

STATE OF FLORIDA
OFFICE OF THE AUDITOR GENERAL



151512

PERFORMANCE AUDIT

OF THE

IMPLEMENTATION OF
CONTROL RELEASE SUPERVISION

ADMINISTERED BY THE

FLORIDA PAROLE COMMISSION AND
DEPARTMENT OF CORRECTIONS

JANUARY 18, 1994

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STATE OF FLORIDA

OFFICE OF THE AUDITOR GENERAL



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January 18, 1994

NCJRS

DEC 2 1994

The President of the Senate, the Speaker of the
House of Representatives, and the
Legislative Auditing Committee

ACQUISITIONS

I have directed that a performance audit be made of the Implementation of Control Release Supervision administered by the Florida Parole Commission, sitting as the Control Release Authority, and the Department of Corrections. The results of the audit are presented to you in this report. This audit was made as a part of an ongoing program of performance auditing by the Office of the Auditor General as mandated by Section 11.45(3)(a), Florida Statutes.

Respectfully yours,

Charles L. Lester
Auditor General

Audit supervised by:

D. Byron Brown

Audit made by:

Sandra L. Lipner

PERFORMANCE AUDIT
 OF THE
 IMPLEMENTATION OF CONTROL RELEASE SUPERVISION
 ADMINISTERED BY THE
 FLORIDA PAROLE COMMISSION, SITTING AS THE CONTROL
 RELEASE AUTHORITY, AND THE DEPARTMENT OF CORRECTIONS

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Section 1

The Increased Use of Control Release Supervision

Finding 1.1

The use of control release has resulted in increases in the percentage of inmates who are supervised after their release from prison, and in the average duration of supervision. For inmates placed on control release supervision, the term of control release supervision itself represents an increasingly significant portion of the total amount of time some criminal offenders remain under the state's jurisdiction. 14

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Section 2

Control Release Supervision: Surveillance and Transition Assistance

Finding 2.1

In comparison with other forms of community supervision, control release supervision provides a minimal level of surveillance of offenders released from prison into the community. Officers are only required to make one personal contact with the offender each month, regardless of the seriousness of the offender's criminal history or the length of the offender's term of supervision. As a result, control release supervision, as currently administered, may not be significantly ensuring the public's safety from offenders who represent higher levels of risk to the community. 21

Finding 2.2

The Department of Corrections has not formally identified the types of transition assistance resources and services that control release offenders need to assist their re-entry into the community. Furthermore, the availability of such services is limited due to resource constraints. The Control Release Authority and the Department need to determine the extent to which supervision resources should be used to provide transition assistance services and develop strategies to provide such assistance. 24

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Section 3
Sanctions for Control Release Violations

Finding 3.1

The Control Release Authority and Department of Corrections lack alternatives to the reincarceration of offenders whose control release supervision has been revoked. Approximately 60% of the offenders the Control Release Authority returned to prison in fiscal year 1991-92 were reincarcerated for violating control release terms and conditions that did not involve the commission of new crimes. The reincarceration of offenders who have not committed additional crimes may work against the primary purpose of control release, which is to selectively release offenders from prison to maintain the state prison system population within lawful capacity. 31

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CONTROL RELEASE SUPERVISION PROGRAM

Purpose and Scope

This audit reviews the implementation of control release supervision by the Florida Parole Commission, sitting as the Control Release Authority, and by the Department of Corrections. This audit was conducted as a part of the Auditor General's 10-year schedule of performance audits, as directed by Ch. 90-110, Laws of Florida. Our audit objectives were:

- To review the implementation of control release supervision by the Control Release Authority and by the Department;
- To review the effect of implementation of control release supervision on the length of the state's jurisdiction over offenders;
- To review selected outcomes of control release supervision, including employment rates, and revocation and reincarceration; and
- To identify how selected states have implemented similar post-release supervision programs.

Our audit did not include a review of the Control Release Authority's decisions to invoke control release, decisions concerning which inmates to release from prison, or its decisions to impose post-release supervision.

Background

During the 1980's, the Florida Legislature responded to the dual pressures of rising prison

EXECUTIVE SUMMARY

admissions and litigation concerning prison overcrowding by enacting a series of provisions to manage the population of the state prison system. These provisions were designed to maintain the system's legal capacity by accelerating the release of inmates to make room for incoming offenders. With the implementation of control release in 1990, provisions for releasing inmates early from prison were changed from an automatic process, in which all eligible offenders were granted early release, to a discretionary system in which no inmate has the right to control release from prison.

In providing for a discretionary early release process, the Legislature placed responsibility for control release within the Florida Parole Commission, sitting as the Control Release Authority. The primary purpose of the Control Release Authority, as provided in s. 947.146, F.S., is to implement a system of uniform criteria for determining the number and type of inmates who must be released from prison by control release to maintain the state prison system below 99% of its lawful capacity.¹ To accomplish this responsibility, the Authority reviews the Department's weekly projection of the number of offenders scheduled to begin a term of incarceration. If this number exceeds available bed space, the Authority advances the release of the number of prisoners needed to maintain the prison system's population within the designated capacity. The Authority thus determines when to release inmates who meet the criteria for control release established in s. 947.146, F.S. However, the Authority also reviews each eligible offender's case history prior to the offender's control release to determine the individual's suitability for early release.

¹ Prior to passage of Ch. 93-406, Laws of Florida, this requirement was 97.5% of lawful capacity.

EXECUTIVE SUMMARY

As part of the release decision, the Control Release Authority determines whether to release the offender directly into the community without the Department's further supervision, or whether to impose a term of supervision. If a term of supervision is imposed, the offender is placed under either administrative control release or regular control release supervision for a specific length of time. If the CRA imposes a term of administrative control release, the offender is not subject to direct supervision by a Department officer, but to a form of administrative supervision as provided in Rule 23-22.013, F.A.C. (effective 1992). DOC staff check national and state criminal information systems on an established schedule to identify whether the offender has been arrested for, or charged with, committing a new criminal offense.

If regular control release supervision is imposed, the Authority sets the terms and conditions of supervision. The authority may require an offender to comply with certain special conditions. For example, the Authority may require an offender to pay restitution to victims, or to participate in a community treatment program, such as Alcoholics Anonymous. The Authority is authorized to revoke control release and reincarcerate offenders who violate supervision terms and conditions.

Inmates who are released from prison to a term of control release supervision remain under the Department's authority during the supervisory period. Officers are required to have one contact with the control release offender each month, and to periodically verify the offender's residence and place of employment. Officers monitor the offender's compliance with supervision terms and conditions, and verify that the offender is complying with any special conditions set by the Control Release Authority. Department Officers are

also responsible for notifying the Control Release Authority when offenders violate supervision conditions.

Results in Brief

Control release is the most recent of a series of mechanisms the Legislature enacted during the 1980's to manage the population of the state prison system by releasing inmates early from prison. During the 2½ year period since its implementation (September 1990 through March 1993), a total of 53,440 inmates had been released early from prison by control release. Of this total, 32,064 (60%), were released to a term of control release supervision. An additional 7,481 (14%), were released to a term of court-imposed supervision (probation or community control). The remaining 13,895 (26%) were released directly into the community without further supervision.

The implementation of control release supervision has led to a greater proportion of offenders being supervised upon release from prison, and an increase in the average term of supervision imposed. The use of control release supervision extends the state's jurisdiction over many felony offenders by more than twice the average length of time the offenders spends in prison.

The purpose of the term of control release supervision is not clearly defined. Control release offenders are subject to limited surveillance and control, and few resources and services are available to assist their re-entry into the community. The Department cites high caseloads and limited resources as reasons control release offenders are not subject to closer surveillance and control and do not receive more transition assistance.

The Control Release Authority and the Department have not set priorities for supervising control release offenders that would result in an allocation of available supervision resources consistent with specific supervision goals and objectives. The public's safety would be better protected by providing different levels of surveillance and control consistent with offenders' varying degrees of risk, and need for basic support services, such as assistance in obtaining housing and employment.

Of the 32,064 offenders placed on control release supervision, the CRA had revoked the terms of 6,285 (20%), as of April 6, 1993. During fiscal year 1991-92, approximately 60% of the 2,966 offenders who were reincarcerated were cited for violations of the terms and conditions of control release supervision, and not for the commission of new offenses. The Authority has not adopted alternatives to reincarcerating offenders who violate control release requirements. However, when violators are returned to prison, prison releases must be accelerated to maintain the state prison system within capacity constraints. During the 1992-93 fiscal year, 15% of the admissions to prison were control release offenders the authority had reincarcerated for violating control release.

Findings

More Inmates Released Through Control Release Receive Supervision

With implementation of control release, the percentage of inmates released from prison to a term of supervision has increased from 35% of inmates released in fiscal year 1987-88 to 72% in fiscal year 1992-93. Simultaneous with the increase in the percentage of offenders released to supervision, offenders released early through control release typically serve shorter

terms of incarceration, and longer terms of post-release supervision than do other offenders. For example, in fiscal year 1991-92, offenders released by control release served an average of 22% of their sentence compared with an average of 53% for inmates not released by control release.

Offenders placed on control release supervision served an average of 7.7 months in prison in fiscal year 1991-92. The average term of control release supervision imposed by the Control Release Authority in fiscal year 1991-92 was 17.6 months, or more than twice the average length of time served in prison. The use of control release supervision thus partially offsets reductions in the length of incarceration that result from the need to release some inmates from prison early to maintain the state prison population at lawful levels. The term of control release supervision has thus become a significant portion of the total amount of time some offenders remain under the state's jurisdiction.

**Offenders Placed in
Control Release
Supervision Receive
Minimum Surveillance**

Offenders placed in control release supervision receive minimal levels of surveillance. As a result, control release supervision may not be significantly protecting the public's safety. Offenders under regular control release supervision are subject to the lowest levels of surveillance and control of any of the Department's direct supervision programs. Officers are required to make one personal contact with the offender each month, regardless of the seriousness of the offender's criminal history. Furthermore, the Department's system for classifying offenders in other community supervision programs according to the need for maximum, medium, or minimum supervision does not apply to control release supervision. Therefore, the number of required contacts with the offender does not vary during the term of control release supervision

regardless of whether an offender is making progress toward successful reintegration into the community or is having readjustment problems.

Other States Have Multiple Levels of Supervision

Officials in the 12 states we interviewed reported that their states use multiple levels of supervision or intensive supervision for offenders released early from prison. For example, one state provides six levels of supervision, ranging from intensive supervision for specific offenders, such as substance abusers, to administrative, or non-contact supervision. In another state, offenders are released to intensive supervision that includes three face-to-face contacts and one telephone contact each week between officer and offender, along with two contacts with the offender's employer or family. Nine of the 12 states we contacted placed specific types of offenders, such as substance abusers, into intensive supervision programs similar to Florida's Community Control Program.

Control Release Supervision Practices Have Not Been Modified for Offenders with Serious Criminal Profiles

Furthermore, the Department's supervision practices have not been modified to reflect the increasingly serious criminal profiles of inmates released to control release supervision. To assist its management of the state prison system population, the Control Release Authority effected a rule change permitting it to approve the control release of inmates the Authority had previously classified as unsuitable for early release from prison. From August 1, 1992, to March 31, 1993, the CRA released a total of 2,109 inmates who the Authority had previously classified as unsuitable for release from prison. However, the CRA did not direct the Department to provide these offenders with closer, or more intensive, supervision. As a result, control release supervision, as presently administered, may not be significantly ensuring the public's safety from offenders who represent higher levels of risk to the community.

**Offenders Placed In
Control Release
Supervision Have Limited
Access to Transition
Assistance Resources and
Services**

Control release offenders have limited access to transition assistance resources and services. Assisting offenders with their reintegration into the community helps the offender become a productive member of society while also serving to protect the public's safety. Although the Legislature has emphasized the importance of providing transition assistance, the availability of such assistance is limited, partly as a result of resource constraints. Officers' attempts to assist control release offenders are limited by the extent to which such services and resources are available locally, and where available, at a cost the offender can afford.

**Employment Rates of
Control Release Offenders
About the Same as Those
Released Without
Supervision**

The Department has not formally identified the types of services and assistance control release offenders need. For example, one apparent need for control release offenders is employment assistance. In a comparison of offenders released during fiscal year 1990-91, inmates released to control release supervision were no more likely to become employed than those released from prison without supervision to follow. Data from the Florida Education and Training Placement Information Program indicated that approximately 28% of both groups were employed during the last quarter of calendar year 1991. Because control release offenders have been in prison for relatively short terms of incarceration, their needs for assistance may differ somewhat from offenders who have been in prison for longer periods of time. Neither the Control Release Authority nor the Department have identified the extent to which control release supervision should include transition assistance as opposed to surveillance and control.

Reincarceration of Offenders on Control Release Supervision May Work Against The Primary Purpose of Control Release

The CRA and DOC lack alternatives to the reincarceration of offenders whose supervision has been revoked. The reincarceration of offenders who have not committed new crimes may work against the primary purpose of control release, which is to selectively release offenders from prison to maintain the state prison system population within lawful capacity.

During fiscal year 1991-92, the CRA returned nearly 3,000 offenders to prison for violating control release. Approximately 40% of these cases involved the commission of new crimes, while in the remaining 60% of cases, the CRA returned the offenders to prison for violating specific conditions of supervision that did not involve the commission of new crimes. The number of offenders returned to prison for violating control release supervision represents an increasing percentage of the total number of state prison admissions. During fiscal year 1992-93, a total of 15% of the offenders admitted to the state prison system were control release offenders the CRA had returned to prison for violating control release supervision.

Alternative Sanctions Are Needed Rather Than Reincarceration

The use of reincarceration as the primary sanction for violations of control release supervision may work against the major purpose of control release, which is to select less dangerous offenders for release to maintain the prison population within lawful capacity. For each control release offender that is returned to prison the CRA is required to make room for that offender by releasing an additional inmate through control release. These returns thus accelerate the release of all eligible offenders. In addition, reincarceration costs significantly more than community supervision. In fiscal year 1991-92, the cost to supervise offenders in post-release supervision programs was \$0.83 per offender, per day,

whereas the cost to incarcerate a male offender was \$38.29 per inmate, per day.

Recommendations

Recommendations to the Legislature

The Legislature should consider revising s. 947.146 (10), F.S., to declare its intent regarding the extent to which control release supervision should provide protection to society and transition assistance to offenders.

Recommendations to the Control Release Authority and the Department of Corrections

The Control Release Authority, in conjunction with the Department of Corrections, should clearly identify the purpose(s) of the term of control release supervision in order to provide a basis for decisions regarding the allocation of supervision resources.

If the CRA and the Department conclude that the protection of society is a stated purpose of control release supervision, then the Department should adopt a system for classifying the potential risk of offenders and provide closer supervision of offenders identified as posing a greater risk to society. Given the limited resources available for such supervision, the CRA and the Department should develop procedures to provide supervision based on the offender's criminal history and circumstances. For example, the CRA and the Department may determine that offenders with the most serious criminal histories should be subject to more frequent supervisory contact upon release from prison, or that offenders who obtain stable employment receive less frequent supervisory contact, or are transferred to Administrative Control Release supervision.

EXECUTIVE SUMMARY

If the CRA and the Department conclude that providing transition assistance is a stated purpose of control release supervision, then the Department should conduct a needs assessment to identify the types of transition assistance and services offenders need, if any, and develop strategies to provide such assistance using available resources. The Department should also inform the Legislature regarding what, if any, additional resources are needed to assist the control release population.

The revocation of control release and reincarceration of offenders for violations of technical conditions of control release supervision runs counter to the purpose of control release. Therefore the Control Release Authority and the Department should develop alternatives to revoking the supervision of offenders who violate technical conditions. The CRA and the Department should also identify alternatives that can be used to sanction offenders who violate the terms of control release but who do not represent a danger to the community. Possible alternatives include the use of community control supervision, electronic monitoring, and halfway houses. Implementation of alternatives to the revocation and reincarceration of control release violators will result in the use of less costly sanctions and in sanctions that have less impact on efforts to manage the state prison system population.

Agency Response

The Chairman of the Florida Parole Commission, in his written response to our preliminary and tentative findings and recommendations, generally agreed with our recommendations and described actions the Commission is taking to address our concerns.

The Secretary of the Department of Corrections agreed with our recommendations and described specific actions taken or contemplated to address the deficiencies cited.

CHAPTER I

Introduction: Purpose and Scope, Methodology

Purpose and Scope

This audit reviews the implementation of control release supervision by the Florida Parole Commission, sitting as the Control Release Authority, and by the Department of Corrections. This audit was conducted as a part of the Auditor General's 10-year schedule of performance audits, as directed by Ch. 90-110, Laws of Florida.

The Florida Parole Commission, acting in its role as the Control Release Authority, is responsible for releasing inmates from prison early to avoid prison overcrowding. The Control Release Authority imposes a term of post-release supervision for more than half of the inmates it releases by control release. The Department of Corrections is responsible for providing supervision in the community to inmates released from prison by the Control Release Authority. Accordingly, our audit objectives were:

- To review the implementation of control release supervision by the Control Release Authority and by the Department;
- To review the effect of implementation of control release supervision on the length of the state's jurisdiction over offenders;
- To review selected outcomes of control release supervision, including employment rates, and revocation and reincarceration; and
- To identify how selected states have implemented similar post-release supervision programs.

Our review of the implementation of control release supervision did not include a review of the Authority's decisions to invoke control release, decisions concerning which inmates to release from prison, or its decisions to impose post-release supervision.

Methodology

This audit was made in accordance with generally accepted government auditing standards and accordingly included appropriate performance auditing and evaluation methods. Audit fieldwork was conducted from June 1992 to February 1993.

To gain an understanding of the background and history of post-release supervision programs in Florida, and of the roles of the Florida Parole Commission and the Department of Corrections relative to control release supervision, we reviewed relevant sections of the Florida Statutes, Laws of Florida, Commission and Department program documents and reports, and other State of Florida program documents, reports and publications. We also interviewed staff in the Florida Parole Commission (FPC) and the Department of Corrections.

To determine how the Florida Parole Commission, acting in its role as the Control Release Authority, and the Department have implemented control release supervision we interviewed selected FPC and Department staff, and reviewed and analyzed management and other reports and program documents prepared by the FPC and the Department. We also reviewed relevant reports prepared by other state entities, including the Criminal Justice Estimating Conference; the Economic and Demographic Research Division, Joint Legislative Management Committee, Florida Legislature; and reports by staff of the House and the Senate Committees on Corrections, Probation and Parole.

To determine the effect of control release supervision on the length of the state's jurisdiction over offenders, we analyzed offender release data compiled by the Department from fiscal year 1987-88 through 1992-93.

To review selected outcomes of control release supervision, we interviewed Department and FPC staff, reviewed revocation procedures and management reports, and reviewed Department reports on prison admissions and releases. We also reviewed the records of 329 revocation cases on which the Authority took action during fiscal year 1991-92. Finally, we analyzed data compiled by the Florida Education and Training Placement Information Program on employment of offenders released from prison from fiscal years 1987-88 through 1991-92.

For information concerning alternative program designs and post-release supervision programs in other jurisdictions, we reviewed general corrections literature and conducted telephone interviews with corrections officials in California, Colorado, Georgia, Illinois, Iowa, Louisiana, Michigan, Minnesota, New Jersey, Tennessee, Washington, and Wisconsin.

CHAPTER II

Background: Program Design and Organization

Program Design

Prior to 1983, parole release provided a mechanism for managing the prison population by releasing selected inmates early from prison to a term of parole supervision in the community. During the remainder of the 1980s, Florida's corrections system was challenged by the competing demands of rapid increases in prison admissions and the need to resolve litigation concerning prison overcrowding. As part of the state's efforts to address these issues, the Florida Legislature enacted a series of provisions to manage the state prison system population by releasing selected inmates early from prison. The Legislature adopted the most recent of these provisions, control release, in 1989.

Section 947.146, F.S., states that the primary purpose of the Control Release Authority (CRA) is to implement a system of uniform criteria for determining the number and type of inmates who must be released into the community under control release to maintain the state prison system below 99.0% of its lawful capacity.¹ Decisions concerning when to release inmates who meet the criteria for control release established in s. 947.146, F.S., are made by the Florida Parole Commission (FPC), acting in its capacity as the Control Release Authority. Inmates do not have a right to control release, and eligibility for control release is restricted by statute to a more narrowly defined group of offenders. Because control release is discretionary, the CRA reviews each eligible offender's case history to determine the offender's suitability for early release.

¹ Prior to passage of Ch. 93-406, Laws of Florida, this requirement was 97.5% of lawful capacity.

As part of the release decision, the Authority determines whether to impose a term of control release supervision, and if a term of supervision is imposed, whether the offender should be placed under administrative control release or regular control release supervision. If the CRA does not impose a term of control release supervision, the inmate is released from prison and is no longer subject to the authority of the Department of Corrections. If administrative or regular control release supervision is imposed, the inmate is released from prison, but remains subject to the authority of the Department. The Department of Corrections is responsible for monitoring offenders' compliance with supervision terms and conditions and for notifying the CRA of violations of supervision conditions. The CRA is authorized to revoke control release and reincarcerate offenders who violate terms and conditions of control release supervision.

If the CRA imposes a term of **administrative control release**, the offender is not subject to direct supervision by a Department officer, but to a form of administrative supervision as provided in Rule 23-22.013, F.A.C. (effective May 25, 1992). DOC staff check national and state criminal information systems on an established schedule to identify whether the offender has been arrested for, or charged with, committing a new criminal offense. If the offender fails to remain law-abiding, DOC staff may recommend the Control Release Authority revoke the offender's administrative control release and return the offender to prison. No other conditions of supervision are imposed on offenders placed on administrative control release.

Regular control release supervision consists of both direct supervision by the Department and the imposition of a variety of specific terms and conditions of supervision. For example, the CRA may require offenders to comply with specific terms and conditions, such as making restitution to victims, or participating in a community treatment program. Department officers are required to have one contact with the offender each month, and to periodically verify the offender's residence and place of employment. Officers are also required to verify that the offender is complying with any special conditions set by the Control Release Authority, such as participation in a community-based treatment program.

In accordance with s. 948.09, F.S., inmates released to control release supervision are required to pay the Department of Corrections a fee to help defray supervision costs. Inmates released after December 1, 1990, are assessed a fee of \$50 per month. Inmates released prior to that date are assessed \$40 per month. Section 948.09, F.S., also grants the Department the authority to waive the supervision fee if certain factors exist, such as the inability to find employment.

Program Organization

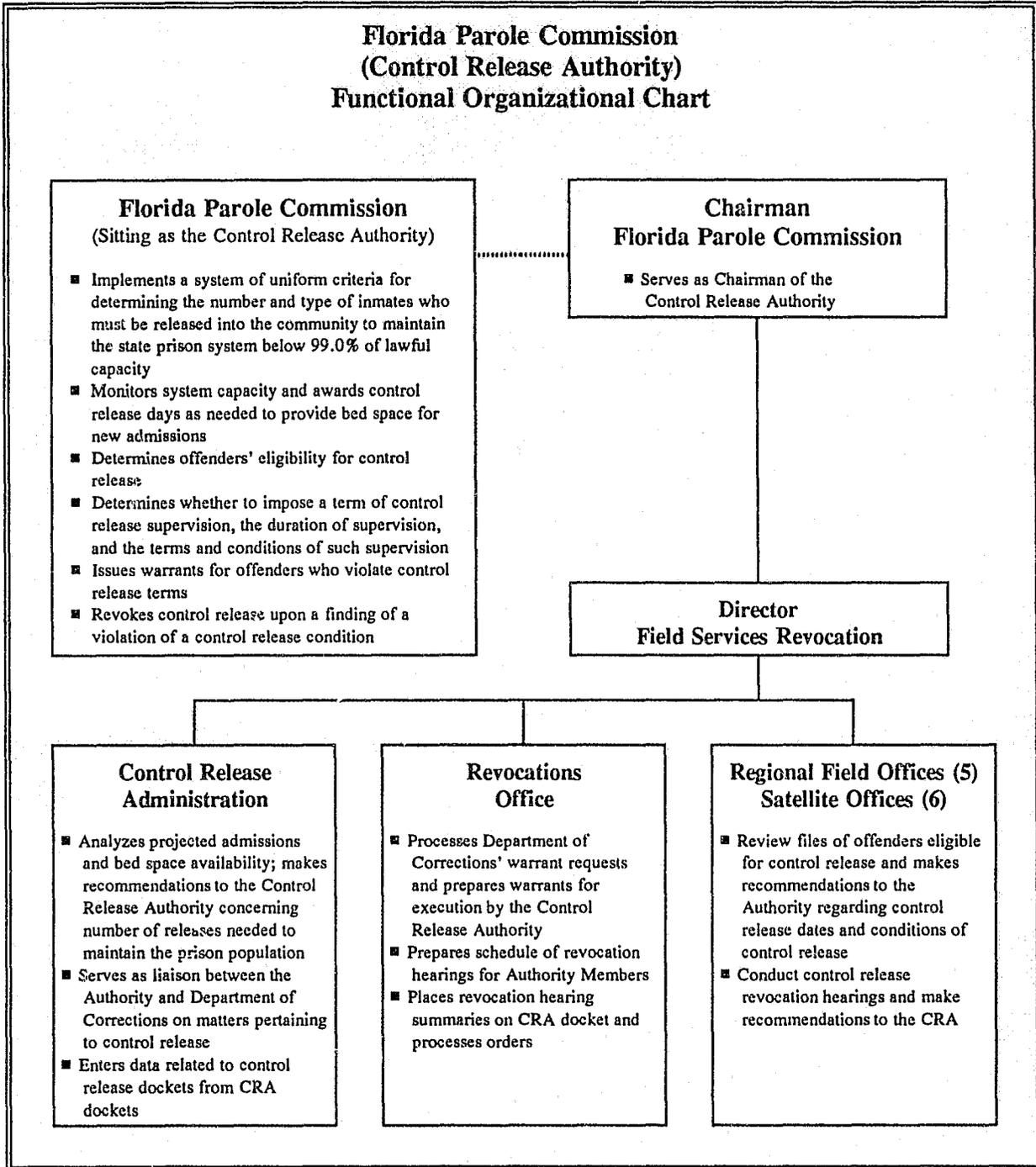
The Florida Parole Commission and the Department of Corrections share responsibility for control release supervision. The Florida Parole Commission, sitting as the Control Release Authority, is responsible for determining which inmates should be released from prison to maintain the prison population within lawful capacity. The CRA sets the terms and conditions of control release supervision, if any, and revokes control release, or otherwise disposes of cases of offenders the Department reports as having violated supervision terms and conditions (see Exhibit 1).

The chief administrative officer of the Florida Parole Commission is the Chairman. Parole Commissioners are chosen by a parole qualifications committee; appointed by the Governor and Cabinet; and confirmed by the Senate. The Chairman of the Parole Commission is elected by the Parole Commission members, and serves for two years. Mr. Gene R. Hodges was elected Chairman on July 1, 1992.² (See Appendix A for the names of the Florida Parole Commissioners.)

² In accordance with Ch. 93-61, Laws of Florida, the Parole Commission Chairman will be selected before July 1 of each even-numbered year by the Governor and Cabinet.

Exhibit 1

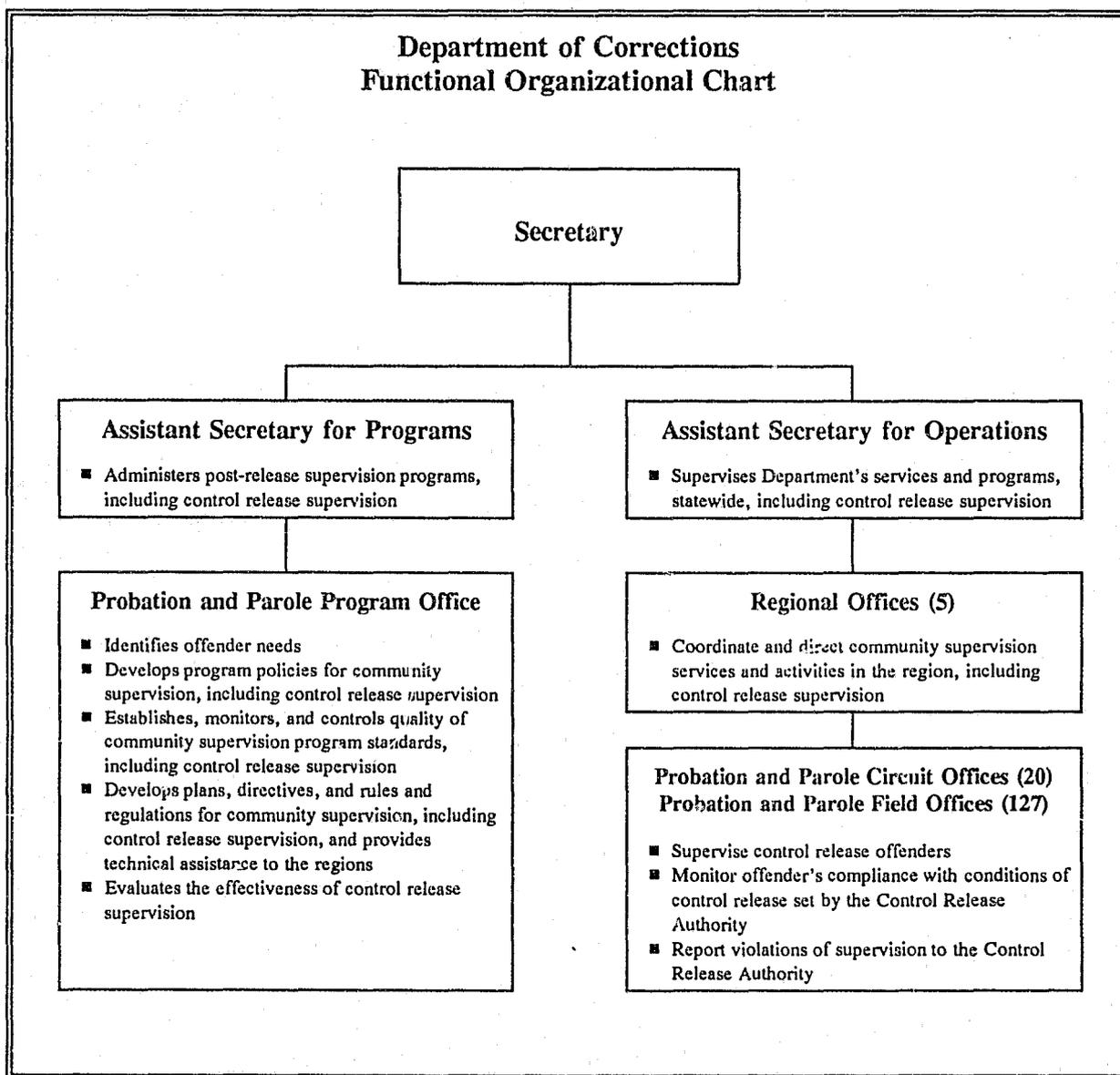
**Florida Parole Commission
(Control Release Authority)
Functional Organizational Chart**



Source: Compiled by OAG from Florida Statutes and the Florida Parole Commission's 1991-92 Annual Report.

The Department of Corrections is responsible for supervising offenders, for monitoring offenders' compliance with conditions established by the Control Release Authority, and for notifying the Authority of violations of supervision terms and conditions (see Exhibit 2). The chief administrative officer of the Department of Corrections is the Secretary, who is appointed by the Governor and confirmed by the Senate. Harry K. Singletary, Jr., was appointed Secretary of the Department of Corrections by Governor Lawton B. Chiles on April 12, 1991, and confirmed by the Senate on April 26, 1991.

Exhibit 2



Source: Compiled by OAG from Florida Statutes and Department of Corrections program material.

Program Resources

The Parole Commission expended \$8,176,378 for its operations in fiscal year 1992-93, including an estimated \$238,864 for activities related to control release. In addition to the 7 Parole Commissioners, the FPC employs 189 staff who perform legal and administrative responsibilities associated with parole, conditional release, conditional medical release, control release, and clemency.

The Department reported that \$2,716,492 were expended for Offender Release Services in fiscal year 1992-93.³ As of June 30, 1993, the Department had 81 authorized officer positions for supervision of control release offenders. Section 948.09, F.S., requires offenders supervised in the community to contribute no less than \$40 or more than \$50 per month as a cost of supervision fee. Monies collected for the cost of supervision are used to offset Department costs associated with community supervision programs, subject to appropriation by the Legislature.⁴ The Department does not produce separate reports of the amount contributed by offenders in control release supervision.⁵

³ Offender Release Services includes supervision of offenders in the following release categories: control release; conditional release; parole; provisional release supervision; and supervised community release.

⁴ Section 946.40, F.S. provides that ten dollars (\$10) of each monthly cost of supervision fee is to be used by the Department for administration of the Inmate Work Program.

⁵ During fiscal year 1992-93, the Department collected approximately \$20,135,584 million in cost of supervision fees from offenders in the Department's various community supervision programs, including probation, community control, and control release.

CHAPTER III

Findings and Recommendations

Background

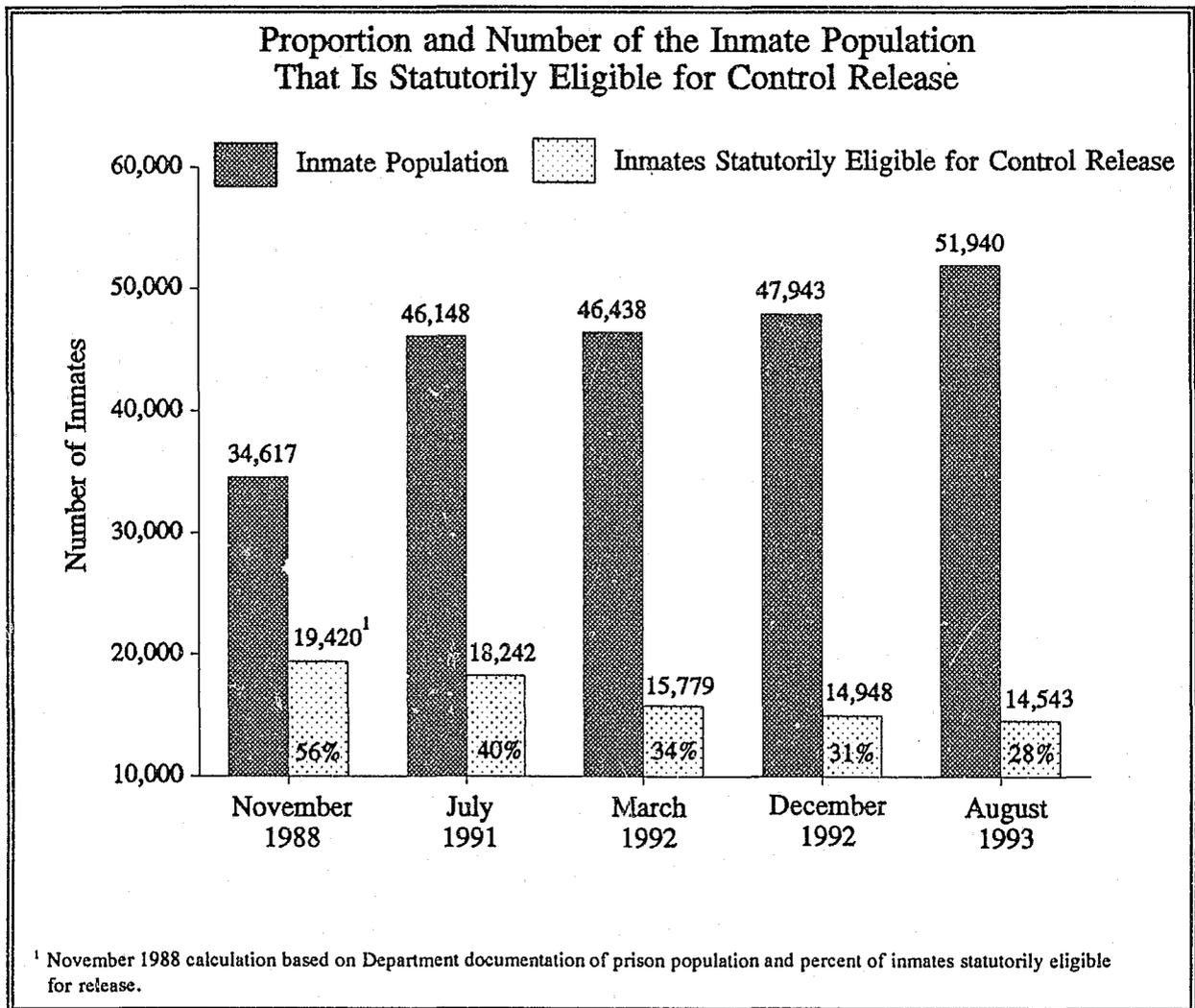
Subsequent to the abolition of eligibility for parole in 1983, the number of offenders admitted to prison increased from 12,516 in fiscal year 1983-84 to 44,701 in fiscal year 1989-90. Such growth strained the capacity of the state prison system to accommodate the number of offenders sentenced to terms of incarceration. To prevent the state prison system from exceeding its legal capacity, the Legislature established various mechanisms to accelerate the release of inmates from prison to make room for incoming offenders. Administrative gain-time was established in 1986, followed by provisional release in 1988. Control release, authorized by Ch. 89-526, Laws of Florida, was implemented in 1990 as the state's primary mechanism for maintaining the population of the state prison system within lawful capacity. During fiscal year 1992-93, approximately 68% of the total number of inmates released from prison, were released through control release.

Like administrative gain-time and provisional release, the primary purpose of control release is to avoid prison overcrowding by accelerating the release of some inmates. Control release differs, however, from these previous mechanisms in a number of ways. First, the Legislature moved the administrative responsibility for early release decisions from the Department of Corrections to the Florida Parole Commission, sitting as the Control Release Authority. Previous early release decisions were made by the Department of Corrections.

Second, eligibility requirements for control release are more restrictive than under prior mechanisms, thus reducing the portion of the state prison population that is eligible for early release. Certain violent and habitual offenders and offenders serving the

minimum mandatory portion of their sentences are not eligible for control release. Furthermore, the CRA has the discretion to deny control release to inmates it finds unsuitable for early release. The percentage of the inmate population statutorily eligible for control release has decreased from 56% of the inmate population in November 1988 when control release was first proposed to 28% of the August 1993 population. (See Exhibit 3.)

Exhibit 3



Source: Department of Corrections and Florida Parole Commission documents.

Another basic difference between control release and previous forms of early release is that longer terms of post-release supervision are allowed. The Legislature authorized the CRA to impose a term of control release supervision for a period up to the time remaining on the offender's sentence, as compared to the maximum 90-day supervision period that had been authorized under other release mechanisms. The nature of the requirements of supervision also changed. Under provisional release supervision, the Department had been required by s. 944.277, F.S., to contractually provide basic support services such as housing and employment assistance to all offenders released to provisional release supervision. For control release, the Legislature only required that these services be provided to offenders with terms of supervision of 90 days or less.⁶

To evaluate the implementation of control release supervision, we reviewed data relating to the number of offenders released to post-release supervision and the duration of such supervision. We also reviewed Control Release Authority and Department of Corrections information regarding the implementation of control release supervision. We discuss our findings in three sections:

- The Increased Use of Control Release Supervision;
- Control Release Supervision: Surveillance and Transition Assistance;
and
- Sanctions for Control Release Violations.

⁶ Chapter 93-406, F.S., changed this provision to apply to offenders with terms of supervision not exceeding 180 days.

Section 1

The Increased Use of Control Release Supervision

Finding 1.1

The use of control release has resulted in increases in the percentage of inmates who are supervised after their release from prison, and in the average duration of supervision. For inmates placed on control release supervision, the term of control release supervision itself represents an increasingly significant portion of the total amount of time some criminal offenders remain under the state's jurisdiction.

Inmates released from prison by control release are subject to a term of post-release supervision in the community. Thus, rather than releasing offenders from prison directly into the community, the state retains some period of extended jurisdiction over approximately two-thirds of released inmates. Such extended jurisdiction permits the state to monitor offenders' activities during their re-entry into society, to assist offenders with the reintegration process, and to return those offenders to prison who pose a threat to the public's safety. Inmates who do not have a term of supervision to follow their release from prison are considered to have completed their sentence and are not subject to a period of continued state supervision.

Between September 1990, when control release was implemented, and March 1993, a total of 53,440 inmates were released early from prison through control release. Of the total, 32,064 (60%), were placed under control release supervision. An additional 7,481 (14)%, were released from prison to begin serving the probation or community control portion of a court-imposed split sentence.⁷ The remaining 13,895 (26%) were released from prison directly into the community without supervision to follow.

⁷ A "split sentence" refers to a sentence imposed by the court for an offender to serve a term of incarceration followed by a term of probation or community control. In such cases, the court rather than the CRA retains authority to revoke and reincarcerate the offender.

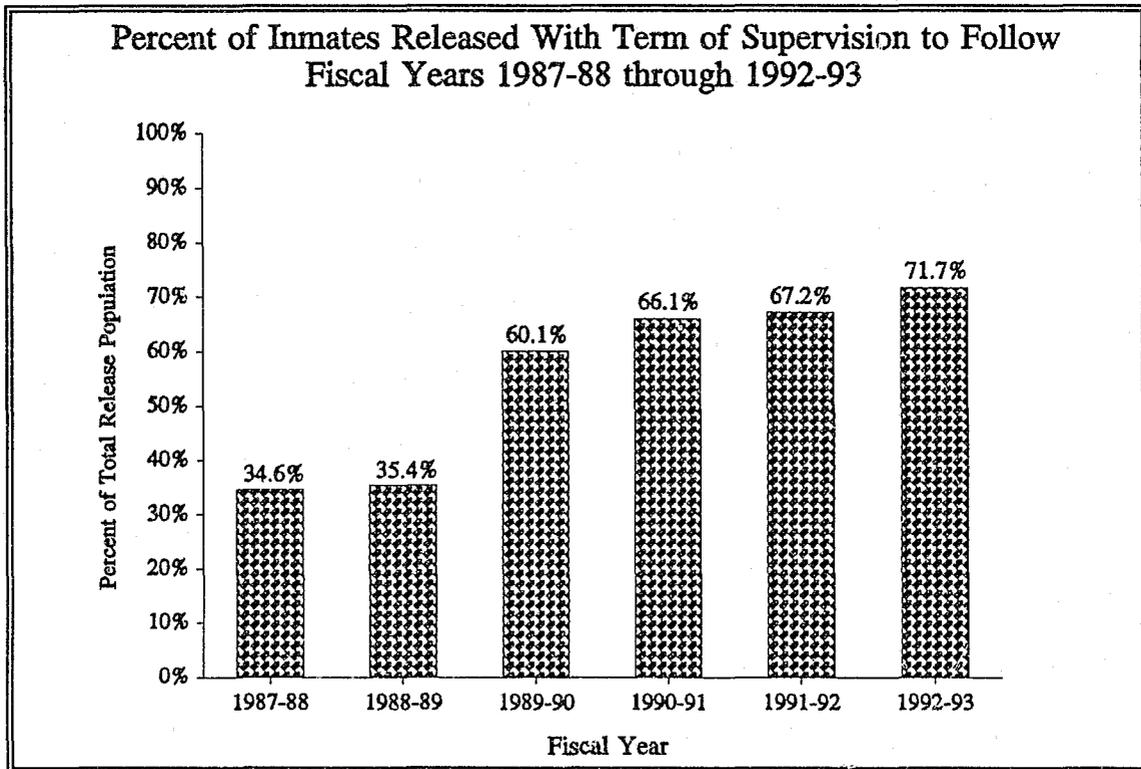
To determine the effect of control release supervision upon the length of the state's jurisdiction over offenders, we analyzed available data from the Department regarding inmates released in fiscal year 1987-88 through 1992-93. We found that:

- The percentages of inmates being supervised upon release from prison has increased with the use of provisional release and control release;
- Inmates placed on control release supervision are being given longer terms of supervision than under other early release mechanisms; and
- The length of the state's jurisdiction has been extended over offenders placed on control release supervision as well as offenders released through other release provisions.

More Inmates Supervised upon Release from Prison

Implementation of release mechanisms that include a supervision component, such as provisional release and control release, has resulted in an increase in the percentage of inmates serving terms of post-release supervision. From fiscal year 1983-84 to fiscal year 1988-89, few offenders were subject to post-prison supervision. For example, in fiscal year 1987-88, only 35% of the inmates released from prison were required to serve a term of post-release supervision. With implementation of provisional release in 1988 and control release in 1990, the percentage of inmates released to post-prison supervision had more than doubled (almost 72%) by fiscal year 1992-93. (See Exhibit 4.)

Exhibit 4



Source: Calculated by OAG from data compiled by the Department of Corrections.

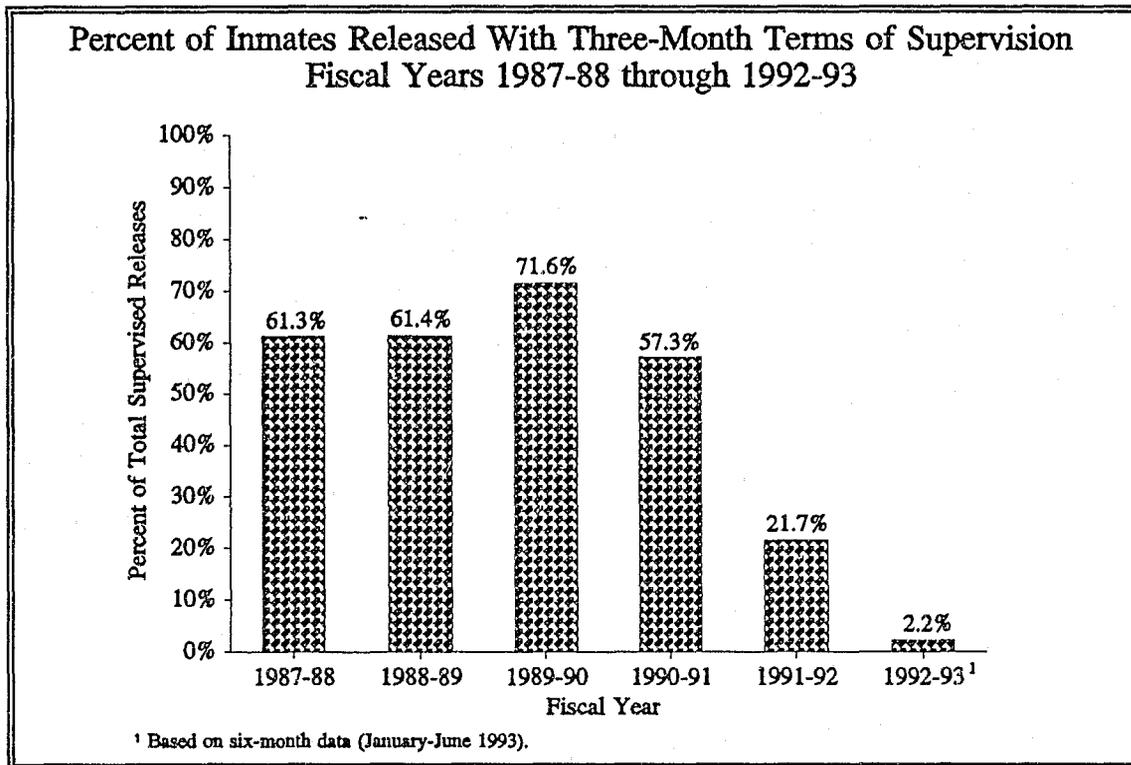
Longer Terms of Supervision

In addition to continuing to increase the portion of offenders who remain under the state's jurisdiction after release, control release supervision has resulted in the use of longer terms of supervision for offenders released from prison. From fiscal years 1987-88 through 1989-90, over 60% of the offenders placed on community supervision were given terms of three months or less. (See Exhibit 5.) Supervision terms of 3 months or less limit the Department's ability to encourage adherence to conditions of supervision or to facilitate participation in treatment programs.⁸ Since the implementation of control release supervision in fiscal year 1990-91, a decreasing portion of the offenders supervised upon

⁸ In the Office of the Auditor General audit report No. 11139, dated December 5, 1988, An Overview of Release Policies and Programs Administered by the Department of Corrections, we concluded that supervision terms of three months or less were so short that the Department could not effectively encourage participation in treatment programs or adherence to the conditions of release, and we recommended that any post-release supervision program have a minimum duration of six months.

release from prison have been placed on three months or less terms of supervision. The average term of control release supervision imposed by the CRA in the 1991-92 fiscal year was 17.6 months.

Exhibit 5



Source: Calculated by OAG from data compiled by the Department of Corrections and Prison Releases, Quarterly Report, April 1993-June 1993, Department of Corrections.

Shorter Terms of Incarceration, Longer Terms of Jurisdiction

When the state began to use administrative gain time in 1987 to avoid prison overcrowding, accelerating the release of inmates had the effect of reducing the average portion of the inmate's sentence that was served in prison. Whereas inmates released in

1985 before the implementation of administrative gain time served an average of 53% of their sentences, inmates released in 1987 served an average of 42% of their sentences.⁹

Control release allows the state to avoid prison overcrowding by further reducing the portion of the sentence served by selected inmates. As of March 1992, offenders released on control release had served an average of 22% of their sentences in jail and prison prior to release from prison. Meanwhile, the average portion of sentence served for inmates released through other provisions (such as parole, conditional release, or expiration of sentence) had increased to 53%, the same portion served by offenders released in 1985, before early release mechanisms were necessary to avoid prison overcrowding. Therefore, the use of control release has resulted in some inmates serving shorter terms of incarceration while allowing the state to keep offenders not selected for control release in prison for larger portions of their sentences.

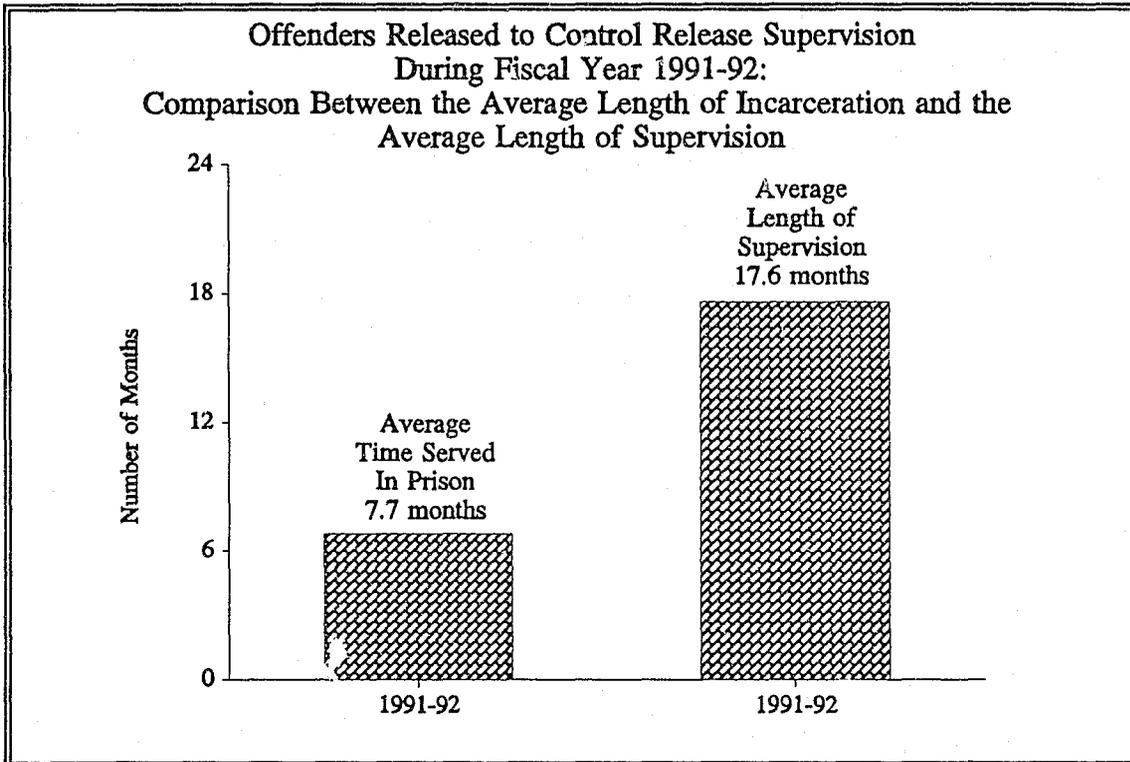
For the 1991-92 fiscal year, offenders placed on control release supervision served an average of 7.7 months in jail and prison prior to release, and were placed on an average term of supervision of 17.6 months. The use of control release supervision thus extends the state's jurisdiction over these offenders who are released early from prison by more than twice the period of their incarceration. We estimate that offenders who serve the full term of supervision will have remained under the state's jurisdiction for an average of approximately 73% of their sentences.¹⁰ Although these offenders are not incarcerated as intended by the sentence of the court, control release supervision has extended the state's jurisdiction over the offender to enable the state to monitor the offender's activities, to assist

⁹ Unless sentenced with a minimum mandatory provision, an inmate is eligible to receive various forms of gain-time, or credit for good behavior, that reduces the amount of sentence served. For example, inmates sentenced between 1982 and 1993 were eligible to receive 20 days per month as incentive gain-time as a reward for outstanding behavior.

¹⁰ The computer program developed by the Department of Corrections to provide us data on the 1991-92 release population did not capture accurate sentence length data for all offenders. Therefore, we were not able to calculate the average portion of sentence served for the entire population. We based our estimate of 73% of sentence spent under state jurisdiction on data from another Department source which stated that control release offenders in March of 1992 spent an average of 22.3% of their sentence in jail and prison. If the 7.7 months spent in prison by the average offender released to control release supervision in the 1991-92 fiscal year represents approximately 22% of the average sentence, then 17.6 months of control release supervision would represent approximately 51% of the average sentence, or a total of 73% of the sentence under state jurisdiction.

the offender with the process of being reintegrated into society, and to return those offenders to prison who threaten the public's safety.

Exhibit 6



Source: Calculated by OAG from data provided by the Department of Corrections.

Section 2

Control Release Supervision: Surveillance and Transition Assistance

Programs to supervise inmates released from prison generally have two major purposes: to help ensure the public's safety, and to assist the offender's reintegration into society. By maintaining surveillance and control over the offender, post-release supervision provides a measure of protection for society and, by providing a treatment plan and access to community services and resources, supervision can assist the offender's transition into the community. In authorizing the use of control release supervision, the Legislature did not define any purposes of supervision, but did direct that the Control Release Authority and the Department include some activities related to both surveillance (periodic contacts with the supervising officer) and transition assistance (basic support services for selected inmates).

In reviewing the implementation of control release supervision, we reviewed program documents and interviewed officials of both the Control Release Authority and the Department of Corrections. We found that control release supervision, as designed and implemented by the CRA and the Department, provides minimal levels of surveillance and control to protect society and limited services to facilitate offender reintegration into society.

Finding 2.1

In comparison with other forms of community supervision, control release supervision provides a minimal level of surveillance of offenders released from prison into the community. Officers are only required to make one personal contact with the offender each month, regardless of the seriousness of the offender's criminal history or the length of the offender's term of supervision. As a result, control release supervision, as currently administered, may not be significantly ensuring the public's safety from offenders who represent higher levels of risk to the community.

According to American Correctional Association standards for probation and parole field services, contact with offenders helps ensure that the state, through field officers, stays informed about the offenders' location and activities, and also serves to remind offenders they remain under legal jurisdiction and must meet certain obligations. The standards further state that offenders should be placed in the appropriate supervision category, and that classification should include the concept of diminishing field supervision, that is, the level of supervision is reduced as the offender progresses toward successful reintegration.

Although control release supervision is a means to retain control over offenders released early from Florida's prisons, offenders are subject to very limited supervision. Our review disclosed that offenders under regular control release supervision are subject to the lowest levels of surveillance and control of any of the Department's direct supervision programs, despite the fact that control release offenders would probably still be incarcerated if early release were not necessary to avoid prison overcrowding. One measure of the level of surveillance or control provided through community supervision is the number of required contacts between the officer and the offender. The Department's contact standards for supervising offenders on control release are lower than those established for probationers or any other offender group. As provided in the Department's Control Release Field Supervision Procedures, officers are required to make one personal contact with the

offender each month, regardless of the seriousness of the offender's criminal history or the length of the offender's term of supervision.

Control release offenders are also supervised at the same level of surveillance\control for the duration of the supervisory term. The Department's classification system for community supervision, which assigns offenders to maximum, medium, and minimum levels of supervision, does not apply to control release supervision. Other community supervision programs, such as probation and parole supervision, use the Department's classification system in which the required number of monthly contacts changes as the offender's classification changes from maximum to minimum supervision. The Department also administers the Community Control Program, which is an intensive supervision program that requires almost daily contact between the officer and the offender.

Since its implementation, inmates with increasingly serious criminal profiles have been released to control release supervision. To assist its management of the state prison system population, the Control Release Authority effected a rule change in May 1992 permitting it to approve the control release of inmates the Authority had previously classified as unsuitable for early release from prison. The CRA released a total of 2,109 of these inmates during the period from August 1, 1992, to March 31, 1993. However, the CRA did not direct the Department to provide these offenders with closer, or more intensive supervision, even though these offenders have more serious criminal histories than other offenders on control release.

Officials from each of the 12 states we conducted interviews with reported their states use multiple levels of supervision or intensive supervision for offenders released early from prison. For example, one state provides six levels of supervision, ranging from intensive supervision for specific offenders, such as substance abusers, to administrative, or non-contact supervision. In another state, offenders are released to intensive supervision that includes three face-to-face contacts and one telephone contact each week between officer and offender, along with two contacts with the offender's employer or family. Nine of the 12

states we contacted placed specific types of offenders, such as substance abusers, into intensive supervision programs similar to Florida's Community Control Program.

According to both Control Release Authority and Department officials, limited resources preclude increasing the level of supervision. As of March 31, 1993, the CRA had required 57% of all offenders released from prison by control release to serve a term of control release supervision. Because no limitations on caseload were established in statute or rule, the Department's average offender release caseload for supervising officers has increased from 1:75 in 1991 to 1:121 in 1992. This increase in caseload suggests that Department staff have little flexibility to make additional contact with the offender beyond the one required each month.

We found that neither the CRA nor the Department have established priorities for using control release supervision resources. However, the CRA and the Department have attempted to improve the use of supervision resources by deleting the use of terms of supervision of three months or less, and by establishing a new supervision category known as Administrative Control Release. In fiscal year 1991-92, the CRA and the Department agreed that 3-month supervisory terms were so short that they used supervision resources without providing significant benefits to the offender. Therefore, in May 1992, the CRA deleted the 3-month term as a supervision option. The CRA simultaneously established a new supervision category known as Administrative Control Release which allows the Department to retain authority over the offender without providing active supervision. However, neither of these changes resulted in increased levels of supervision for offenders under regular control release supervision.

As provided in the CRA's rules, Administrative Control Release was intended to serve as an alternative to standard supervision when there are insufficient resources to provide standard supervision, and there is more acute need for limited supervision resources for public protection in other release cases. As of March 1993, the CRA had imposed Administrative Control Release in approximately 9% of cases released by control release

since May 1992. However, approximately 57% of offenders released by the Control Release Authority were placed on regular control release supervision both before and after the implementation of Administrative Control Release.

We concluded that neither the CRA nor the Department has articulated specific program goals and objectives that would enable the CRA and Department to determine how to allocate existing resources among competing demands. If one of the purposes of control release supervision is to protect the community, a single contact per month between officer and offender does not appear to provide an adequate level of supervision for offenders who represent higher levels of risk to the community. The Department's Program Administrator stated that if public safety is the first priority, then an intensive supervision alternative is needed for higher-risk control release offenders. However, rather than providing intensive supervision for higher-risk cases, control release supervision currently provides the minimal level of supervision for all cases.

Finding 2.2

The Department of Corrections has not formally identified the types of transition assistance resources and services that control release offenders need to assist their re-entry into the community. Furthermore, the availability of such services is limited due to resource constraints. The Control Release Authority and the Department need to determine the extent to which supervision resources should be used to provide transition assistance services and develop strategies to provide such assistance.

American Correctional Association (ACA) standards state that the intention of community supervision should be both to protect society, and to provide necessary services to the offender with the goal of reducing the probability of continued criminal behavior. According to these standards, the provision of adequate assistance and services is the best insurance against harm to the community. As part of the Transition Assistance Program Act of 1987 (ss. 944.701 to 944.708, F.S.), the Florida Legislature declared its intention to provide persons released from prison with fundamental resources in the areas of employment,

job placement, and access to as many support services as possible to "increase the likelihood of the inmate's successful re-entry into free society."

In providing transition assistance, ACA standards state that the supervising agency has a responsibility to periodically assess the collective needs of offenders to ensure that it is maximizing the delivery of services. Similarly, s. 944.705, F.S. directs the Department to conduct a needs assessment of every inmate to determine which, if any, basic support services inmates require after release from prison.

As part of our interviews with corrections officials in other states, we obtained information concerning transition services provided through supervision programs in other states. Eleven of the 12 states provided some type of transition assistance. The one state not providing such assistance indicated that services were eliminated as the result of budget and staff cutbacks. Substance abuse treatment was provided to some extent in each of the 11 states with re-entry programs. Various states also provided assistance in other areas, including employment and housing, health care, and mental health treatment. California officials reported that financial assistance was available for food and housing for newly-released offenders.

Our review of the implementation of control release supervision identified three primary concerns with the provision of transition assistance services:

- First, the Department has not identified the types of resources and services that control release offenders need to assist their re-entry into the community;
- Second, the availability of services and assistance appears to be limited, partly as the result of resource constraints;
- Third, the Control Release Authority (CRA) and the Department have not determined the extent to which available supervision resources should be used to provide transition assistance, as opposed to surveillance and control of released offenders.

The Department has not formally identified the types of transition services and assistance that control release offenders need to assist their successful reintegration into the community. Control release offenders represent a unique group of offenders whose needs may be quite different from offenders who have been incarcerated for longer periods of time. Because control release offenders have generally been incarcerated for a relatively short period of time, any positive ties to the community (family and social relationships, jobs) may be easier to reestablish than those of prisoners who have been incarcerated for longer periods of time. However, control release offenders may not have been in prison long enough to have completed educational, vocational, or substance abuse programs that could lead to changes in behavior after release. Furthermore, by virtue of having been incarcerated, offenders on control release are less likely than other offenders, such as probationers, to have employment or a stable residence. Because control release offenders represent a somewhat unique offender population, we believe the Department needs to collect comprehensive information regarding the most critical services and transition assistance they would need.

One apparent critical need for control release offenders is employment assistance. General corrections literature indicates that offenders who obtain employment after their release from prison are more likely to successfully reintegrate into the community than those who remain unemployed. However, it appears that inmates released to control release supervision are no more likely to become employed than those released from prison without supervision to follow. According to data from the Florida Education and Training Placement Information Program, 26.8% of the 29,268 inmates released in fiscal year 1990-91 were employed during the last quarter of the 1991 calendar year (October, November, December 1991). Among the 3,591 offenders released by control release without a term of supervision to follow, 28.5% were employed, while 27.8% of the 6,096 offenders released to control release supervision were employed during the quarter. However, before the Legislature appropriates funds to address apparent needs, such as employment assistance, we believe that the Department should better identify the nature of the needs and the best strategies to address those needs.

Although participation in community treatment programs is frequently imposed as a condition of control release supervision, Department officials reported that offenders may be unable to fulfill such requirements due to limited availability and access to these programs at the local level. As conditions of control release, the CRA frequently requires offenders to obtain a mental health evaluation or to undergo random substance abuse testing. However, the Department's Program Administrator reported that mental health services are generally not available for indigent offenders. Furthermore, he indicated that Departmental budget constraints limit substance abuse testing to those cases in which testing is a condition of supervision, and also limit the frequency with which these offenders are tested.

As presently operating, control release supervision does not assure that offenders receive designated treatment during the supervisory term. According to the Department's Program Administrator, officers' attempts to assist control release offenders are limited by the extent to which services and resources, such as treatment for substance abuse, are available locally at a cost the offender can afford. Problems with obtaining assistance were illustrated by one of the cases we reviewed in our sample of revocation cases the CRA heard in fiscal year 1991-92. In this case, the CRA's docket notes indicated the offender asked to have his control release revoked so he could return to prison to obtain substance abuse treatment. The CRA subsequently revoked this offender's control release.

In establishing the control release supervision program, neither the CRA nor the Department have identified the extent to which supervision resources should be used to provide, or to facilitate greater availability of, transition assistance. For example, providing transitional assistance to control release offenders may require officers to spend additional time matching offenders to available and affordable community resources. As with the surveillance and the control component of control release supervision, the CRA and the Department have not articulated goals or objectives concerning the level of transition assistance the Department should provide given the high caseloads and limited resources available. However, without providing transition assistance services that help the offender

become a productive member of society, offenders may be likely to continue the behavior that initially led to their incarceration.

Conclusions and Recommendations

Our review of the implementation of control release supervision led us to conclude that the Control Release Authority has not clearly defined the purpose of the term of control release supervision. In particular, it appears the Department provides a minimal level of surveillance and control that is not consistent with the varying degrees of risk these offenders pose to society. Furthermore, although the Legislature has identified the need to provide offenders released from prison with transition assistance, such assistance is peripheral to control release supervision, as presently implemented.

We recommend that the Legislature amend s. 947.146(10), F.S., to clearly state its intent regarding the extent to which control release supervision should provide protection to society and the extent of transitional assistance services to offenders. We recommend that the Control Release Authority, in conjunction with the Department of Corrections, clearly identify the purpose(s) of the term of control release supervision in order to provide a basis for decisions regarding the allocation of supervision resources for surveillance and control and for the provision of transition assistance to offenders.

If the CRA and the Department conclude that the protection of society is a stated purpose of control release supervision, then we recommend that the Department adopt a system for classifying the potential risk of offenders and that the Department provide closer supervision of offenders identified as posing a greater risk to society. Given the limited resources available for such supervision, we reccmmend that the CRA and the Department develop procedures to provide supervision based on the offender's criminal history and circumstances. For example, the CRA and the Department may determine that offenders with the most serious criminal histories should be subject to more frequent supervisory contact upon release from prison, or that offenders who obtain stable employment receive

less frequent supervisory contact, or are transferred to Administrative Control Release supervision.

If the CRA and the Department conclude that providing transitional assistance is a stated purpose of control release supervision, then we recommend that the Department conduct a needs assessment to identify the types of transition assistance and services offenders need, if any, and develop strategies to provide such assistance. The Department should inform the Legislature regarding what, if any, additional resources are needed to assist the control release population.

Section 3

Sanctions for Control Release Violations

The Control Release Authority (CRA) sets the terms and conditions of each inmate's term of control release supervision, including any special conditions, such as payment of restitution, or participation in community-based treatment programs. Department of Corrections officers are responsible for monitoring offenders' compliance with these terms and conditions and for reporting violations of supervision to the CRA. When violations occur, officers generally recommend that the CRA consider revoking control release. After staff of the CRA hold a preliminary hearing to determine the facts of the case, the CRA renders a decision to revoke the offender's control release and return the offender to prison, or to reinstate the offender to supervision. The Authority may also discharge the offender from further supervision. In cases where the offender's control release is revoked, the CRA's option is to return the offender to prison, since the CRA and the Department have not established alternatives for sanctioning control release violators.

Finding 3.1

The Control Release Authority and Department of Corrections lack alternatives to the reincarceration of offenders whose control release supervision has been revoked. Approximately 60% of the offenders the Control Release Authority returned to prison in fiscal year 1991-92 were reincarcerated for violating control release terms and conditions that did not involve the commission of new crimes. The reincarceration of offenders who have not committed additional crimes may work against the primary purpose of control release, which is to selectively release offenders from prison to maintain the state prison system population within lawful capacity.

Section 947.146, F.S., authorizes the Control Release Authority to revoke control release and reincarcerate offenders who violate supervision terms and conditions. Offenders can be cited for two types of supervision violations. So-called "new law" violations occur when the offender fails to remain law-abiding. For example, offenders on control release who are arrested for, or charged with committing a new felony offense, misdemeanor, or traffic infraction have committed new law violations. A technical violation is any violation of supervision that is not a new law violation, such as failure to submit to substance abuse testing.

Of the 32,064 offenders it had placed on control release supervision since September 12, 1990, the CRA had revoked the terms of 6,285 (20%) offenders as of April 6, 1993. During fiscal year 1991-92, the CRA reported that a total of 2,966 offenders were returned to prison prior to the end of their terms of control release supervision. According to CRA data, 1,196 (40%) of these reincarcerations involved the commission of new crimes. The remaining 1,770 (60%) offenders were reincarcerated as the result of violations of specific conditions of supervision.

To determine the types of violations that had resulted in revocation of control release, we reviewed a sample of 329 cases in which the offender's revocation was considered by the Control Release Authority during fiscal year 1991-92. Among the

329 cases in our sample, 201 (61%) involved technical violations of supervision, and 128 cases (39%) involved new law violations. Of the 201 offenders cited for technical violations, the CRA revoked the supervision of 161 (80%), and returned those offenders to prison. The remaining offenders were either restored to supervision (14 cases) or discharged from further supervision (26 cases). Overall, the most frequently cited technical violation was failure to report monthly to the probation officer (47% of cases). Other common technical violations were changing residence without permission (23%), and the officer detecting use or possession of drugs (21%). In addition, in 16% of cases, the offender had failed to report to the Probation Office after the offender's release from prison. ¹¹

Of the 128 offenders in our sample who were reported for new law violations, 23 (18%) had committed misdemeanor offenses which are normally punishable by no more than one year in jail. The remaining 105 (82%) had committed felony offenses. The CRA revoked control release and returned 121 (95%) of the 128 offenders to prison. In the 7 (5%) remaining cases, the offenders were restored to control release or discharged from further supervision in actions consistent with the court's disposition of the new criminal charges. ¹²

Effect of Returned Offenders on the Prison System

The use of reincarceration as the primary sanction for violations of control release supervision may work against the major purpose of control release, which is to select less dangerous offenders for release to maintain the prison population within lawful capacity. For each control release offender that is returned to prison the CRA is essentially required to make room for that offender by releasing an additional inmate through control release. These returns thus accelerate the release of all eligible offenders.

¹¹ Each violation report may cite multiple violations.

¹² For example, in one case, a control releasee was convicted of Driving Under the Influence of Alcohol and was placed on community control. Since the offender would remain under the court's jurisdiction during the term of community control, the CRA accordingly discharged the offender from further control release obligations.

Reincarceration costs significantly more than community supervision. Based on expenditure data provided by the Department for fiscal year 1991-92, the cost to supervise offenders in post-release supervision programs was \$0.83 per offender, per day. The cost of intensive supervision, provided through Florida's Community Control Program, was \$4.60 per offender, per day, in fiscal year 1991-92. Community control supervision with electronic monitoring was only somewhat more expensive at \$5.77 per offender, per day. In comparison, the cost to incarcerate a male offender was \$38.29 per inmate, per day.¹³ Therefore, reincarceration is a costly sanction to use if the offender's violations of control release supervision are such that he could continue to be supervised in the community.

The number of offenders returned to prison for violations of control release supervision represented approximately 15% of the offenders admitted to the state prison system during fiscal year 1992-93. Because the CRA and the Department have not established measures for evaluating supervision outcomes, we could not assess the degree to which this reincarceration rate may be an indicator of the effectiveness of control release supervision.

Alternative Sanctions for Control Release Violators

In sanctioning violations of control release supervision, statutes provide that the CRA can revoke the offender's control release and return the offender to prison, restore the offender to control release supervision, or discharge the offender from further supervision. However, the CRA and the Department have not developed alternative sanctions, such as intensive supervision or residential centers for offenders who violate the conditions of control release supervision.

American Correctional Association standards for community supervision state it is essential for the revoking authority to consider alternatives to revocation and incarceration to the extent that the public's safety is not endangered and there exists the

¹³ "Summary of Cost Per Inmate Day - Residential Facilities", 1991-1992 Annual Report, Department of Corrections, p. 92.

possibility of the offender's successful community adjustment. Our review suggests that the CRA could decrease the number of control release violators returned to prison if alternative sanctions that provide greater degrees of surveillance and control of offenders were available in the community.

Our interviews with other states disclosed that many states use reincarceration primarily for offenders accused of committing new crimes, but use alternative sanctions to supervise offenders who commit technical violations. Officials from 3 of the 12 states reported that offenders cannot be revoked solely for technical violations, and 5 states indicated that decisions to revoke supervision are based on the seriousness of the violation, or on whether the offender has engaged in a chronic pattern of violating technical supervision conditions. The remaining four states are similar to Florida in that technical violations are grounds for revocation of release.

Corrections officials from 11 of the 12 states we contacted reported their states had developed alternatives to reincarceration. Three states take action prior to initiating revocation proceedings by imposing additional supervision conditions, such as establishing a curfew. In six of the states, revoked offenders are not returned to prison, but are given an alternative placement in state work release centers and halfway houses. One state has established special centers for technical violators. Five other states reported that revoked offenders receive increased supervision, or are placed in an intensive supervision or electronic monitoring program.

Conclusion and Recommendations

The revocation of control release and reincarceration of offenders for violations of technical conditions of control release supervision runs counter to the purpose of control release. We therefore recommend that the Control Release Authority and the Department identify alternatives to revoking the supervision of offenders who violate technical conditions. We also recommend that the CRA and the Department identify

alternatives that can be used to sanction offenders who violate the terms of control release but who do not represent a danger to the community. Possible alternatives include the use of community control supervision, electronic monitoring, and halfway houses. Implementation of alternatives to the revocation and reincarnation of control release violations will result in the use of less costly sanctions and in sanctions that have less impact on efforts to manage the state prison system population.

Appendices

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Appendix A

Members of the Florida Parole Commission

Maurice G. Crockett

Gene R. Hodges

Guy E. Revell

Kenneth W. Simmons

Judith A. Wolson

Edward M. Spooner

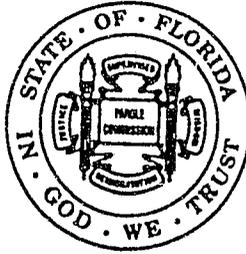
Gary D. Latham

Appendix B

Response From the Florida Parole Commission

In accordance with the provisions of s. 11.45(7)(d), F.S., a list of preliminary and tentative audit findings was submitted to the Chairman of the Florida Parole Commission for his review and response.

The Chairman's written response is reprinted herein beginning on page 40.



GENE R. HODGES
COMMISSIONER CHAIRMAN

EDWARD M. SPOONER
COMMISSIONER VICE CHAIRMAN

GARY D. LATHAM
COMMISSIONER SECRETARY

MAURICE G. CROCKETT
COMMISSIONER

E. GUY REVELL, JR.
COMMISSIONER

KENNETH W. SIMMONS
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JUDITH A. WOLSON
COMMISSIONER

FLORIDA PAROLE COMMISSION

1309 WINEWOOD BOULEVARD, BUILDING 6, THIRD FLOOR, TALLAHASSEE, FLORIDA 32399-2450 ■ (904) 488-1653

January 10, 1994

Mr. Charles L. Lester, C.P.A.
Auditor General
P.O. Box 1735
Tallahassee, Florida 32302

Dear Mr. Lester:

Transmitted herewith is a response to the preliminary and tentative audit report containing findings and recommendations which may be included in the performance audit of the:

The Implementation of Control Release Supervision Administered by the Florida Parole Commission, sitting as the Control Release Authority, and the Department of Corrections

If further information is required, please notify me accordingly.

Sincerely,

Edward M. Spooner

Gene R. Hodges
Chairman

for Gene Hodges

GRH/dm

Attachment

PAROLE COMMISSION

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

Finding 1.1

The use of control release has resulted in increases in the percentage of inmates who are supervised after their release from prison, and in the average duration of supervision. For inmates placed on control release supervision, the term of control release supervision itself represents an increasingly significant portion of the total amount of time some criminal offenders remain under the state's jurisdiction.

Recommendation

No recommendations cited in the audit report

Finding 2.1

In comparison with other forms of community supervision, control release supervision provides a minimal level of surveillance of offenders released from prison into the community. Officers are only required to make one personal contact with the offender each month, regardless of the seriousness of the offender's criminal history or the length of the offender's term of supervision. As a result, control release supervision, as currently administered, may not be significantly ensuring the public's safety from offenders who represent higher levels of risk to the community.

Recommendation

No recommendations cited in the audit report.

PAROLE COMMISSION

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

Finding 2.2

The Department of Corrections has not formally identified the types of transition assistance resources and services that control release offenders need to assist their re-entry into the community. Furthermore, the availability of such services is limited due to resource constraints. The Control Release Authority and the Department need to determine the extent to which supervision resources should be used to provide transition assistance services and develop strategies to provide such assistance.

Recommendation

Legislature amend s.947.146(10), F.S., to clearly state its intent regarding the extent of transitional assistance services to offenders.

Response

Agree. The Parole Commission currently establishes terms and conditions of supervision consistent with those prescribed in 947.146(10), F.S. Legislative intent clearly stated in statute would assist the Commission and the department in determining the extent to which supervision resources should be used to provide transition assistance services and would assist the department in obtaining funding to support the expectations required by statute.

Recommendation

The Control Release Authority, in conjunction with the Department of Corrections, clearly identify the purpose(s) of the term of control release supervision in order to provide a basis for decisions regarding the allocation of supervision resources for surveillance and control and for the provision of transition assistance to offenders.

PAROLE COMMISSION

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

Response

Agree. The Parole Commission and the department are currently engaged in a joint examination of the term of supervision and the associated impact on supervisory and revocation resources. The Attorney General and Governor are exercising strong influence in this area and are encouraging the maximum length of supervision on all offenders released via release programs administered by the Parole Commission.

Recommendation

The Department adopt a system for classifying the potential risk of offenders and that the Department provide closer supervision of offenders identified as posing a greater risk to society.

Response

Recommendation is directed to the Department. No response required by the Commission.

Recommendation

The Control Release Authority and the Department develop procedures to provide supervision based on the offender's criminal history and circumstances

Response

The Commission currently uses the criminal history and circumstances of offense to establish the terms and conditions of supervision. It is the Commission's understanding that the Department plans to develop risk classification levels for offenders being supervised by the Department on release programs administered by the Commission. The levels will provide varying types of supervision that are commensurate with different levels of risk.

PAROLE COMMISSION

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

Recommendation

The Department conduct a needs assessment to identify the types of transition assistance and services offenders need, if any, and develop strategies to provide such assistance.

Response

Recommendation is directed to the Department. No response required by the Commission.

Finding 3.1

The Control Release Authority and Department of Corrections lack alternatives to the reincarceration of offenders whose control release supervision has been revoked. Approximately 60% of the offenders the Control Release Authority returned to prison in fiscal year 1991-92 were reincarcerated for violating control release terms and conditions that did not involve the commission of new crimes. The reincarceration of offenders who have not committed additional crimes may work against the primary purpose of control release, which is to selectively release offenders from prison to maintain the state prison system population within lawful capacity.

Recommendation

The Control Release Authority and the Department identify alternatives to revoking the supervision of offenders who violate technical conditions.

PAROLE COMMISSION

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

Response

The Commission and the department have repeatedly discussed this problem without resolution. Legislative priorities have been directed toward "diversionary" programs for the front end rather than for the released inmate, making alternative resources for released offenders extremely scarce. The Commission would like to see specific alternatives identified in statute and funded by the legislature.

Recommendation

The Control Release Authority and the Department identify alternatives that can be used to sanction offenders who violate the terms of control release but who do not represent a danger to the community.

Response

Existing programs noted in the audit are viable options, provided the legislature specifies in statute to what extent they are to be used for the release population and allocates funding specifically for that purpose. Both agencies must continue to approach the legislature in an effort to make available "prison alternative resources" for the population that is under supervision and involved in the revocation process.

Appendix C

Response From the Department of Corrections

In accordance with the provisions of s. 11.45(7)(d), F.S., a list of preliminary and tentative audit findings was submitted to the Secretary of the Department of Corrections for his review and response.

The Secretary's written response is reprinted herein beginning on page 47. Where necessary and appropriate, Auditor General's comments have been inserted into the body of the response.



FLORIDA
DEPARTMENT of
CORRECTIONS

Governor
LAWTON CHILES
Secretary
HARRY K. SINGLETARY, JR.

2601 Blairstone Road • Tallahassee, Florida 32399-2500 • (904) 488-5021

January 7, 1994

The Honorable Charles L. Lester
Auditor General
111 West Madison Street
Post Office Box 1735
Tallahassee, Florida 32302

Dear Mr. Lester:

Pursuant to the requirements of section 11.45(7) (d), Florida Statutes, enclosed is my response to the preliminary and tentative audit findings and recommendations related to:

The Implementation of Control Release Supervision
Administered by the Florida Parole Commission, Sitting as the
Control Release Authority, and the Department of Corrections

This response reflects the specific action taken or contemplated to address the deficiencies cited.

Thank you for your continued cooperation and presentation of recommendations for the improvement of our operations.

Sincerely,


Harry K. Singletary, Jr.
Secretary

HKSJr/RF/sc

Enclosure

cc: Bill Thurber, Deputy Secretary
Wilson Bell, Assistant Secretary for Programs
Ronald L. Ferguson, Chief Internal Auditor

DEPARTMENT OF CORRECTIONS

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

Finding 2.2

Recommendation

Legislature amend s. 947.146(10), F.S., to clearly state its intent regarding the extent to which control release supervision should provide protection to society and the extent of transitional assistance services to offenders.

Response

Agree. Legislative intent prescribed specifically in the law would provide much needed clarity to be used as a basis by the Parole Commission and the Department in establishing appropriate supervision requirements and requisite funding to support the expectations required by statute.

Recommendation

The Control Release Authority, in conjunction with the Department of Corrections, clearly identify the purpose(s) of the term of control release supervision in order to provide a basis for decisions regarding the allocation of supervision resources for surveillance and control and for the provision of transition assistance to offenders.

Response

Agree. The Parole Commission and the Department are currently engaged in a joint examination of the term of supervision issue and the associated impact on supervisory resources. Recommendations and strategies are expected to be completed by June 1, 1994. Again, having the statute reflect a clear definition as to the extent to which control release should provide "protection" to society, would allow the Department and FPC a framework to develop guidelines and allocate resources.

DEPARTMENT OF CORRECTIONS

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

Recommendation

The Department adopt a system for classifying the potential risk of offenders and that the Department provide closer supervision of offenders identified as posing a greater risk to society.

Response

During the past year, the Department has given priority to the development of a risk classification system for the supervised offender population.

The risk classification system is currently ready for field implementation and will initially be used to classify the probation population which currently comprises the largest percentage of the supervised population (approximately 70%). Control release cases comprise approximately 8% of the total supervised population. It is anticipated, however, that full implementation of the new system for all types of supervision will be accomplished by 1-1-95.

In conjunction with establishing risk classification levels, the Department will develop varying levels of supervision that are commensurate with the different levels of risk. The levels will permit differential approaches, but the degree of contact with offenders by officer will still be dependant on the level of funding by the legislature.

Recommendation

The Control Release Authority and the Department develop procedures to provide supervision based on the offender's criminal history and circumstances.

Response

The new risk classification system to be implemented will be computer generated and is programmed to check the offender's criminal history and current offense. These two variables have been identified as primary predictors of an offender's risk level.

In addition to the Risk Classification System, the Department is also instituting a Client Management Classification System which will provide indicators as to an offenders needs and provides recommendations for supervision based on those needs. Currently, the CMC instrument is being administered only to the community control population. Potentially, the instrument will be used in all other types of supervision

DEPARTMENT OF CORRECTIONS

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

including control release. The CMC approach requires significant training time and resources, thus implementation in the control release population will be gradual and over an extended period of time.

Recommendation

The Department conduct a needs assessment to identify the types of transition assistance and services offenders need, if any, and develop strategies to provide such assistance.

Response

The Department currently conducts needs assessments on all offenders prior to their release, except for offenders released to detainers anticipated to be over 30 days, out of state releases and offenders on work release. The needs assessment process is comprised of a review of the inmate's file, interview with the inmate, and an offer of services to the inmate. Prior to their release, inmates are provided with names and addresses of contacts/resources within the community to which they are returning. If, however, the inmate is not ordered by the releasing authority to receive recommended services, the inmate has an option to refuse.

Auditor General's Comment

Our recommendation was not intended as a reference to the needs assessments conducted on individual offenders prior to release. Rather, we sought to identify the types of transition assistance and services, if any, that the state could provide to help offenders be successfully reintegrated into society.

An updated resource directory has recently been published and is available in all institutions and probation and parole offices which lists, by county, a variety of community service agencies.

The Department currently has contracts with the Florida Department of Labor and Employment Security, Public Health facilities, and job training through the Job Training Partnership Act (JTPA). Other contracts with HRS (for medical services) and Vocational Rehabilitation are pending.

DEPARTMENT OF CORRECTIONS

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

Agreed, an offender's participation in services upon release is contingent in many instances upon resource availability and/or the offender's ability to pay for services, if required. The Department has requested \$1.1 million for the 1994-95 FY. These funds will be devoted to providing transitional assistance for those released inmates who are in need as identified in the process detailed above.

As stated previously, another potential mechanism for assessing the needs of the inmate following placement on supervision will be Client Management Classification.

Finding 3.1

Recommendation

The Control Release Authority and the Department identify alternatives to revoking the supervision of offenders who violate technical conditions.

Response

It is agreed that alternatives to revocation for technical reasons is an appropriate goal. To that end, the Department and the Commission have engaged in very preliminary discussions concerning the utilization of existing options where funding is adequate and legislative authority exists for utilization of such options for this group of offenders.

A very important matter to remember is the goal of the "Safe Streets Initiatives of 1994" in reducing/eliminating the actual need for control release. The Department's five year construction plan coupled with significant sentencing policy changes effective January 1, 1994, provide a means by which control release will be no longer necessary.

In the interim, the Department will be proposing the utilizing of the day treatment program, contracted county jail beds, and the expansion of existing options as reflected in the report. Additionally, the possibility of designated privately contracted facilities for violators will be considered. A review of the Department's budget request reflects an expansion of all diversionary programs which will aid in resolving this issue. Legislative consideration will be required, however, for purposes of determining its intent regarding the utilization of these initiatives for the control release population.

DEPARTMENT OF CORRECTIONS

Response to Preliminary Audit Findings Implementation of Control Release Supervision Administered by the Florida Parole Commission, Sitting as the Control Release Authority, and the Department of Corrections

Finding 3.1

Recommendation

The Control Release Authority and the Department identify alternatives that can be used to sanction offenders who violate the terms of control release but who do not represent a danger to the community.

Response

Both agencies must continue to approach the legislature in order to draw attention to the release population and the deficiencies that exist. Until funding is provided for "prison alternative resources," a clear dilemma will continue to exist. Existing programs mentioned in the audit are sufficient options if funded.

