial does not suffice, as these reasons relate

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[5]American Law Institute, Model Penal Code, § 305.9, p. 290, 1962.

only to the fact of the denial and not to its length

(known as a "continuance" or "set off"). Thus, one bank

robber who is considered by a parole board may be

given a continuance of three years for reasons one and

two. Suppose that another similar case were to be given

a continuance of five years for the same reasons. Without

explicit decision guidelines (which cover not only the

criteria used but also the weights to be given to them)

a parole board will have little more chance of providing

equitable decisions than it does without reasons at all;

nor will observers have much more opportunity to challenge

these decisions.

One phase of the Parole Decision-Making project was

aimed at identifying the weights given to various cri-

teria in the parole selection decision. It became appar-

ent early in the project that, as other research endeav-

ors had shown, the mere presentation of an experience

table (prediction device) was not seen by parole board

members as a dramatic aid.[6] A study of criteria used in

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[6]See Hoffman, P., and Goldstein, H., Do Experience
Tables Matter, Report Number Four, Davis, California:
Parole Decision-Making Project, National Council on
Crime and Delinquency Research Center, June, 1973; and
Hoffman, P., et al., The Operational Use of an Experi-
ence Table, Report Number Seven, Davis, California:
Parole Decision-Making Project, National Council on
Crime and Delinquency Research Center, June, 1973.

making paroling decisions (as distinguished from cri-
teria used in predicting parole outcome), in which board
members completed a set of subjective rating scales for
a sample of actual decisions over a six-month period,
indicated that three factors or focal concerns (severity,
parole prognosis, and institutional behavior) were pri-
mary.[7] Youth Corrections Act cases (which have no mini-
mum sentence and are seen generally within three months
of reception) were studied. Using the variable--time to
be served before review--as the criterion at the initial
decision, it was found that parole board decisions could
be predicted fairly accurately by knowledge of their
severity and prognosis ratings. Similarly, at review
considerations, parole board decisions (parole or con-
tinue) were strongly related to ratings of institutional
discipline.

From this knowledge, the development of an explicit
indicant of parole selection policy was possible. Con-
cerning initial decisions, a chart with one axis reflect-
ing the concern of offense severity and another the con-
cern of parole prognosis (risk) was developed. At each

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[7]See Hoffman, P., Paroling Policy Feedback, Report
Number Eight, Davis, California: Parole Decision-Making
Project, National Council on Crime and Delinquency
Research Center, June, 1973.

intersection of these axes, the expected decision given
(in months to be served before review hearing) is shown .
(Figure 1).
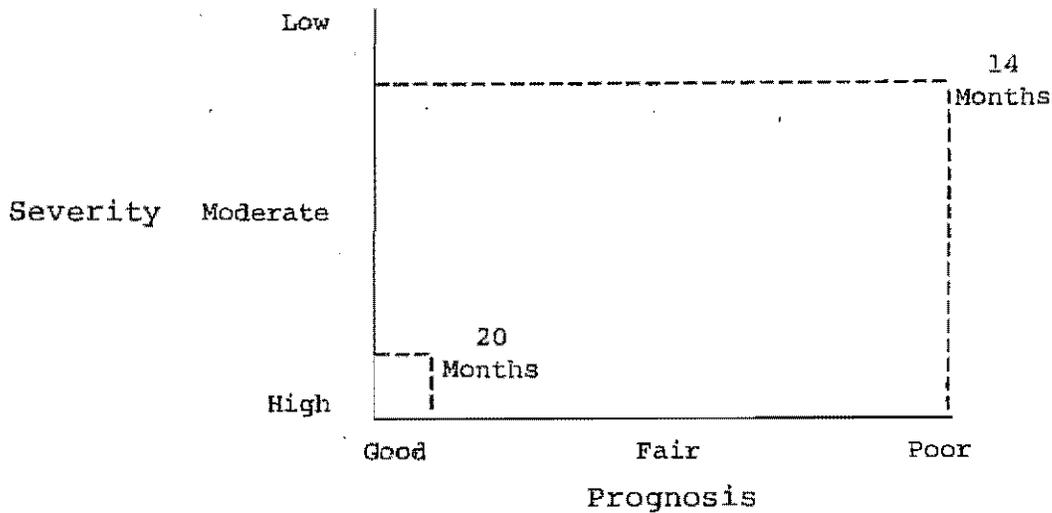
Figure 1

TIME TO BE SERVED BEFORE REVIEW (IN MONTHS)

In the example above, for high severity-good prognosis
cases (such as armed robbery-first offender), the ex-
pected decision is 20 months to be served before review
consideration. For low severity-poor prognosis cases
it is 14 months. At review considerations, cases with
adequate-very good institutional adjustment (discipline
and program progress ratings were highly correlated)
were generally released; those with below average-poor
ratings were likely to be continued for another hearing.

As an aid in actual case decision-making, this type
of chart could be used in the following manner. After

scoring the case on the concerns of severity and progno-
sis, the parole board member or hearing examiner would
check the table to see the expected decision. In prac-
tice, a range (e.g., 20 to 24 months) would be appropriate
to allow for some variation within broad severity or risk
categories. Should the board member or examiner wish to
make a decision outside of the expected range, he would
be obligated to specify the factors which make that par-
ticular case unique (such as unusually good or poor
institutional adjustment, credit for time spent on a sen-
tence of another jurisdiction, etc.). At review hearings,
the decision to parole or continue would be based pri-
marily on institutional performance. That is, (with a
few specific exceptions[8]) cases with satisfactory insti-
tutional performance could expect release at this time.

Parole Board Interest

The United States Board of Parole showed considerable
interest in attempting to implement this model. Very
likely, one factor was that the board, under rather heavy
criticism for several years, was attempting at this time
to develop its own proposal for change, which included

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[8]Such as long-term sentence cases involving serious
offenses in which the initial continuance (limited to
three years by board policy) is deemed insufficient.

regionalization. This proposal called for delegating
the routine decision-making power (concerning parole
grants and revocations) to an expanded staff of hearing
examiners, with the board performing a policy-setting
and appellate function. Obviously decision guidelines
of the type developed could enable the board to more
effectively exercise control over the decisions of the
expanded and decentralized staff proposed.

In any case, the result was that the project staff
were requested to develop parole selection policy guide-
lines, in as objective a format as possible. At this
point, the board was told by project staff that it might
itself rank-order offense types by severity and then,
for each risk classification (the determination of which
could be aided by a statistical predictive device),
decide upon an explicit policy. However, the board
expressed doubt about engaging upon this task until it
had developed more familiarity with this type of device.
Therefore, the project staff were requested to provide
sets of policy guidelines (a separate set for youth and
adult offenders) based upon the project's coded material
reflecting board policy during the preceding two years.[9]

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[9]For a description of sampling and coding procedures,
see Singer, Susan M., and Gottfredson, D. M., _Develop-
ment of a Data Base for Parole Decision-Making, Report
Number One_, Davis, California: National Council on
Crime and Delinquency Research Center, June, 1973.

These guidelines were to be tested for six months, after which the board would consider and make any modifications necessary. A plan to enable consideration of guideline modifications at regular intervals was also requested.

Decision Guidelines

While the results of the experiment mentioned previously provided a set of guidelines based upon subjective ratings, a table based upon more objective measures was desired. Thus, for the parole prognosis axis, an eleven-factor predictive (salient factor) score, developed by the project, was substituted for the subjective ratings.[10] These "experience table" scores were combined to form four risk classifications: (9-11) very good, (6-8) good, (4-5) fair, and (0-3) poor. It is important to note that this was one of the initial predictive measures developed by the project and was based upon a relatively small sample. However, if a more powerful device were developed, it could be substituted readily. Similarly, should it be found that a different combination of score categories is desired, such guidelines could be made readily.

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[10] For a description of this device, see Wilkins, L. T., et al., Development of Experience Tables: Some Comparative Methods, Report Number Twelve, Davis, California: Parole Decision-Making Project, National Council on Crime and Delinquency Research Center, June, 1973.

For the severity scale, a different procedure was
necessary. For each of a set of offense ratings (offense
behavior descriptions) coded by the project,[11] the median
time served was calculated. Offense ratings with similar
median times served were combined to produce six severity
level classifications.[12]

The median time served for each severity/risk level
was then tabulated (separately for youth and adult cases)
for the large sample of final decisions (parole/mandatory
release/expiration) coded by the project. Smoothing
based upon agreement by two project staff members after
visual inspection was performed to increase the consist-
ency of these medians, although no attempt to force uni-
form or linear increments was made. Each median was
then bracketed (± x months) to provide a "discretion
range." This provides the guideline table. Table I
displays the adult guidelines. The youth guidelines are
included as Appendix A. The size of the appropriate
range was determined after informal discussions with

[11]For coding definitions and procedures, see Gottfredson,
D. M., and Singer, Susan M., Parole Decision-Making Coding
Manual, Report Number Two, Davis, California: National
Council on Crime and Delinquency Research Center, June,
1973.

[12]Not all offense ratings were used. Some were deemed
to lack the specificity needed for inclusion.

Table 1

UNITED STATES BOARD OF PAROLE--PILOT REGIONALIZATION PROJECT
GUIDELINES FOR DECISION-MAKING (ADULT CASES)
AVERAGE TOTAL TIME SERVED BEFORE RELEASE (INCLUDING JAIL TIME)

| Offense Characteristics* | Offender Characteristics--Salient (Favorable) Factor Score (Probability of Favorable Parole Outcome) | | | |
	(9-11) Very High	(6-8) High	(4-5) Fair	(0-3) Low
Category A--Low Severity Offenses Minor theft; walkaway; immigration law violations; alcohol law violations	6-10 months	8-12 months	10-14 months	12-16 months
Category B--Low/Moderate Severity Offenses Possess marijuana; possess heavy narcotics, less than or equal to $50; theft, unplanned; forgery or counterfeiting, less than $500; burglary, daytime	8-12 months	12-16 months	16-20 months	20-25 months
Category C--Moderate Severity Offenses Vehicle theft; forgery or counterfeiting, greater than $500; sale of marijuana; planned theft; possess heavy narcotics, greater than $50; escape; Mann Act--no force; Selective Service	12-16 months	16-20 months	20-24 months	24-30 months
Category D--High Severity Offenses Sell heavy narcotics; burglary, weapon or nighttime; violence, "spur of the moment"; sexual act, force	16-20 months	20-26 months	26-32 months	32-38 months
Category E--Very High Severity Offenses Armed robbery; criminal act--weapon; sexual act, force, injury; assault, serious bodily harm; Mann Act--force	26-36 months	36-45 months	45-55 months	55-65 months
Category F--Highest Severity Offenses Willful homicide; kidnapping; armed robbery, weapon fired or serious injury	Information not available due to limited number of cases			

*Notes: (1) If an offense behavior can be classified under more than one category, the most serious applicable category is to be used. If an offense behavior involved multiple separate offenses, the severity level may be increased. (2) If an offense is not listed above, the proper category may be obtained by comparing the severity of the offense with those of similar offenses listed. (3) If a continuance is to be recommended, subtract 30 days (one month) to allow for release program provision.

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several board members and hearing examiners and, while
arbitrary, is to some extent proportional to the size of
the median. As not all offenses were included on this
listing, instructions were prepared which explained that
the appropriate severity level could be determined by
comparing the nonlisted offense with those of similar
severity which were listed. In addition, as it was
realized that not all offense ratings (e.g., vehicle
theft) were specific enough to cover the scale of sever-
ity possible (e.g., one vehicle theft for personal use
through large-scale vehicle theft for resale), the
instructions indicated that the offense ratings listed
were to be used only as a guide but that the hearing
panel's determination of the severity category should be
supported by the description of the offense in the hear-
ing summary prepared. In other words, the severity rat-
ing is a subjective determination guided by objective
indicants.

Actual Use

In October, 1972, a pilot project was launched by
the United States Board of Parole to test feasibility of
regionalization. This pilot project, comprised of five
institutions in the Northeast (which contain about one-
fifth of the total board work load), contains a number

of innovative features, including panels of two examiners
to conduct institutional hearings, the opportunity for
inmates to be represented by nonlawyer advocates, speed-
ier decisions, written reasons for parole denial, a two-
stage appeal process, and the use of decision guidelines.

For all initial hearings, the hearing panels were
instructed to complete an evaluation form (Appendix B)
which included a severity rating scale and the salient
factor score. Should they make a recommendation outside
of the guideline table, they were instructed to specify
the factors in the case which resulted in this decision.
The hearing format summary was designed so that the last
section begins with a standard paragraph:

> The hearing panel considers this to be a
> moderate offense severity case with a salient
> factor score of 9. The subject has been in
> custody for a total of 2 months.
>
> A decision to continue for 10 months is
> recommended.. (Indicate reasons if outside
> guidelines.)

For review hearings, completion of the evaluation
form was required before any continuance (for reasons
other than institutional discipline or failure to com-
plete specific institutional programs) was recommended.
If a parole grant was recommended, form completion was
not necessary. This was designed so that the guidelines
would not be exceeded by arbitrary continuances at review

hearings. One exception is that, if the previous con-
tinuance was 30 months or more, the evaluation form and.
guideline table must be completed. This was necessary
to deal with the highest offense severity levels where
the guidelines might indicate a time to be served longer
than possible at the initial hearing (by board policy,
continuances are limited to three years at one time).
At early review hearings (if an inmate shows exceptional
institutional progress, he may be recommended by the
institution for earlier review consideration) the guide-
lines are consulted also to see whether the exceptional
progress justifies the advanced parole date recommended.

Reports from parole board staff have been extremely
favorable concerning both the guidelines and the other
regionalization project features. The need for greater
consistency in decision-making had long been acknowledged,
and the use of the decision guidelines appears to be
accepted as serving this need. One empirical measure of
staff interest is that in the first four months of opera-
tion, there were only three cases out of 598 initial
hearings in which a panel failed to complete the eval-
uation form.

Statistical tabulations for the first four months
(October, 1972 through January, 1973) show the numbers
and percentage of panel recommendations within and

outside of the guidelines (Table II). Sixty-three per-
cent of all initial decision recommendations (adult and
youth) were within the decision guidelines. A signifi-
cant proportion of recommendations outside the guide-
lines (12.8 percent) were for continuances from one to
three months under that which the guidelines specified.
Communication with members of the hearing panels indicated
that at least part of this arose from a desire to allow
a longer than 30-day release preparation period and yet
remain at the lower level of the guidelines (when calcu-
lating a continuance recommendation, one month is sub-
tracted to allow for release planning). However, as
guideline usage will tend to reduce uncertainty in
release program planning by making release at review
consideration (given good institutional adjustment) more
certain, the necessity for lengthy post-decision release
planning periods will be reduced.

During the course of this experiment, several addi-
tions were made. Project case summaries were examined
to identify recurring explanations for decisions outside
of the guidelines. A list of examples of such cases was
prepared as a guideline supplement (see Appendix C).
The supplement does not, in itself, indicate that a devi-
ation from the guidelines for an individual case is
warranted but merely that it might be considered.

Table II

(OCTOBER, 1972 - JANUARY, 1973)--INITIAL INTERVIEWS--PILOT PROJECT GUIDELINE USAGE

Site	Number and Percent of Recommendations				
	Within Decision Guideline	1-3 Months Longer	1-3 Months Shorter	4 or More Months Longer	4 or More Months Shorter
Adult Institutions*	266 (64.6%)	20 (4.8%)	59 (14.3%)	26 (6.3%)	41 (9.9%)
Youth Institutions*	73 (57.9%)	11 (8.7%)	10 (7.9%)	21 (16.7%)	11 (8.7%)
All Institutions	399 (63.0%)	31 (5.8%)	69 (12.8%)	47 (8.7%)	52 (9.7%)

*Percentages do not tabulate 100.0% due to rounding error.

Guideline Modification

As the danger of rigidity exists with guideline use, as much as the danger of disparity exists without them, it was recognized that procedures for the updating and modification of the guidelines should be developed. Two basic procedures were discussed with the board and agreed upon.

First, the board may at any time vote affirmatively to change parole selection policy by modifying any guideline category or combination of categories. For example, after three months of guideline usage, the board decided to place three additional offense descriptions on the guideline chart. These were selective service violation (determined by vote of the board to be a moderate severity offense case), Mann Act (interstate transportation of women for immoral purposes) with force (determined to be a very high severity offense), and Mann Act without force (determined to be a moderate severity offense). Since the first set of guidelines prepared used offense descriptions developed in another context,[13] it is

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[13]These offense ratings were developed by D. M. Gottfredson and K. B. Ballard, Jr., in an unpublished study which employed correctional administrators, clinical workers, and paroling authorities in a decision game which provided the basis for scaling. The items used were developed in an unpublished study by Martin Warren and Ernest Reimer in the California Department of Corrections.

expected that at the end of the first six-month period, a set of definitions prepared specifically for federal offenders will be substituted.[14]

Second, at six-month intervals, feedback from the decision-making of the previous six months will be given to the board. That is, as the guidelines represent the median time to be served (± a given amount) for combinations of severity/risk characteristics, each category may be observed over time to see if the median time to be served has significantly changed. For example, the adult guidelines for the high severity/ fair risk category show 26 to 32 months, which is actually a median of 29 months ± three months. If it is found after six months that the median within this category has significantly (statistically) shifted (e.g., to 31 months), new guidelines (31 ± three months = 28 to 34 months) will be created, subject to the approval of the board.

At these policy consideration meetings, feedback will be provided the board concerning the percentage of decisions falling outside each guideline category and the reasons given for these decisions. This will

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[14]Revised guidelines prepared after the first six months are shown as Appendices D and E.

serve two purposes: the reasons for the deviations
from the guidelines may be examined to certify their
appropriateness, and the percentages of decisions
within and outside of the guidelines (and their distribu-
tion) for each category can be evaluated to determine
whether the width for the category is appropriate.
That is, too high a percentage of decisions outside the
guideline range without adequate explanation may in-
dicate that either a wider range is necessary or that
the hearing panels are inappropriately exceeding their
discretionary limits. On the other hand, a very high
percentage of decisions within the guidelines may
indicate excessive rigidity. The guidelines themselves
cannot provide answers to these questions of policy.
However, the focus the guidelines provide may enable
a more rational consideration of these questions.

Implications and Limitations

The use of explicit decision guidelines for parole
selection attunes to a much stressed need for parole
boards to formulate a consistent general policy. By
articulating the weights given to the major criteria
under consideration, it can allow interested publics to
assess the rationality and appropriateness of the policy
set by their representatives (the parole board). It

acknowledges that parole selection is actually a deferred sentencing decision (particularly in the case of low [or no] minimum sentences, as is the general trend), which determines the time to be served before release, rather than a dichotomous yes/no decision. For individual case decision-making, it provides a method of structuring and controlling discretion without eliminating it. This attunes to the issue of fairness or equity. Furthermore, as the factors of severity and risk will be considered at the initial hearing, subsequent hearings, if any, primarily will consider institutional behavior. This procedure should substantially reduce the present uncertainty felt by inmates under indeterminate sentences as to when they will be actually released (and as to what they must accomplish to obtain this release).

The decision guidelines method has implications not only for original parole selection decisions but also for decisions about parole violation and reparole consideration as well. The method appears equally applicable to (judicial) sentencing decisions where similar problems of disparity arise.

It is important to stress that much work ought to be done in refining the guidelines concept, the

scales used, the procedures for applying them in individual cases, and the procedures to be used in their modification. At present, these are admittedly crude. Nevertheless, they appear to be seen as useful. The United States Board of Parole has taken the step of attempting to formulate an explicit policy and is facing the knotty issues of discretionary control.

UNITED STATES BOARD OF PAROLE--PILOT REGIONALIZATION PROJECT
GUIDELINES FOR DECISION-MAKING (YOUTH CASES)
AVERAGE TOTAL TIME SERVED BEFORE RELEASE (INCLUDING JAIL TIME)

Offense Characteristics*	Offender Characteristics--Salient (Favorable) Factor Score (Probability of Favorable Parole Outcome)			
	(9-11) Very High	(6-8) High	(4-5) Fair	(0-3) Low
Category A--Low Severity Offenses Minor theft; walkaway; immigration law violations; alcohol law violations	6-10 months	8-12 months	10-14 months	12-16 months
Category B--Low/Moderate Severity Offenses Possess marijuana; possess heavy narcotics, less than or equal to $50; theft, unplanned; forgery or counterfeiting, less than $500; burglary, daytime	8-12 months	12-16 months	16-20 months	20-25 months
Category C--Moderate Severity Offenses Vehicle theft; forgery or counterfeiting, greater than $500; sale of marijuana; planned theft; possess heavy narcotics, greater than $50; escape; Mann Act--no force	9-13 months	13-17 months	17-21 months	21-26 months
Category D--High Severity Offenses Sell heavy narcotics; burglary, weapon or nighttime; violence, "spur of the moment"; sexual act, force	12-16 months	16-20 months	20-24 months	24-28 months
Category E--Very High Severity Offenses Armed robbery; criminal act--weapon; sexual act, force, injury; assault, serious bodily harm; Mann Act--force	18-24 months	24-28 months	28-32 months	32-38 months
Category F--Highest Severity Offenses Willful homicide; kidnapping; armed robbery, weapon fired or serious injury	Information not available due to limited number of cases			

*Notes: (1) If an offense behavior can be classified under more than one category, the most serious applicable category is to be used. If an offense behavior involved multiple separate offenses, the severity level may be increased. (2) If an offense is not listed above, the proper category may be obtained by comparing the severity of the offense with those of similar offenses listed. (3) If a continuance is to be recommended, subtract 30 days (one month) to allow for release program provision. (4) For Selective Service, see Adult Guidelines.

APPENDIX B

PILOT PROJECT EVALUATION FORM
(Complete for All Initial Hearings)

Case Name_____   Register Number _____

Offense_____

Jail Time (Months)_____   Prison Time to Date (Months)_____

Salient Factors (please check each correct statement):

_____ A.   Commitment offense did not involve auto theft.

_____ B.   Subject had one or more codefendants (whether brought
            to trial with subject or not).

_____ C.   Subject has no prior (adult or juvenile) incarcerations.

_____ D.   Subject has no other prior sentences (adult or juvenile)
            (i.e., probation, fine, suspended sentence).

_____ E.   Subject has not served more than 18 consecutive months
            during any prior incarceration (adult or juvenile).

_____ F.   Subject has completed the 12th grade or received G.E.D.

_____ G.   Subject has never had probation or parole revoked (or
            been committed for a new offense while on probation or
            parole).

_____ H.   Subject was 18 years old or older at first conviction
            (adult or juvenile).

_____ I.   Subject was 18 years old or older at first commitment
            (adult or juvenile).

_____ J.   Subject was employed, or a full-time student, for a
            total of at least six months during the last two years
            in the community.

_____ K.   Subject plans to reside with his wife and/or children
            after release.

_____   Total number of correct statements = favorable factors =
            score

SALIENT FACTOR SCORE TABLE

Score	Expected Percent with Favorable Outcome	Probability of Favorable Parole Outcome
9-11	85-94%	Very high
6- 8	60-77%	High
4- 5	43-51%	Fair
0- 3	9-34%	Low

Offense Severity (Rate the severity of the present offense by plac-
ing a check in the appropriate category. If there is a disagree-
ment, each examiner will initial the category he chooses.):

Low _____   High _____

Low-Moderate _____   Very High _____

Moderate _____   Highest Severity Level _____
                                     (e.g., murder, kidnapping)

Institutional Adjustment to Date: Extremely Good   Adequate   Poor

Decision Recommendation _____ (Initials, ___, ___)

Dissenting Recommendation (if any) _____ (Initials, ___)

APPENDIX C

GUIDELINE USAGE--AUXILIARY EXAMPLES

The following are recurrent situations in which a decision outside of the guidelines provided might be considered.

Decisions Longer than Indicated by the Guidelines

1. The subject was received for a probation violation which involved a new serious offense.

2. More time is necessary to complete a special institutional program (e.g., one-year drug abuse program).

3. The instant offense was actually a series of separate offenses (e.g., a series of bank robberies).

4. The salient factor score appears substantially inconsistent with clinical judgment (e.g., a high salient factor score for a person with a severe history of narcotic addiction).

5. An offense severity rating of very high is normally indicated but there were additional aggravating circumstances (e.g., a bank robbery in which a person was injured or a weapon was fired).

6. Extremely poor institutional conduct (e.g., serious or repeated disciplinary infractions).

Decisions Shorter than Indicated by the Guidelines

1. Substantial medical problems.

2. Subject faces a substantial additional state committed sentence.

3. Subject has been in continuous custody on a separate charge for a substantial period of time.

4. The salient factor score appears substantially inconsistent with clinical judgment (e.g., a low salient factor score for a first offender).

5. Deportation only cases.

6. Extremely good institutional program progress.

APPENDIX D

GUIDELINES FOR DECISION-MAKING (ADULT CASES)
AVERAGE TOTAL TIME SERVED BEFORE RELEASE
(INCLUDING JAIL TIME)

Offense Characteristics*	Offender Characteristics--Salient (Favorable) Factor Score (Probability of Favorable Parole Outcome)			
	(9-11) Very High	(6-8) High	(4-5) Fair	(0-3) Low
Category A--Low Severity Offenses Immigration law violations; Walkaway; Minor theft (includes larceny and simple possession of stolen property less than $1,000)	6-10 months	8-12 months	10-14 months	12-16 months
Category B--Low/Moderate Severity Offenses Alcohol law violations; Selective Service; Mann Act (no force--commercial purposes); Theft from mail; Forgery/ Fraud (less than $1,000); Possession of marijuana (less than $500); Passing/ Possession of counterfeit currency (less than $1,000)	8-12 months	12-16 months	16-20 months	20-25 months
Category C--Moderate Severity Offenses Simple theft of motor vehicle (not multiple theft or for resale); Theft, Forgery/Fraud ($1,000 - $20,000); Possession of marijuana ($500 or over); Possession of Other "Soft Drugs" (less than $5,000); Sale of marijuana (less than $5,000); Sale of Other "Soft Drugs" (less than $500); Possession of "Heavy Narcotics" (by addict--less than $500); Receiving stolen property with intent to resell (less than $20,000); Embezzlement (less than $20,000); Passing/ Possession of counterfeit currency ($1,000 - $20,000); Interstate transportation of stolen/forged securities (less than $20,000)	12-16 months	16-20 months	20-24 months	24-30 months

GUIDELINES FOR DECISION-MAKING (ADULT CASES)
AVERAGE TOTAL TIME SERVED BEFORE RELEASE
(INCLUDING JAIL TIME)

Offense Characteristics*	Offender Characteristics--Salient (Favorable) Factor Score (Probability of Favorable Parole Outcome)			
	(9-11) Very High	(6-8) High	(4-5) Fair	(0-3) Low
Category D--High Severity Offenses Theft, Forgery/Fraud (over $20,000); Sale of marijuana ($5,000 or more); Sale of Other "Soft Drugs" ($500 - $5,000); Sale of "Heavy Narcotics" to support own habit; Receiving stolen property ($20,000 or over); Passing/ Possession of counterfeit currency (more than $20,000); Counterfeiter; Interstate transportation of stolen/forged securities ($20,000 or more); Possession of "Heavy Narcotics" (by addict--$500 or more); Sexual act (fear-- no injury); Burglary (Bank or Post Office); Robbery (no weapon or injury); Organized vehicle theft	16-20 months	20-26 months	26-32 months	32-38 months
Category E--Very High Severity Offenses Extortion; Assault (serious injury); Mann Act (force); Armed robbery; Sexual act (force-- injury); Sale of "Soft Drugs" (other than marijuana--more than $5,000); Possession of "Heavy Narcotics" (non-addict); Sale of "Heavy Narcotics" for profit	26-36 months	36-45 months	45-55 months	55-65 months
Category F--Greatest Severity Offenses Aggravated armed robbery (or other felony)-- weapon fired or serious injury during offense; Kidnapping; Willful homicide	(Information not available due to limited number of cases)			

*Notes: (1) If an offense behavior can be classified under more than one category, the most serious applicable category is to be used. If an offense behavior involved multiple separate offenses, the severity level may be increased. (2) If an offense is not listed above, the proper category may be obtained by comparing the severity of the offense with those of similar offenses listed. (3) If a continuance is to be recommended, allow 30 days (1 month) for release program provision.

APPENDIX E

GUIDELINES FOR DECISION-MAKING (YOUTH CASES)
AVERAGE TOTAL TIME SERVED BEFORE RELEASE
(INCLUDING JAIL TIME)

Offense Characteristics*	Offender Characteristics--Salient (Favorable) Factor Score (Probability of Favorable Parole Outcome)			
	(9-11) Very High	(6-8) High	(4-5) Fair	(0-3) Low
Category A--Low Severity Offenses Immigration law violations; Walkaway; Minor theft (includes larceny and simple possession of stolen property less than $1,000)	6-10 months	8-12 months	10-14 months	12-16 months
Category B--Low/Moderate Severity Offenses Alcohol law violations; Selective Service; Mann Act (no force--commercial purposes); Theft from mail; Forgery/Fraud (less than $1,000); Possession of marijuana (less than $500); Passing/Possession of counterfeit currency (less than $1,000)	8-12 months	12-16 months	16-20 months	20-25 months
Category C--Moderate Severity Offenses Simple theft of motor vehicle (not multiple theft or for resale); Theft, Forgery/Fraud ($1,000 - $20,000); Possession of marijuana ($500 or over); Possession of Other "Soft Drugs" (less than $500); Possession of "Heavy Narcotics" (by addict - less than $500); Receiving stolen property with intent to resell (less than $20,000); Embezzlement (less than $20,000); Passing/Possession of counterfeit currency ($1,000 - $20,000); Interstate transportation of stolen/forged securities (less than $20,000)	9-13 months	13-17 months	17-21 months	21-26 months
Category D--High Severity Offenses Theft, Forgery/Fraud (over $20,000); Sale of marijuana ($5,000 or more); Sale of Other "Soft Drugs" ($500 - $5,000);	12-16 months	16-20 months	20-24 months	24-28 months

GUIDELINES FOR DECISION-MAKING (YOUTH CASES)
AVERAGE TOTAL TIME SERVED BEFORE RELEASE
(INCLUDING JAIL TIME)

Offense Characteristics*	Offender Characteristics--Salient (Favorable) Factor Score (Probability of Favorable Parole Outcome)			
	(9-11) Very High	(6-8) High	(4-5) Fair	(0-3) Low
Category D--High Severity Offenses cont. Possession of Other "Soft Drugs" (more than $5,000); Sale of "Heavy Narcotics" to support own habit; Receiving stolen property ($20,000 or over); Embezzlement ($20,000 - $100,000); Passing/Possession of counterfeit currency (more than $20,000); Counterfeiter; Interstate transportation of stolen/forged securities ($20,000 or more); Possession of "Heavy Narcotics" (by addict--$500 or more); Sexual act (fear--no injury); Burglary (Bank or Post Office); Robbery (no weapon or injury); Organized vehicle theft				
Category E--Very High Severity Offenses Extortion; Assault (serious injury); Mann Act (force); Armed robbery; Sexual act (force--injury); Sale of "Soft Drugs"(other than marijuana--more than $5,000); Posses sion of "Heavy Narcotics" (non-addict); Sale of "Heavy Narcotics" for profit	20-27 months	27-32 months	32-36 months	36-42 months
Category F--Greatest Severity Offenses Aggravated armed robbery (or other felony) weapon fired or serious injury during offense; Kidnapping; Willful homicide	(Information not available due to limited number of cases)			

*Notes: (1) If an offense behavior can be classified under more than one category, the most serious applicable category is to be used. If an offense behavior involved multiple separate offenses, the severity level may be increased. (2) If an offense is not listed above, the proper category may be obtained by comparing the severity of the offense with those of similar offenses listed. (3) If a continuance is to be recommended, allow 30 days (1 month) for release program provision.