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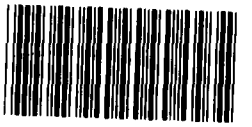

STATEMENT FOR THE RECORD BY

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FOR THE

SENATE COMMITTEE ON THE JUDICIARY

ON

RESULTS OF GAO'S REVIEW OF THE PAROLE

DECISIONMAKING PROCESS

Mr. Chairman and Members of the Committee:

I am pleased to provide some preliminary findings regarding GAO's review of the Federal parole decisionmaking process. Although our work is not yet complete, we have identified many areas that need management's attention.

Our observations are based on work performed from June 1979 to February 1981. During that time, we performed detailed work at the headquarters offices of the United States Parole Commission, Bureau of Prisons, Federal Probation Division within the Administrative Office of the United States Courts, the Executive Office of the United States Attorneys, and the Criminal Division within the Department of Justice. We also did extensive work at the Parole Commission's five regional offices; probation offices, district courts, and U.S. Attorneys' Offices in 10 judicial districts; 15 Federal correctional institutions; two Organized Crime Strike

Force offices; and at selected offices of the Immigration and Naturalization Service. At these locations, we examined policies and procedures, interviewed officials, reviewed records, and analyzed about 1,700 cases involving parole decisions.

Our findings can be grouped into four broad areas:

--Actions that can be taken by the United States Parole Commission to improve the quality of parole decisions;

--Legislative changes that could result in improved parole decisionmaking;

--The need for greater cooperation among all of the Federal agencies involved in the parole decisionmaking process; and

--The need to improve parole supervision.

We will discuss each of these issues in more detail after providing an overview of the parole decisionmaking process within the Federal criminal justice system.

A DESCRIPTION OF PAROLE DECISIONMAKING IN THE FEDERAL CRIMINAL JUSTICE SYSTEM

The United States Parole Commission was established pursuant to the Parole Commission and Reorganization Act of 1976 (Public Law 94-223, dated March 15, 1976, 18 U.S.C. § 4201 et., seq.). The Commission is comprised of nine members who are appointed by the President for 6-year terms with the advice and consent of the Senate. One member is designated by the President as the Chairman. The Chairman is responsible for designating the members who are to serve as Regional Commissioners or on the National Appeals Board, supervising the Commission staff, convening and presiding at Commission meetings, and serving as a spokesman for the Commission. The five members who are designated as Regional Commissioners are responsible for making

parole decisions for all Federal prisoners eligible for parole who are incarcerated within the boundaries of their regions, and for supervising the Commission's regional staff. The three remaining members, who are located in Washington, D.C. with the Chairman, comprise the National Appeals Board. The Board is responsible for hearing and deciding appeals of Commission actions.

While the Parole Commission is an independent body with its own legislation, budget, and staff resources, its caseload and area of discretion are heavily influenced by others. For example, although the legislative history of the act recognizes that one of the primary functions of the Commission is to reduce sentencing disparities, the Commission is limited in what it can do. It cannot reduce unwarranted disparities in the determination of who goes to prison, nor does it have any jurisdiction over prisoners with sentences for felony convictions of 1 year or less. In spite of this constraint, about one-third of the 28,598 defendants sentenced in Federal courts in fiscal year 1980 will come under the jurisdiction of the Commission at some future date. Also, the Commission cannot make fair and equitable parole decisions unless it receives complete and accurate information from U.S. Attorneys, judges, probation officers, and correctional staff.

Each of the Parole Commission's five regional offices has a corps of hearing examiners. The examiners travel to each of the Federal correctional institutions on a bi-monthly schedule to conduct personal hearings with Federal prisoners who are eligible and apply for parole consideration. As a matter of policy, the Commission attempts to undertake a first consideration of every prisoner,

except those with a minimum term of 10 years or more, within 120 days of imprisonment and establish a release date for most offenders at that time. This date is referred to as a presumptive release date.

On a cooperative basis, the Parole Commission uses the services of staff employed by the Bureau of Prisons, who are assigned to the various correctional institutions throughout the United States. Caseworkers at the Bureau's institutions are responsible for preparing a file on each offender which is used by the Commission in making a parole decision. The file should include the presentence report, which is a report on the offender that is prepared for the sentencing judge by a probation officer, information from the judge and the U.S. Attorney, and other material developed by the staff at the correctional institution which can be used in establishing a parole release date for the offender.

The Commission is required under 18 U.S.C. §4206(a) to consider the nature and circumstances of the offense and the history and characteristics of the prisoner. After taking this information into consideration, the Commission is to release the prisoner on parole at some future date unless release would (1) depreciate the seriousness of the offense, (2) promote disrespect for the law, or (3) jeopardize the public welfare. The Commission has established parole release guidelines pursuant to 18 U.S.C §4023(a)(1) which indicate the customary range of time to be served before release for various combinations of offense severity and offender characteristics.

The Commission's policy has been that it will take into account any substantial information available to it in making a parole release decision provided the prisoner is apprised of the information and afforded an opportunity to respond. If the prisoner disputes the accuracy of the information presented, the Commission's policy is to resolve such disputes by the preponderance of evidence standard. The Commission has taken the position that information in the file describing offense circumstances more severe than reflected by the offense of conviction may be relied upon to determine the portion of the offender's sentence that will be served in prison. The Commission's position has been sustained by several court cases. 1/

The final factor considered in the parole decision is the individual's institutional behavior. The guidelines presume that an offender will maintain a satisfactory record of institutional conduct and program achievement. Individuals who have demonstrated exceptionally good institutional program achievement may be considered for release earlier than the specified guideline range. On the other hand, individuals whose institutional conduct or program achievement is rated as unsatisfactory are likely to be held longer.

The chart included as attachment I illustrates the various steps that the Commission follows in processing parole decisions. Panels consisting of two hearing examiners, operating under

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1/Billiteri v. United States Board of Parole, 541 F.2d. 938 (2nd Cir. 1976); Bistram v. United States Board of Parole, 535 F. 2d 329 (5th Cir. 1976); and Zanno v. Arnold, 531 F.2d 687 (3d Cir. 1976).

guidelines issued by the full Commission, conduct initial parole hearings and statutory interim hearings at correctional institutions to formulate parole release recommendations. The recommendations must be affirmed, modified, or reversed by Regional Commissioners before becoming final.

If parole is initially disapproved, a tentative release date is considered to be unsatisfactory, or the initial action is otherwise adverse, the offender has 30 days from the date of the decision to file a regional appeal and request reconsideration by the appropriate Regional Commissioner. The Regional Commissioner has 30 days from the date of the appeal to either affirm or modify the previous decision. Any decision by a Regional Commissioner on an appeal may be appealed by the offender to the National Appeals Board. It has 60 days from the date of the appeal to either affirm or modify the previous decision.

The Commission conducts a prerelease review at least 60 days prior to an offender's presumptive parole date to determine whether all conditions have been satisfied. If all conditions have been met, the Regional Commissioner officially converts the offender's presumptive parole date to an effective parole date. If not, he/she delays parole release and schedules another hearing for the purpose of considering new adverse information.

Another active participant in the Federal parole process is the Federal Probation Service, which is under the overall administrative direction of the Administrative Office of the United States Courts. The principal responsibility of the Federal Probation Service, which is comprised of 95 probation offices throughout the

country, is the preparation of presentence investigation reports and the supervision of probationers for Federal district courts.

While the Federal Probation Service has no direct organizational affiliation with the Commission, probation officers provide field supervision for offenders paroled and mandatorily released from Federal correctional institutions in accordance with 18 U.S.C. §3655. Probation officers are also responsible for submitting reports to the Commission on offenders' adjustment in the community. These reports can be used by the Commission as a basis for revoking an offender's parole.

Of the 31,410 offenders who were placed under supervision by the Federal Probation Service for the 12 months ended June 30, 1980, about 40 percent, or 12,617, were being supervised for the Parole Commission. (See att. II.)

ACTIONS CAN BE TAKEN BY THE PAROLE COMMISSION TO IMPROVE ITS DECISIONMAKING

Major improvements can be made to the procedures followed by the Commission when making parole decisions. The Commission needs to:

--clarify its parole guidelines and train hearing examiners in their use;

--ensure that hearing examiners have sufficient time to properly analyze case material well in advance of parole hearings and require full participation of both hearing examiners present at a hearing;

--establish an effective quality control system; and

--clarify the role of the National Appeals Board.

There were inconsistencies in parole decisions within and among the Commission's five offices, in part, because guidelines used by examiners to make parole recommendations were subject to varying interpretations, and hearing examiners had not received adequate training in their use. Also, we found that erroneous parole decisions had been made and that quality control activities were not effective in detecting these errors. Finally, offenders were not being notified of parole decisions in a timely manner. In the 3,448 cases we reviewed for timeliness, the Commission failed to meet the statutory notification requirements in 2,806 cases, about 81 percent of the time.

Hearing examiners interpret parole guidelines differently

To determine how consistently hearing examiners interpreted the parole guidelines, we selected 30 cases where parole decisions had previously been made. We selected these cases without any prior knowledge of the adequacy of the information available in the case files. We reproduced the information which was available when the initial decisions were made on these cases, deleted all references to case names, and eliminated all material pertaining to the actual parole decisions. In the Commission's five offices, we asked all of the 35 hearing examiners to review all 30 cases and prepare an assessment of the appropriate offense severity level and salient factor score without the knowledge of how other hearing examiners assessed the same case. There are seven categories of offense severity, ranking from Low to Greatest II. The salient factor score is an actuarial device used in parole prognosis. It can range from

0 to 11 and is based on offender characteristics, including prior criminal record, opiate dependence, and employment history. A score from 0 to 3 indicates poor parole prognosis, whereas a score of 9 to 11 is considered to be very good.

Our analysis of the results of the assessments of the 30 cases showed that there were differences within and among regions in how hearing examiners interpreted the appropriate offense severity level and salient factor score. In none of the 30 cases did all hearing examiners agree on both the offense severity level and salient factor score. In only one case did all the hearing examiners agree on one offense severity level. In the remaining 29 cases, there were from two to four different levels established by the hearing examiners. Also, there was only one case where the hearing examiners agreed on the salient factor score. There were from two to seven different salient factor scores computed for the rest. In 22 of the 30 cases, at least one hearing examiner failed to completely assess the offense severity or salient factor score due to the contention that there was insufficient information, even though the same information had been used previously by the Commission to make parole decisions.

The different interpretations of hearing examiners on how to assess the offense severity level and the salient factor score resulted in variances of over 1 year in the time offenders would be expected to serve in 28 of the 30 cases. For example, in one case, 27 hearing examiners established five different guideline ranges for the amount of time to be served. Two hearing examiners

established a range of from 0 to 8 months, one hearing examiner established a range of from 10 to 14 months, seven hearing examiners established a range of from 12 to 16 months, six hearing examiners established a range of from 14 to 20 months, and 11 hearing examiners established a range of from 20 to 26 months. Examples of the variances in guideline ranges for 4 of the 30 cases are included as attachment III. A further breakdown of the same four cases to show variances within and among regions is contained in attachment IV.

Several commissioners and staff agreed that inconsistencies in parole decisions could be minimized by (1) further clarifying parole guidelines and (2) implementing an aggressive training program for hearing examiners in the use of the parole guidelines. The Director of Research for the Commission acknowledged that parole procedures were unclear in several respects and that this presented some problems for hearing examiners. His unit prepared a report on the matter in May 1980. The Director stated that the Commission has made an effort over the years to clarify ambiguities in the procedures manual and he hoped many of the ones we identified would be eliminated in future revisions. The Chairman of the Commission told us that he would not be able to establish a comprehensive training program for examiners in the use of the procedures manual until the Commission receives the funding it requested. The Commission asked for $140,000 for training in fiscal year 1982, but the funds were deleted from the budget request.

Case analysis needs to be improved

The Commission's hearing examiners visit each of the Bureau's correctional institutions on a bi-monthly schedule to conduct personal hearings with those offenders who are eligible and apply for parole consideration. The examiners are responsible for reviewing all the information in the case file and then meeting with the offender to discuss the offense severity rating, salient factor score, institutional behavior, and any other matters the panel may deem relevant. At the conclusion of this hearing, the hearing examiners formulate a recommendation to the Regional Commissioner and personnally advise the offender of this recommendation. Also, the offender is told that he will receive a written decision from the Regional Commissioner within 21 days of the hearing.

Hearing examiners did not have sufficient time to adequately analyze case material in offenders' files. The panel of hearing examiners did not see an offender's file until immediately prior to the hearing and then only spent 15 to 20 minutes analyzing it. Such a procedure did not give hearing examiners sufficient time to completely review case material, obtain missing information, seek clarification on issues, properly interpret the Commission's highly complex set of parole guidelines, and formulate quality parole recommendations.

The problems with the Commission's practice are shown in our analysis of 342 cases in 10 judicial districts which involved sentences in excess of 1 year. Our review of these cases showed that hearing examiners from the Commission's five regions made errors

in 182 cases, or 53 percent of the time. In 131 cases, these errors had an impact on the amount of time that offenders served in prison.

Regional Commissioners and hearing examiners told us that quality parole decisions could not be made when case file material was seen for the first time just prior to the actual hearing and only a limited review of the material was made at that time. They also acknowledged that such a procedure leads to errors because important information will be overlooked or not fully assimilated.

Also, the Parole Commission and Reorganization Act of 1976 (18 U.S.C. § 4203 et. seq.) provides that parole determination proceedings shall be conducted in Federal correctional institutions on a regular schedule by panels of two hearing examiners. However, we found that in most cases only one hearing examiner attempted to analyze the material in the offender's case file to be in a position to provide meaningful input to the formulation of a parole recommendation. Our observations of 290 initial parole hearings conducted by the Commission's hearing examiners at various Federal correctional institutions showed that the average time spent by the secondary examiners that analyzed case material was only about 2 minutes. In 181 cases, or 63 percent of the time, the secondary examiner spent no time examining material in offender case files.

As a result of our work, a pilot project was begun in the South-Central region in November 1979. The pilot project was implemented for the purpose of improving the quality of hearing examiners' recommendations and the Commission's parole decisions. One key element of this project was that each of the two hearing

examiners would make an independent assessment of each case. Another was that the material would be reviewed prior to the date of the hearing. During the initial stages of the pilot project, the assessments were reviewed by the Administrative Hearing Examiner in the South-Central Region who noted a substantial number of disagreements between hearing examiners.

Our review of 373 cases included in the pilot project during the period June through September 1980 showed that there were disagreements between the hearing examiners in 196 cases, or 53 percent of the time. This sharply contrasted with the Commission's statistics for all regions which showed that in 1980 there was disagreement between the hearing panel members in only about 7 percent of all parole recommendations to Regional Commissioners. The Administrative Hearing Examiner in the South-Central Region attributed much of this difference to the fact that the pilot project required both hearing examiners to independently assess each case.

The Parole Commission planned to implement its pilot project in all of its offices effective September 1981. Our final report will discuss this area in more detail and provide further suggestions for improvement.

More effective quality control is needed

Quality control at the regional level is not adequate to ensure that the guidelines are properly interpreted and followed or that good cause exists for decisions outside the guidelines. The additional quality control that is provided by the appeals process is limited and inadequate. It is limited because only about 30 percent of the cases are appealed. It is inadequate because of

incomplete analyses, failure to properly apply guidelines, and Commission policy which prohibits a decision more adverse than the one appealed.

The legislative intent of the Parole Commission and Reorganization Act of 1976 is that most panel recommendations will be within the guidelines and that departures from the guidelines be based upon a finding of good cause. The Regional Commissioners' primary obligation in such cases is to ensure that the guidelines have been properly interpreted and followed and that good cause exists for any decision outside the guidelines. Most panel recommendations are within the guidelines and are accepted. However, the reviews of these recommendations are inadequate. We examined 342 panel recommendations and found errors in 182. Only 11 of the erroneous recommendations were corrected during subsequent regional review.

The most frequent error made by the panels involved computation of the salient factor score. This was also the least likely error to be detected by regional review. Other errors included making incorrect assessments of offense severity, miscalculating the length of the sentence to be served, and failing to recognize that the available information was insufficient for decisionmaking. The regional reviews were not effective because they did not include independent verification of the panels' decisions. Instead, the reviews were generally limited to determining whether the decision appeared reasonable on the basis of information presented by the panels. This approach does not assure that all information was considered by the panels or that it was considered properly.

Role of the National Appeals Board should be clarified

The role of the National Appeals Board and how it will carry out its responsibilities have not been clearly defined. We found that a high percentage of Regional Commissioners' decisions are being reversed without a finding that the initial decision materially deviated from the guidelines. In some of these reversals, the National Appeals Board attempted to establish parole release dates which were earlier than offenders' statutory eligibility dates for parole.

The Commission's records showed that the percentage of Regional Commissioners' decisions reversed by the National Appeals Board has increased significantly since fiscal year 1977. Details are provided in the following chart.

Category	1977	1978	1979	1980
Appeals filed	1,744	2,015	2,727	3,244
Number of decisions reversed	213	524	835	792
Percent reversed	12.2	26.0	30.4	24.4

We selected 187 cases where the National Appeals Board reversed the parole decisions of the five Regional Commissioners during fiscal years 1979 and 1980. Our review showed that in at least half of these cases, reversals were made even though there were no findings that the Regional Commissioners made errors in the application of the guidelines.

The Parole Commission and Reorganization Act of 1976 (18 U.S.C. § 4215(b)) provides that any final decision by a

Regional Commissioner on parole release may be appealed to the National Appeals Board for reconsideration. The act states that the National Appeals Board is empowered to reaffirm, modify, or reverse the decision of a Regional Commissioner. The Board is required to advise the offender in writing of the reasons for its decisions. The only additional guidance on the role of the National Appeals Board and how it will carry out its responsibilities is contained in the legislative history of the act. It states:

> "* * * Review procedures should be designed to identify and resolve decision patterns involving significant inconsistencies between regions or involving departures from national parole policies promulgated by the Commission.* * *"

There has been extensive discussion among Parole Commissioners on the role of the National Appeals Board. At the Commission's February 23, 1979, meeting several Regional Commissioners voiced extreme displeasure over the National Appeal Board's practice of frequently reversing their decisions when no errors were made and no reasons were given for the changes.

Subsequent to February 1979, there have been several attempts to establish procedures for the National Appeals Board to follow when reversing parole decisions. However, these procedural changes address the question of how many members should concur in a reversal rather than the specific role that the National Appeals Board should serve in reviewing appeals of Regional Commissioners' decisions. Criteria for determining when decisions should be reversed also needs to be established.

There is disagreement among the Commission on what the role of the National Appeals Board ought to be. If this matter cannot be resolved within the Commission, then legislative change may be necessary.

LEGISLATIVE CHANGES COULD RESULT IN IMPROVED PAROLE DECISIONMAKING

Legislation is needed to improve the organizational structure and operational efficiency of the Commission. Specifically, the Commission needs to seek legislative changes to:

--facilitate the formulation of national parole policy and

--eliminate requirements for certain activities that require expenditure of valuable resources, but are not productive.

Decentralization of Parole Commissioners hinders policy formulation

The decentralized structure of the Commission places an awesome workload on the Regional Parole Commissioners and prevents them from being regularly available to participate in the formulation of national parole policy. As a result, important policy questions have not been addressed and resolved in a timely fashion because one or two day meetings each quarter did not provide sufficient time to discuss and resolve the varied and complex issues. Several Parole Commissioners told us that the current structure of the Commission promotes a conflict between the requirement to process cases on the one hand and the need to participate in formulating parole policy on the other.

Regional Parole Commissioners are responsibile for the parole functions pertaining to Federal prisoners confined in correctional institutions and all parolees and mandatory releasees within the

boundaries of their respective regions. Also, Regional Commissioners are responsible for the supervision and direction of regional office staff and liaison with other parts of the criminal justice system. The Commission has delegated to Regional Commissioners the authority for initial determinations with respect to parole release decisions, rescission, retardation and revocation of parole, modification of parole conditions, and termination of supervision. In addition, Regional Commissioners must decide offender's initial appeals of decisions regarding these matters. Further, the Parole Commission and Reorganization Act of 1976 (18 U.S.C. § 4203) provided that the Commission shall meet at least quarterly to carry out national parole policy matters and the legislative history states that all Commissioners are expected to attend these meetings.

Regional Parole Commissioners do not have sufficient time to carry out the responsibilities of operating a regional office and at the same time devote adequate attention to the formulation of national parole policy. In fiscal year 1980, the five regional Parole Commissioners made 26,643 parole release determinations. Using the assumption that all five Regional Commissioners worked 8 hours per day for 250 days and did nothing else, our analysis showed that on the average a Regional Commissioner had only 23 minutes to review a case and make a parole release determination. A further breakdown by region is presented in the following chart.

Region	Number of decisions made	Hours available	Average time (in minutes)
Northeast	5,545	2,000	22
North-Central	5,262	2,000	23
Southeast	7,148	2,000	17
South-Central	3,910	2,000	31
Western	4,778	2,000	25
Total	26,643	10,000	23

While the Commission held the minimum number of policy meetings required under 18 U.S.C. § 4203--four meetings annually--during calendar years 1978 through 1980, less than 20 full days were devoted during this period to the discussion and formulation of policy matters. All Commissioners were not in attendance at these meetings.

Centralization of the Parole Commissioners in Washington, D.C. is one approach that has potential to improve the formulation of national parole policy. This approach would enable all Parole Commissioners to meet more frequently. However, the centralization of all Commissioners would require several changes in the Parole Commission's organization. For example, since Regional Commissioners could no longer be responsible for the day-to-day operations of the regional offices; those duties would have to be assigned to someone else.

Our final report will discuss this matter in more detail.

Legislation needed to eliminate nonproductive efforts

The Commission could make more efficient use of at least $417,000 in resources annually if legislation were enacted to relieve it of responsibility for carrying out certain activities that are not productive.

--The regional appeals process may not be needed. Cases sent to regional appeal are ruled on by the same Commissioners who made the initial decision and few changes are made. About 9 percent of the 24,000 decisions made between fiscal years 1975 and 1980 resulted in reversals.

--Interim hearings on the parole status of offenders are required by statute. However, because the Commission has implemented procedures which enable it to reopen cases as needed, such hearings no longer appear to be necessary.

--Youthful offenders sentenced under the Magistrates Act do not appear to need parole consideration. Because their sentences are short--not to exceed 6 months for petty offenses and 1 year for misdemeanors--the Commission cannot follow its normal hearing procedures. The Commission would not need to be involved if magistrates were authorized to determine the date of release for these offenders at the time of sentencing.

--The Commission's involvement in study and observation cases sentenced under the Youth Corrections Act (18 U.S.C. § 5010(e)) should be terminated. It makes little or no contribution to the results of these studies because it

has no additional information to offer. The Bureau of Prisons, which is the agency that conducts the study, could send it directly to the court that requested it.

Additional details on these matters will be provided in our final report.

BETTER INFORMATION AND COMMUNICATION COULD IMPROVE PAROLE DECISIONMAKING

We noted a number of areas where all of the agencies involved in parole decisionmaking could mutually work to improve the process. Details are presented below.

The Parole Commission does not have all of the information it needs for parole decisionmaking

The Parole Commission was making many parole release decisions without receiving all of the information it needed from other components of the criminal justice system to properly apply its parole release guidelines.

--Presentence reports were not always complete enough to satisfy the Commission's needs.

--Prosecutors rarely furnished important data to the Commission.

--Judges seldom communicated any information to the Commission.

--Correctional staff did not regularly make study and observation reports and psychological evaluations available to the Commission.

--Correctional institutions were inconsistent in reporting incidents of poor institutional behavior to the Commission.

Also, the Commission was not routinely obtaining other important information such as judgment and commitment orders, indictments, and records of sentencing hearings.

Presentence reports did not always contain enough information

The Federal Probation System is responsible for preparing presentence investigation reports to assist judges in determining the appropriate sentence for persons convicted of a Federal offense. The presentence report is supposed to describe the defendant's character and personality, evaluate his or her problems and needs, help the reader understand the world in which the defendant lives, reveal the nature of his or her relationships with people, and disclose those factors that underlie the defendant's specific offense and conduct in general. After sentencing, the presentence report continues to serve as the basic information source during the defendant's journey through the correctional process.

The Commission is required under 18 U.S.C. § 4207 to consider, if available, presentence reports when making parole release determinations. We found that although these documents were being used, they did not always contain enough information. We examined presentence reports from 10 judicial districts for 342 offenders sentenced to a term of imprisonment in excess of 1 year and found that 144, or 41 percent of these reports, did not include sufficient details on the nature and circumstances of the offense or offender characteristics for the Commission to accurately establish an offender's offense severity rating or calculate the salient factor score.

The Commission has also experienced some difficulty in obtaining adequate information in presentence and postsentence reports in several judicial districts because probation officers have been

instructed by some courts to limit the information included in these reports. As a result, the Commission has been forced to make parole release determinations on the basis of information it considers inadequate.

The Commission is charged under 18 U.S.C. § 4206(a) with the responsibility for considering both the nature and circumstances of the offense and the history and characteristics of the prisoner. The responsibility of the probation officer to supply information to the Commission is set forth in 18 U.S.C. § 4205(e). This statute provides:

> "* * *Upon request of the Commission, it shall be the duty of the various probation officers and government bureaus and agencies to furnish the Commission information available to such officer, bureau, or agency, concerning any eligible prisoner or parolee and whenever not incompatible with the public interest, their views and recommendations with respect to any matter within the jurisdiction of the Commission.* * *"

We found that the Commission has encountered some difficulty in obtaining adequate presentence and postsentence reports in several judicial districts because probation officers have been instructed to limit the information included in these reports. The most serious situation involves the judicial district of Colorado where the Commission has experienced problems for a couple of years. This court has adopted a policy which prohibits the probation officer from furnishing the Commission a comprehensive report that contains a complete description of the nature and

circumstances of the offense behavior. Also, correspondence obtained from the Parole Commission showed that this court has instructed its probation officers not to respond to the Commission's request for postsentence reports pursuant to 18 U.S.C. § 4205(e). As a result, the Commission has been forced to delay decisions in some cases while it tried to obtain the information elsewhere. In other cases, the Commission ultimately had to make decisions using information that it considered incomplete.

Prosecutors rarely furnished important data to the Commission

The Parole Commmission has not been successful in obtaining important information necessary for parole decisionmaking from the United States Attorneys. Most United States Attorneys were not furnishing information to the Parole Commission because they were either unaware of the requirement or did not understand the importance of their comments.

In August 1976, the Department of Justice notified all United States Attorneys of the importance of providing information to the Commission for parole decisionmaking purposes. The vehicle for communicating information to the Commission was a form (USA-792 "Report on Convicted Prisoner by United States Attorney") which was to be prepared by the prosecutor at the time the offender was sentenced. The Department emphasized that each form 792 should include information on the details of the offense, the nature and severity of the offender's involvement relative to co-defendants, related charges dismissed upon entry of a plea of guilty which the Government was prepared to prove, the magnitude and duration of the

criminal behavior, and mitigating factors such as cooperation with the Government. Finally, the Department stressed that failure on the part of United States Attorneys to provide information to the Commission could result in early parole which would squander the investigative and prosecutive efforts that resulted in the incarceration of the offender.

Our review of 342 case files from 10 judicial districts on offenders who were sentenced to a term of imprisonment in excess of 1 year showed that prosecutors provided form 792s to the Commission in only 53 cases. Our review of case files on about 300 additional offenders who were identified as organized crime figures and/or major narcotics traffickers showed that prosecutors provided form 792s to the Commission for less than 15 percent of the cases.

Judges seldom communicated any information to the Commission

The Commission has not been successful in obtaining necessary information from sentencing judges on their recommendations for the parole of offenders. Most judges did not furnish information to the Commission because they did not understand the importance of their comments or believed that the comments would be ignored.

In 1974, the Federal Judicial Center, the Bureau of Prisons, the Board of Parole, and the Probation Division within the Administrative Office of the United States Courts, working under the direction of the Judicial Conference Committee on the Administration of the Probation System, developed a special form (AO-235 "Report on Sentenced Offender by United States District Judge")

to be prepared by the judge on each case at the time of sentencing. This form was designed to assist judges in communicating to correctional agencies anything about the reasons for selection of a sentence that might be of help to those agencies in discharging their responsibilities. One section of the form was designed to obtain the judge's comments and recommendations relative to parole. Copies of the form AO-235 were distributed to all United States District Judges in November 1974.

In the 342 case files we examined, we found that judges had provided comments to the Commission relative to parole in 126 cases. In the remaining 216 cases, judges failed to submit a form or sent in a blank one.

The June 1980 Harvard Law Review included an article which discussed the success of the form AO-235 as a communication device between the sentencing judge and correctional decisionmakers. This article pointed out that 66 percent of 115 judges included in a survey reported that they used the form in 25 percent or less of their cases. Also, the article pointed out that most judges who seldom used the form believe it is either unnecessary or is ignored by the Parole Commission. Finally, the article concluded that the form had failed to fulfill its intended purpose as a communication device for encouraging consistent treatment of the defendant at the sentencing and parole stages. 1/

Several judges told us that they did not complete form AO-235s because they (1) did not know the type of information

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1/"Due Process at Sentencing: An Empirical and Legal Analysis of the Disclosure of Presentence Reports in Federal Courts," Harvard Law Review, June 1980.

the Commission wanted or (2) perceived that it would be ignored by the Commission.

Correctional staff did not regularly make study and observations reports available to the Commission

The Bureau and the Commission do not have adequate procedures to ensure that study and observation reports are automatically made available to the Commission's hearing examiners for their use in formulating parole release decisions.

A Federal judge who wants more information about an adult offender before passing sentence can commit an offender to the custody of the Attorney General for 90 days of observation and study under 18 U.S.C. § 4205(c). Under a similar provision in 18 U.S.C. § 5010(e), a judge who wants additional information about whether an offender who is less than 26 years old will benefit from treatment under the special provisions of the Youth Corrections Act can commit the offender to the custody of the Attorney General for up to 60 days of study and observation. In either case, the Bureau's staff prepares a report for the judge to use in sentencing. The report may include information such as medical, psychological, and vocational evaluations, program recommendations, and a sentencing recommendation. Those offenders who are sentenced to a term in excess of 1 year come under the jurisdiction of the Parole Commission. In these cases, the study and observation reports should be available for use by the Commission's hearing examiners when formulating parole release decisions.

The Bureau and the Commission do not have adequate procedures to ensure that study and observation reports are automatically

made available to the Commission's hearing examiners for their use in parole decisionmaking. Rather, the Bureau's procedures provide that study and observation reports are court documents and cannot be released to the Commission unless specifically authorized on a case-by-case basis by the sentencing court. Also, the Bureau's procedures do not require that its staff initiate contact with the appropriate sentencing court to request authorization for release of the study and observation report to the Commission. In addition, the Commission's procedures manual does not instruct hearing examiners to request access to study and observation reports prior to conducting parole hearings.

We found that the Bureau did not regularly make study and observation reports available to the Commission's hearing examiners. Our review of 14 cases committed for study and observation showed that reports were available for use in making the parole decision in only seven cases. Several of the Bureau's caseworkers told us that study and observation reports were court documents and they would not automatically request authorization from the courts for release of these reports to the Commission's hearing examiners.

Correctional staff did not regularly furnish psychological reports to the Commission

The Commission is required by statute to consider psychological reports when making parole decisions. During our visits to the Bureau's correctional institutions, we found that staff did not regularly furnish psychological reports to the Commission's hearing examiners. In some cases, the Bureau's staff did not

have a good understanding of the proper procedures to be followed so that psychological reports could be furnished to the Commission. In other cases, staff were of the opinion that the Commission should not be given access to these reports and did not make them available.

Correctional institutions were inconsistent in reporting poor institutional behavior to the Commission

The Commission is required under 18 U.S.C. § 4206 to consider institutional behavior when making parole decisions. However, agreement has not been reached between the Bureau and the Commission on the types of institutional behavior which the Bureau should regularly report to the Commission so it can carry out its statutory responsibility. As a result, some institutional misconduct was reported and the Commission considered it in formulating parole release decisions while similar misconduct by other offenders was not reported.

We examined incident reports at 15 of the Bureau's correctional institutions and found inconsistencies in the administration of discipline for similar offenses. Sometimes, serious behavior which would be new criminal conduct if it had occurred outside the institution as well as minor infractions were handled by Institution Discipline Committees and then referred to the Commission which delayed or rescinded parole dates in some cases. In other cases, similar behavior was resolved at other levels and the Commission was not given the opportunity to evaluate the behavior and take action.

Several Commissioners acknowledged that the Commission could not uniformly consider offender misconduct in its parole decisions until the Bureau eliminated inconsistencies in reporting misconduct to the Institution Discipline Committees. They told us that the Commission needs to meet with the Bureau and reach agreement on all infractions which should be referred to Institution Discipline Committees so that the Commission can consider them when making parole decisions.

Other important information was not obtained

Indictments, records of sentencing hearings, and judgement and commitment orders contain information which the Commission should have when making parole decisions. However, these records are not regularly obtained by the Commission.

The formal accusation which charges the defendant with the commission of a crime is known as the indictment and it is brought by the grand jury. The grand jurors, summoned to hear the evidence presented to them by the prosecution, may subpoena witnesses and gather additional information. If they decide that the evidence is sufficient, the grand jury returns an indictment which is a written statement of the essential facts constituting the crime and the particular law which the defendant is alleged to have violated. The indictment has details of the alleged nature and circumstances of the offense which, at times, could be useful in helping to establish offense severity.

During the sentencing hearing, the defendant and his/her counsel have an opportunity to clarify information in the presentence report and the judge indicates his/her resolution of any

disputed matters. Also, the judge can express his/her views at the time of sentencing. The court routinely prepares a record of the sentencing hearing and this record should be obtained by the Commission for use in making parole decisions.

The judgment and commitment order is the legal document issued by the courts setting forth the sentence and ordering the defendant committed to the custody of the Attorney General. In accordance with 18 U.S.C. § 4284, a copy of the judgment and commitment order is to be delivered to the institution with the offender. The judgment and commitment order sets forth the plea, the verdict or findings, and the sentence. Also, the sentencing judge has an opportunity to include any recommendations on this order. This document should be obtained by the Commission and used when formulating parole release decisions.

Our review of 342 cases showed that the Commission did not review indictments, records of sentencing hearings, and judgment and commitment orders in formulating parole release decisions. Copies of judgment and commitment orders are available at the Bureau's correctional institutions and could be included in the material that the Bureau furnishes to the Commission if they were requested. The indictment is a public record and could easily be obtained from the probation office. A record of the sentencing hearing is available from the court.

In January 1981, the Chief Judge for the Northern District of California took the initiative and started sending a copy of the transcript of the sentencing hearing to the Commission when the offender received a sentence of 2 years or more. Also, he

forwarded this suggestion to the Chairman of the Committee on the Administration of the Probation System of the Judicial Conference of the United States. The Regional Commissioner of the Parole Commission's Western Region told us that the additional information submitted by this court has improved the quality of parole decisions.

Several Commissioners and staff told us that indictments, records of sentencing hearings, and judgment and commitment orders should be routinely available for the Commission's use because they would improve the quality of parole decisions.

Better Guidance Needed for the Identification of Offenders not Eligible for Parole Consideration

Offenders convicted under 21 U.S.C. § 848 of engaging in a continuing criminal enterprise for drug trafficking offenses face a mandatory minimum term of imprisonment of 10 years and a maximum of life without the possibility of parole for any sentence imposed. The Bureau of Prisons and the Parole Commission did not have adequate procedures to ensure that offenders convicted under this provision were not (1) made eligible for parole consideration, (2) afforded parole hearings, and (3) released on parole.

The Bureau furnished us a list of all offenders in its custody as of September 30, 1980, who were serving sentences under 21 U.S.C. § 848. This list included 12 names; however, through examining other agencies' records, we found that 52 offenders were actually in Federal custody and serving sentences under this statute. Our review also showed that 10 of the offenders were actually made eligible for parole, afforded parole hearings, and

given tentative release dates. In one case, an offender had been released on parole and had to be returned to custody. This case is currently under litigation.

Several of the Commission's employees told us that they were surprised to learn that offenders sentenced under 21 U.S.C. § 848 were not eligible for parole consideration. They acknowledged that better guidance should be provided by the Commission. This was done in May 1981.

Bureau officials told us that additional training would be provided to the staff responsible for preparing sentence computation records in the institutions. In May 1981, the Bureau issued new guidance to all its institutions which reemphasized the fact that offenders sentenced under 21 U.S.C. § 848 were not eligible for parole consideration. Also, the guidance required staff in the records office at each institution to review all judgment and commitment orders to ensure that sentence computation records for all offenders convicted under 21 U.S.C. § 848 were accurate and that these individuals were not given parole consideration.

System Needed so that the Attorney General Can Appeal Parole Decisions

The Attorney General may appeal any parole decision of a Regional Commissioner to the National Appeals Board. The Commission, however, does not have a system for routinely furnishing information on its parole release determinations to Federal prosecutors. As a result, prosecutors were not in a position to be aware of parole decisions so that they could advise the Attorney

General of cases that they felt should be appealed to the National Appeals Board.

We found no evidence that the Attorney General has ever appealed a parole decision of a Regional Commissioner to the Board. Federal prosecutors in 10 United States Attorneys Offices and two Organized Crime Strike Force offices were not familar with the provisions of the statute which granted the Attorney General authority to appeal a parole decision. They doubted that this provision would ever be exercised until the Commission routinely furnished parole release determinations to prosecutors. Several assistant U.S. Attorneys told us that they would like the Commission to regularly advise them of parole decisions on cases they prosecuted.

Strategy Needed for Making Parole Decisions for Co-Defendants

The Commission does not have a strategy for making consistent parole decisions in cases involving more than one defendant. The Commission has been aware of a serious problem involving co-defendant disparity for several years, but little progress has been made in addressing this problem.

The Commission's procedures manual requires that information concerning the parole status of all co-defendants should be obtained where possible from the Bureau's staff in correctional institutions and considered. Also, the manual states that information on co-defendants including guideline data and months to be served is to be included in the hearing summaries. However, the procedures manual does not require the Commission's staff to regularly

utilize its own data base as a source of information on co-defendants.

Our observations of 290 parole hearings in 15 Federal correctional institutions showed that the Bureau's staff provided only limited information on co-defendants to the Commission's hearing examiners. Also, we noted that any information the hearing examiners included in the official hearing summary on co-defendants was obtained from the offenders. This was generally the only co-defendant information available when the hearing examiners formulated the parole recommendation and discussed it with the offender. Furthermore, little effort was made to verify or obtain additional information on the status of other co-defendants before the Regional Commissioners made final decisions on cases. The absence of a strategy for routinely obtaining basic information on co-defendants prior to parole decisions being made fosters unwarranted co-defendant disparity. In a letter dated August 1, 1980, to a Regional Commissioner, one of the Commission's Administrative Hearing Examiners expressed concern over the problem of co-defendant disparity. The letter stated:

> "* * *The Parole Commission is plagued with problems of co-defendant disparity decisionmaking. Time after time we see cases where co-defendants are handled differently in the area of a parole decision between regions and even within regions. On numerous occasions, as outlined in Commissioner Malcolm's memorandum of July 25, 1980, I have observed that co-defendants placed in various Southeast BOP facilities and heard over a several month period

or even on the same docket are the recipient of disparate decisionmaking.* * *"

At times, the Commission has attempted to equalize the treatment of co-defendants during the appeals process by using the decision made on one, even if it was incorrect, as the standard for deciding the remaining co-defendant cases. This approach avoids the appearance of disparity among a group of co-defendants, but results in unwarranted disparity with all other similarly situated offenders. The Commission's General Counsel has expressed concern about this practice on several occasions.

Several Commissioners and staff acknowledged that the Commission has a serious co-defendant disparity problem. They were of the opinion that the Commission needed to develop a formal strategy for making parole decisions on co-defendants. Also, they believed that the pre-review process referred to previously in this statement offered the opportunity to accumulate better information from probation officers and other Commission offices before parole decisions were made for co-defendants. Finally, they were of the opinion that the practice of using an incorrect decision as the standard for deciding co-defendant cases was improper.

Federal Rules of Criminal Procedure Need to Be Amended to Ensure Better Disclosure of Presentence Reports

Offenders convicted of Federal crimes are not being given adequate opportunity prior to the imposition of sentence to review their presentence reports and assess the accuracy of information contained in them. Rule 32(c)(3) of the Federal Rules of Criminal

Procedure does not provide for mandatory disclosure of the presentence report to both the defendant and his/her counsel prior to sentencing. Disclosure is only required upon request of the defendant or counsel. Also, there is a requirement on when disclosure is to take place, and courts have considerable latitude in determining how much of the report is to be shown to the defendant.

Two of the most important factors affecting the defense's ability to make use of disclosure are the timing of the disclosure and whether the defendant is allowed and encouraged to review the presentence report with his or her counsel. Rule 32(c)(3) does not provide for automatic disclosure but only for disclosure upon request. The rule requires that disclosure be made to the defendant or his/her counsel, but does not require that disclosure be made to both. When only the defense attorney sees the report, the whole disclosure process may be hampered if he/she does not provide the defendant with an opportunity to confirm or deny factual accuracy of the report. Also, the timing of the release of the report is as important as to whom it is released. If the defendant or his/her counsel are not given adequate time to review the document and check its accuracy, disclosure has little meaning.

To determine the extent of this problem and to assess the merits of the criticisms that have been leveled against disclosure, the Committee on Administration of the Probation System of the Judicial Conference of the United States asked the Federal Judicial Center to study the implementation of Rule 32(c)(3). The

study relied upon information gathered through a national field study involving personal interviews with Federal judges and probation officials in 20 judicial districts as well as an analysis of responses to three separate sets of questionnaires sent to randomly selected judges, all chief probation officers, and randomly selected line probation officers.

The study, published in the June 1980 Harvard Law Review, 1/ concluded that district courts have been only partially successful in using disclosure practices that ensure complete factual accuracy of the presentence report. For example, 50 percent of the courts disclosed the report only to the defense counsel. Similarly, one-third of the courts only released the report on the day of sentencing--a time when the defense is least likely to give the report the careful and thorough reading necessary to ensure that the information is reliable. Also, only one-seventh of the courts disclosed the report prior to the day of sentencing in the majority of cases. Furthermore, one-sixth failed to disclose the presentence report even to the defense attorney in an overwhelming majority of their cases.

During our visits to 10 judicial districts, we found that seven had a policy of making the presentence reports available for review by either the defendant or his counsel prior to sentencing; however, the extent of disclosure within the same judicial district varied based upon the philosophy of various judges.

1/"Due Process at Sentencing: An Empirical and Legal Analysis of the Disclosure of Presentence Reports in Federal Courts," Harvard Law Review, June 1980.

In one judicial district, judges disclosed only that part of the presentence report covering the offender's prior criminal record and this was not done until sentencing. In another judicial district, the disclosure procedures ranged from automatic disclosure of the entire presentence report 3 days prior to sentencing to only partial disclosure, upon request, the day of sentencing.

One excellent example of full disclosure of the presentence report was brought to our attention by a judge during our attendance at a Sentencing Institute in May 1980. These Institutes are conducted periodically so that the Bureau of Prisons, the Courts, and the Parole Commission can address mutual problems. This judge told us that he met with the probation officer who prepared the presentence report, the defendant and defense counsel, and the prosecutor several days prior to sentencing to discuss the presentence report. Such a forum provides an opportunity for the defense and the prosecution to correct any inaccuracies and resolve discrepancies prior to sentencing.

Several Federal Public Defenders told us that present disclosure practices in some Federal courts do not provide the defendant or defense counsel with adequate opportunity to review the presentence report and challenge inaccurate or misleading information. Parole Commissioners and staff told us that they supported mandatory disclosure of presentence reports because they believed it would improve the quality of information used to make parole decisions.

CHANGES ARE NEEDED TO IMPROVE PAROLE SUPERVISION

Major changes need to be made to the procedures followed by the Commission and the Federal Probation Division when supervising parolees in the community. Among other things, the Commission and the Federal Probation Division need to work together to

--develop clear definitions of program requirements for special conditions of parole and specific criteria for determining what constitutes a violation of such conditions;

--improve procedures for reporting parole violations by (1) establishing specific time frames for reporting violations and (2) clarifying the guidelines probation officers use in requesting warrants;

--clarify procedures to be followed when terminating parole supervision; and

--develop procedures for supervising parolees in the Witness Security Program, and alien parolees who are released to the community awaiting the outcome of deportation proceedings. These groups are currently not being supervised.

Special conditions of parole need to be better administered

Two ingredients are necessary for properly administering special conditions of parole: (1) clear definitions of program requirements and (2) specific criteria for determining what constitutes a violation of such conditions. Without these two ingredients, there is no assurance that offenders will receive essential

services or that those who fail to comply with special conditions will be uniformly disciplined.

The Commission has imposed special conditions of parole requiring that offenders participate in drug, alcohol, and mental health aftercare programs, but neither the Commission nor the Federal Probation Division has adequately defined program requirements or otherwise specified what parolees must do to comply with these conditions. Thus, probation officers have developed their own interpretations of program requirements.

Additionally, the Commission's procedures manual does not provide any guidance on what constitutes a violation of a special condition of parole. Also, there are no instructions in the probation manual, with one exception. Draft guidelines on drug aftercare define a violation of this condition as two consecutive positive urine tests or one positive test in conjunction with a missed test.

We found a number of diverse opinions as to what circumstances should be reported to the Commission as violations of special conditions of parole. Some probation officers expressed the opinion that they would not report anything unless they believed the Commission would take some specific action such as issuing a formal reprimand or a warrant. Others avoided reporting anything when they believed they could work with the parolee. Some probation offices developed quantitative criteria for reporting violations of drug aftercare conditions.

Many probation officers felt that they had been reporting violations of special conditions of parole. The problem, however, is

that they did not perceive the same things as violations. In some cases, probation officers told us that they would report one or two isolated instances of drug usage as violations while other probation officers stated that drug usage would not be reported unless the offender had several consecutive tests confirming drug usage.

Better procedures needed for reporting parole violations

The Commission and the Federal Probation Division have not established time frames for reporting different types of parole violations or developed specific criteria for probation officers to use in requesting warrants for parole violations. As a result, there were inconsistencies among probation offices in the time frames for reporting violations and in the circumstances considered necessary to justify requesting a warrant.

The Commission's procedures manual requires probation officers to report new criminal offenses and certain technical violations "immediately." Immediate reporting is also required for violation patterns if, "* * *in the opinion of the probation officer, the violation behavior is part of a continuing pattern of infractions or is indicative of serious adjustment problems likely to culminate in criminal activities." However, the Commission has not defined the time frame meant by "immediately" and there are differing opinions on the matter.

In order to determine how probation officers interpreted the Commission's requirement for immediate reporting of certain violations, we asked 10 probation offices for the criteria used in

reporting violations. We found that the Western District of Missouri requires that all criminal offenses and technical violations be reported within 3 days, and that the Eastern District of Pennsylvania requires major criminal offenses to be reported within 10 days after arrest, with a 15-day requirement for misdemeanors and violations of special conditions of parole. The other eight offices did not have any criteria.

Our review of 358 cases under parole supervision in these judicial districts supported the contention that violations covered by the Commission's immediate reporting requirements were being reported in many different time frames.

We also found that the probation manual did not provide any specific guidance to probation officers on when to request a warrant from the Commission for a parole violation. On the other hand, the Commission has established some general criteria but we found it to be inadequate because it did not (1) clearly differentiate between major and minor law offenses, (2) define what constituted substantial infractions of the conditions of release, and (3) specify circumstances which justify warrants for administrative violations.

The Parole Commission's procedures manual states that a warrant

--may be issued for a violation of any general or special condition of parole;

--shall be issued in cases where there is a new criminal conviction (other than for a minor offense) unless the Regional

Commissioner finds good cause for nonissuance of the warrant and gives appropriate reasons; and

--should be issued when the parolee's continuance on parole is incompatible with the welfare of society or promotes disrespect for the parole system.

Also, the Commission's procedures manual states that requests for warrants should be limited to convictions and administrative charges which, if sustained, indicate a substantial infraction of the conditions of release. It further provides that if a parolee is alleged to have committed a crime of violence and there appears to be a risk of future violent crime, the warrant shall be issued with instructions for immediate custody.

In the 10 judicial districts we visited there were inconsistencies in the criteria established by the offices for requesting a warrant for some categories of violations. In other categories, specific criteria had not been developed by the offices and the matter has been left to the discretion of the individual probation officers. For example, all offices considered new felony convictions as major criminal offenses and used them as a basis for requesting a warrant. However, the definition of a felony differs by State. Minor offenses did not result in requests for warrants but probation offices could request warrants for such offenses if a pattern of criminal activity had developed. This too was subject to interpretation.

The Commission's procedures manual states that if a parolee's whereabouts is unknown for more than 30 days, the probation officer should immediately report this to the Commission. However, the

manual does not differentiate a time frame within which the probation officer should submit a violation report as opposed to requesting a warrant. In the 10 offices we visited, five had not established criteria for requesting a warrant when a parolee's whereabouts was unknown. The other five offices had established criteria which ranged from 1 to 3 months of whereabouts unknown before a warrant was to be requested.

A December 1975 study of the Commission's activities by the Department of Justice noted that probation officers perceived that the Commission was reluctant to issue warrants for administrative violations. Probation officers believed that a series of administrative violations could predict future criminal activity and should be the basis for revoking parole. They suggested that the Commission consider warrants for violations to deal with the problem more seriously. In our view, the major issue addressed by probation officers was the need for a specific definition of when administrative violations constitute sufficient infractions of the conditions of release to justify a request for a warrant. None of the 10 offices we visited in 1980 had established any such criteria.

Better administration of the parole termination process is required

The Commission and the Federal Probation Division need to work together to better administer the parole termination process. Specifically, they need to

--clarify procedures for determining when a parolee's supervision in the community should be terminated, and

--establish a system to ensure that annual reviews for establishing the need for continued supervision are completed.

Some parolees are not supervised

The Commission and the Federal Probation Division need to work with (1) the United States Marshals Service to develop procedures for supervising parolees released to the Witness Security Program and (2) the Immigration and Naturalization Service (INS) to establish procedures for supervising alien parolees awaiting the outcome of their deportation proceedings. Without adequate procedures, the Commission is unable to identify these individuals or ensure that they comply with their conditions of parole.

The Commission releases some parolees to the Witness Security Program administered by the United States Marshals Service. These parolees are generally given a new identify and relocated to other parts of the country. These individuals are not supervised by probation officers as is the case for other parolees in the community. Once offenders are released to the Witness Security Program, the Commission generally loses all contact with them and has no way of locating them.

In addition, the Commission releases aliens on parole to detainers lodged by the INS. Some offenders are deported very shortly after release to INS while others contest deportation. It then could take several months before deportation proceedings are completed. In the interim, those contesting deportation may request bail at any time. If bail is granted, they are released, but are not supervised by INS or probation officers. Finally,

the Commission does not routinely receive notification of the final disposition in alien cases so that these cases can be closed or the offenders placed under active supervision if deportation proceedings are cancelled.

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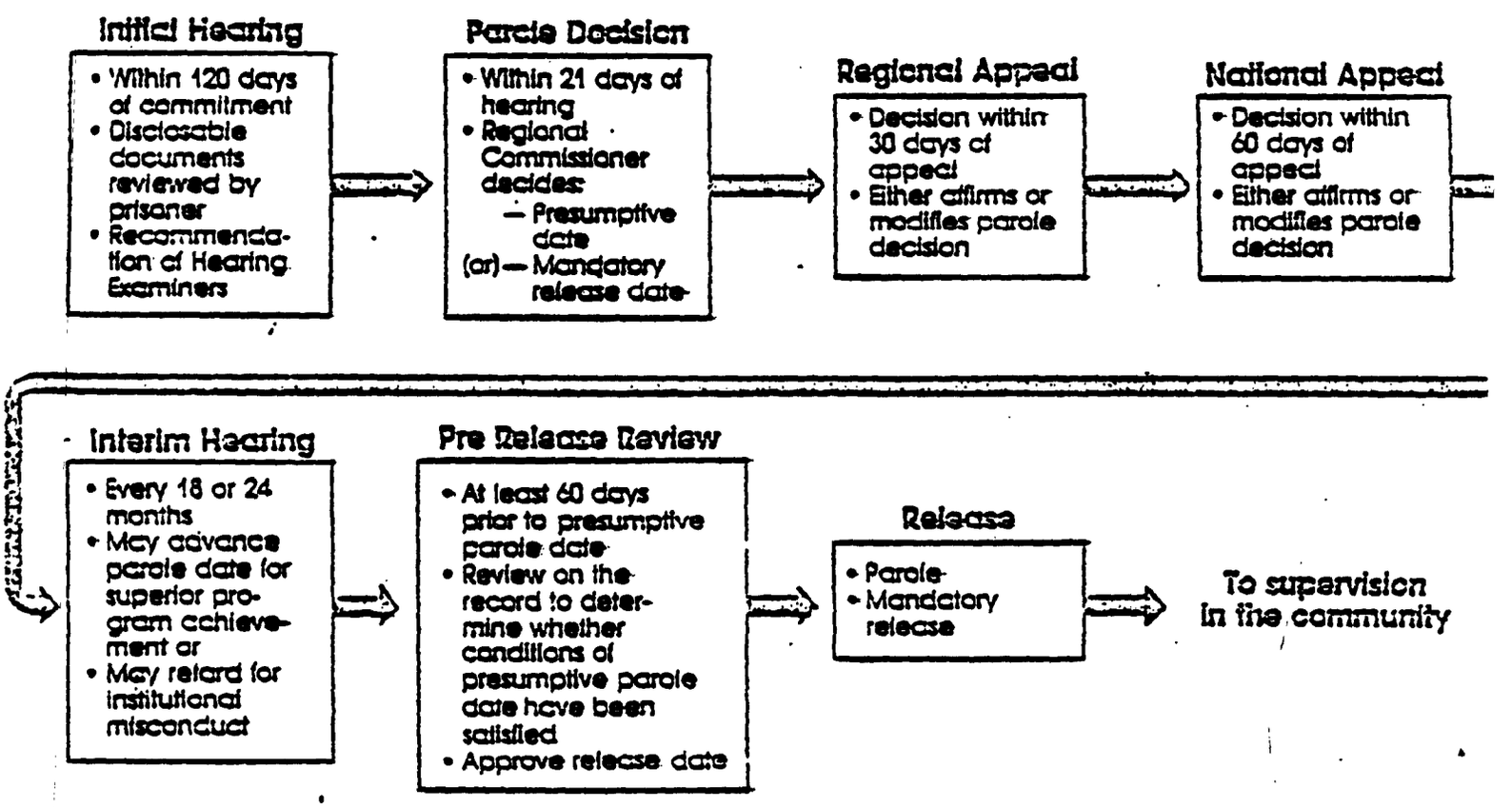
This statement discusses several major areas of parole decisionmaking that need improvement. Our final report will discuss these as well as other matters in greater detail and will provide conclusions and recommendations regarding them. It is our hope that the Committee will find this interim statement useful in its deliberations on the future use of parole within the Federal criminal justice system.

United States Parole Commission

Case Processing



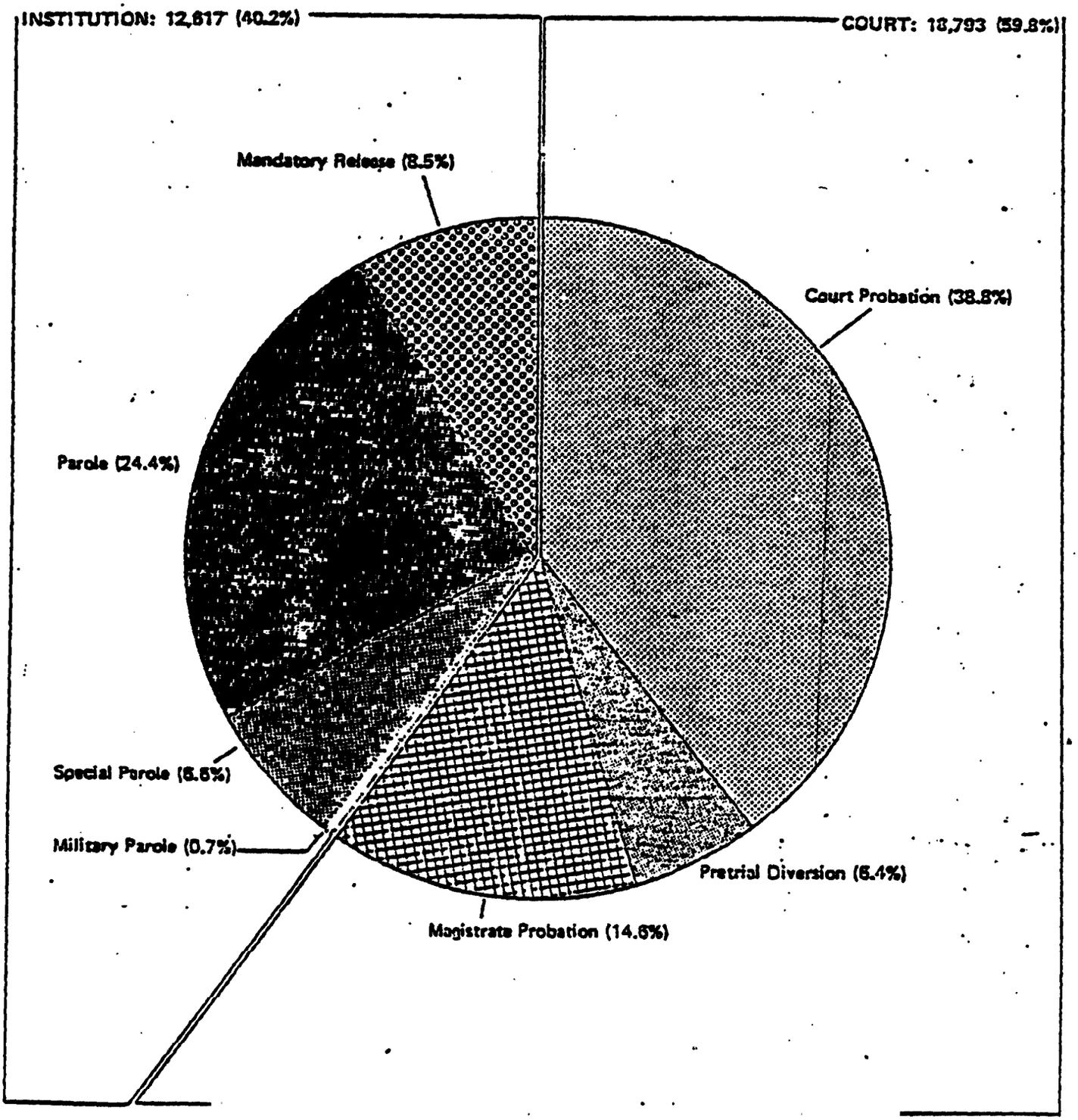
ATTACHMENT II

TYPE OF SUPERVISION FOR PERSONS RECEIVED BY THE FEDERAL PROBATION SERVICE

(EXCLUSIVE OF TRANSFERS)

12 MONTHS ENDED JUNE 30, 1980

TOTAL NUMBER OF PERSONS RECEIVED: 31,410



DETERMINATIONS OF MONTHS TO RELEASE BY CASE
CASE NUMBERS

FREQUENCY BAR CHART

LOW,HIGH		FREQ	CUM. FREQ	PERCENT
8--8A	**********	2	2	7.41
10--10	*****	1	3	3.70
12--14	**********************************	7	10	25.93
14--20	**********************	6	16	22.22
20--26	**	11	27	40.74

1 2 3 4 5 6 7 8 9 10 11

FREQUENCY

DETERMINATIONS OF MONTHS TO RELEASE BY CASE
CASE NUMBERS2

FREQUENCY BAR CHART

LOW,HIGH		FREQ	CUM. FREQ	PERCENT
18--24	**********************************	7	7	21.21
24--32	****************	4	11	12.12
26--34	**********	2	13	6.06
32--40	*****	1	14	3.03
36--48	*****	1	15	3.03
48--60	**	12	27	36.36
60--72	**********************	6	33	18.18

1 2 3 4 5 6 7 8 9 10 11 12

FREQUENCY

ATTACHMENT III
Page 1

DETERMINATIONS OF MONTHS TO RELEASE BY CASE
CASE NUMBER1

FREQUENCY BAR CHART

LOW,HIGH	FREQ	CUM. FREQ	PERCENT
10--14	18	18	52.94
14--20	15	33	44.12
20--24	1	34	2.94

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18

FREQUENCY

DETERMINATIONS OF MONTHS TO RELEASE BY CASE
CASE NUMBER2

FREQUENCY BAR CHART

LOW,HIGH	FREQ	CUM. FREQ	PERCENT
24--36	12	12	36.36
48--52	21	33	63.64

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21

FREQUENCY

ATTACHMENT III
Page 2

DETERMINATIONS OF MONTHS TO RELEASE BY CASE AND REGION

CASE NUMBER=1

FREQUENCY BAR CHART

REGION	LOW--HIGH	FREQ	CUM. FREQ	PERCENT
NCRO	8--08	0	0	0.00
	10--10	1	1	20.00
	12--12	0	1	0.00
	18--20	4	5	80.00
	22--24	0	5	0.00
NERO	8--08	1	1	20.00
	10--10	0	1	0.00
	12--16	3	4	60.00
	18--20	0	4	0.00
	22--24	1	5	20.00
SCRO	8--08	0	0	0.00
	10--10	0	0	0.00
	12--12	1	1	16.67
	18--20	1	2	16.67
	22--24	4	6	66.67
SERO	8--08	1	1	14.29
	10--10	0	1	0.00
	12--14	1	2	14.29
	18--20	1	3	14.29
	22--24	4	7	57.14
WRO	8--08	0	0	0.00
	10--10	0	0	0.00
	12--12	2	2	50.00
	18--20	0	2	0.00
	22--24	2	4	50.00

1 2 3 4

FREQUENCY

NCRO - North-Central Regional Office
NERO - Northeast Regional Office
SCRO - South-Central Regional Office
SERO - Southeast Regional Office
WRO - Western Regional Office

DETERMINATIONS OF MONTHS TO RELEASE BY CASE AND REGION
CASE NUMBER2

FREQUENCY BAR CHART

REGION	LOW,HIGH	FREQ	CUM. FREQ	PERCENT
NCRO	18--24	5	5	71.43
	24--32	0	5	0.00
	26--18	0	5	0.00
	32--40	0	5	0.00
	36--48	0	5	0.00
	48--64	2	7	28.57
	60--72	0	7	0.00
NERO	18--24	1	1	16.67
	24--32	0	1	0.00
	26--36	2	3	33.33
	32--40	0	3	0.00
	36--48	0	3	0.00
	48--60	3	6	50.00
	60--72	0	6	0.00
SERO	18--24	1	1	16.67
	24--32	1	2	16.67
	26--36	0	2	0.00
	32--40	1	3	16.67
	36--48	0	3	0.00
	48--60	1	4	16.67
	60--72	2	6	33.33
SERO	18--24	0	0	0.00
	24--32	0	0	0.00
	26--36	0	0	0.00
	32--40	0	0	0.00
	36--48	1	1	14.29
	48--60	4	5	57.14
	60--72	2	7	28.57
WRO	18--24	0	0	0.00
	24--32	3	3	42.86
	26--36	0	3	0.00
	32--40	0	3	0.00
	36--48	0	3	0.00
	48--60	2	5	28.57
	60--72	2	7	28.57

1 2 3 4 5

FREQUENCY

DETERMINATIONS OF MONTHS IN RELEASE BY CASE AND REGION
CASE NUMBERS

FREQUENCY BAR CHART

REGION	LOW--HIGH	FREQ	CUM. FREQ	PERCENT
NCRO	10--18	4	4	57.14
	18--26	3	7	42.86
	26--35	0	7	0.00
WRO	10--18	4	4	66.67
	18--26	2	6	33.33
	26--34	0	6	0.00
SCRO	10--18	2	2	33.33
	18--26	3	5	50.00
	26--34	1	6	16.67
SERO	10--18	4	4	57.14
	18--26	3	7	42.86
	26--34	0	7	0.00
HRO	10--18	4	4	50.00
	18--26	4	8	50.00
	26--34	0	8	0.00

1 2 3 4

FREQUENCY

ATTACHMENT IV
Page 3

DETERMINATIONS OF MONTHS TO RELEASE BY CASE AND REGION

CASE-NUMBER=50

FREQUENCY BAR CHART

REGION	LOW=HIGH	FREQ	CUM. FREQ	PERCENT
NCEN	28--36	4	4	57.14
	40--52	3	7	42.86
NFSN	28--36	2	2	40.00
	40--52	3	5	60.00
SCEN	28--36	2	2	33.33
	40--52	4	6	66.67
SERN	28--36	2	2	25.00
	40--52	6	8	75.00
WRN	28--36	2	2	28.57
	40--52	5	7	71.43

1 2 3 4 5 6

FREQUENCY