

A REVIEW OF
**TEMPORARY
RELEASE
PROGRAMS**
IN NEW YORK STATE

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NEW YORK COMMISSION OF CORRECTION
STEPHEN CHINLUND, Chairman
DOROTHY WADSWORTH, Commissioner
JOSEPH WASSER, Commissioner

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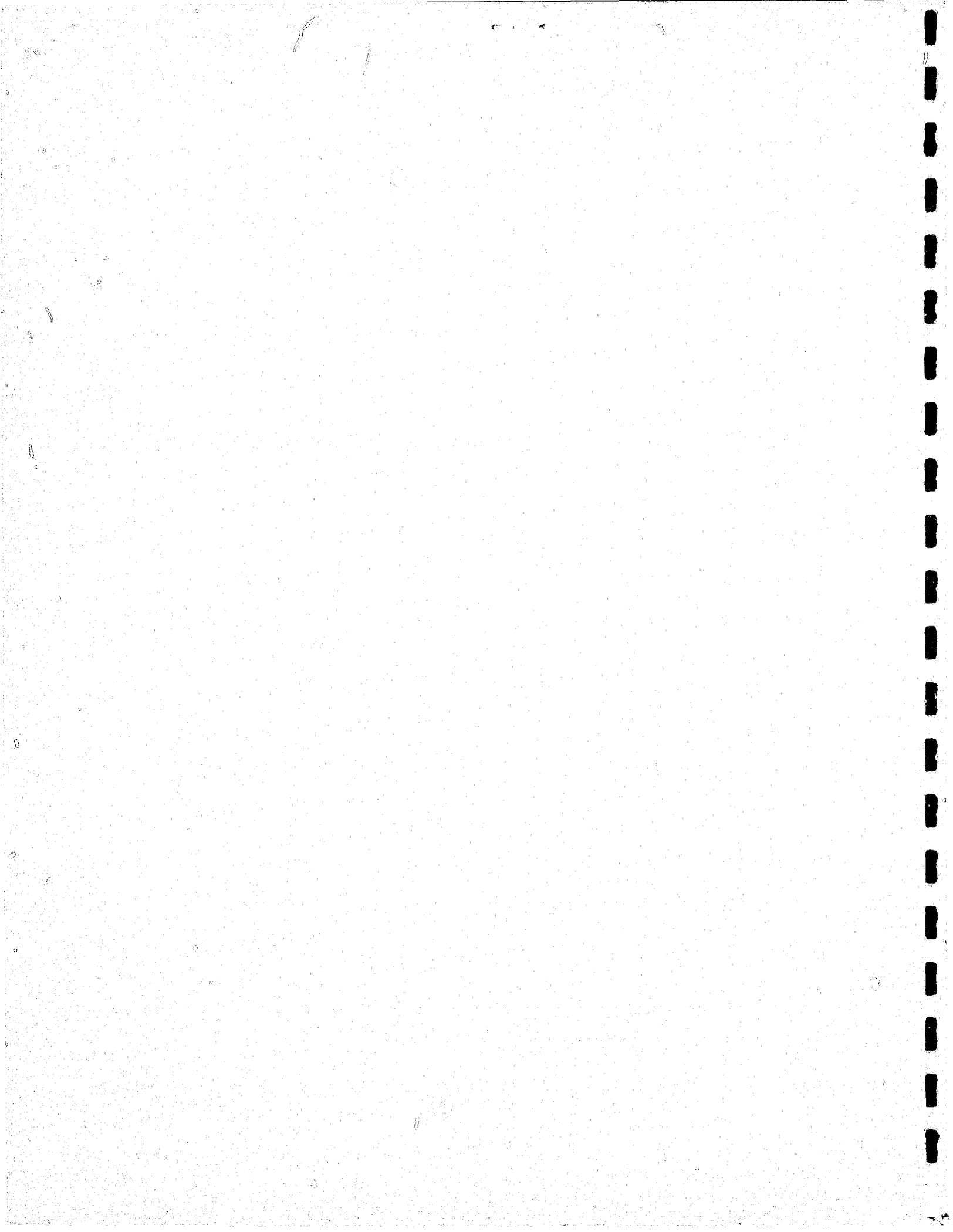


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FORWARD

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Special Consultant to the Commission
Temporary Release Evaluation

Letter to Chairman Stephen Chinlund
at completion of evaluation

FORWARD

BY

Professor John P. Conrad

The new release program which has been proposed by Commissioner Ward is imaginative, bold and feasible. To my knowledge, no other state has gone so far toward resolving the release problems faced by prisoners returned to society. That is not to say that the New York plan is rash. On the contrary, the misplaced caution which results in a prisoner's sudden switch from incarceration to freedom on the same day, usually with no plan at all or at best with a fake plan for the satisfaction of parole rules, leads to disappointment, frustration, and all too often, to a new offense. Commissioner Ward's plan promises to add common sense to the processes of correction, so often ruled by meaningless traditions and irrational timidity.

I have a few comments to make about the materials outlining the plans that have been available to me. Nothing in what follows should be construed as negative criticism of a plan with which I am in fundamental agreement. Because the success of Graduated Release is so vitally important to corrections in New York, and because it will be watched so closely throughout the country, preparations for its administrative operation should be thorough and far-sighted.

Budget:

I am sure that the Department of Correctional Services staff has prepared an estimate of the costs of the new program. It does not appear in the Position Paper which has been furnished me for review. It is unclear as to whether additional facilities will be required, and if so, how many and where. Nothing is said about what numbers or what classes of additional staff will be needed. We are not told how soon the full-scale operation of the program may be expected. We are not told what schedule is planned after the legislative approval of the concept with the necessary support requirements. All these matters are obviously difficult planning tasks concerning which there will be understandable differences of opinion. They are proper concerns of the Commission of Correction and of the New York State Legislature. Most important, their satisfactory resolution is essential to the success of the program.

In my opinion, members of your staff should be in close consultation with planning and budget functionaries of the Department of Correctional Services so as to assure as much agreement in advance between the Department and the Commission on the structure and management of the program.

Staff Preparation:

My brief observation of the existing Temporary Release program leads me to the conclusion that line staff of the Department is insufficiently prepared. Discussions with members of the staff reveal that there is no preliminary training, no incentive to gain experience in the program, and no effort to assure that personnel assigned are suited to the peculiar conditions which must prevail in such facilities. Of all the criticisms of this program that come to mind, I think this is the most serious. Administration of a facility focusing on release presents management problems vastly unlike those confronting prison staff. The relationship with residents, the attitudes toward them, and the relationships with the general public must differ fundamentally from the experiences gained in these matters in the prisons. Not everyone working in a prison possesses the flexibility and the talent for helpful relationships that staff in facilities focusing on release must have.

On this point, I suggest that personnel working in such facilities should have the incentive of better pay and position in a slightly higher Civil Service classification. At least a month of intensive training should precede assignment, and continuing in-service training should be scheduled at a level of at least two hours a week.

Special care should be given to the appointment of field managers of these facilities. A personal commitment to the success of program should be a given condition for such an assignment; no one should work on such an important managerial task without a belief in its importance and its feasibility. Demonstrated talent for supervision, leadership, and management is an obvious requisite and, especially in the first years of operation, should be given meticulous attention. No one should be assigned on the basis of mere seniority, or as a stepping stone to still higher positions.

Resident Preparation:

At present there is no systematic preparation of prisoners for their new and difficult experiences in release programs. Much could be done to present to prisoners in advance both the benefits in prospect during the new assignment and its hazards. The program should provide a "bridge," over which the prisoner's transition to the new status can be safely negotiated. Each prison should assign appropriate staff to the conduct of such preparation, and central office personnel should develop a syllabus of materials to be presented. No one should be assigned to a Community corrections center without at least one week of intensive preparation.

Facility staff should keep in mind that the transition to a transitional status will be difficult for most prisoners. Problems will present themselves which may seem simple enough to a self-reliant free person but which will cause great anxiety to the resident himself, unaccustomed as he is to relying on himself while in prison. There will also be problems of great difficulty for anyone to handle. Residents must be given access to sympathetic and competent help. Most important of all, they should have a feeling that their success is a matter of first importance to the staff.

Evaluation:

In collaboration with your staff, I have been engaged in the evaluation of the present Temporary Release program since last October. I am impressed with the difficulty of laying hands on firm and reliable data. This obstacle to evaluation is extremely serious, and prevents me from making the assessment of the existing program in the detail and with the confidence to which I am accustomed. The forthcoming operation must not be subject to this handicap. A statistician should be employed to monitor movement of prisoners into the program and their eventual discharge. Such a system should be relatively simple to set up, even if systematic statistical monitoring of the entire population of the Department is not now functional. This kind of control is critical to everyone engaged in the program; without it, no one will know what he is doing or how well he is doing it.

The responsibility of the Commission is obviously critical in

assuring that program operations are correctly reported and interpreted. I think that your role should be roughly comparable to that of an auditor of the books in a corporation. You should be able to certify that the statistics are in order and fully represent program realities. You and your staff should be sufficiently familiar with program operations to be able to make recommendations for improvements, and, where necessary, to propose remedies for shortcomings. The program will get, as any government office will, a lot of uninformed criticism from other sources, usually of little or no positive value. The informed criticism which you are uniquely situated to offer will make possible steady gains in the difficult service a correctional agency has to provide.

Finally, I must add the obvious. This is a program of great promise, but everyone concerned, especially the public at large, must be prepared for the inevitability of serious failures. The population we are dealing with consists of men and women who have failed at least once in carrying out their responsibilities as citizens. Some of them can be expected to fail again, and some of these failures will be grievous. While every failure should be studied for clues for the improvement of the program, administrators and legislators must not make the all too common error of curtailing good and necessary gains in the interest of preventing occasional losses. The perspective should be apparent but usually is not evident to outsiders. The offender who commits a new crime after completion of a graduated release program would most likely have done so after unconditional and full release. The preparation for return to citizenship which is provided by a well administered Graduated Release program will be critical in preventing considerable amounts of recidivism -- no one can be sure as to how much.

It has been a pleasure to work with you, your colleagues on the Commission, and your zealous staff. I think both the Commission and the Department are to be congratulated on the bright prospect for the future that this new program represents.

Sincerely,

John P. Conrad
Senior Fellow Academy of
Contemporary Problems

GLOSSARY

COMMUNITY CORRECTIONS CENTERS:

Community-based facilities operating work and educational programs.

DOWNSTATE CORRECTIONAL FACILITY:

The newest Department of Correctional Services facility, to be used as the first of the proposed separation centers. Located in Beacon, New York.

EDUCATIONAL RELEASE OR EDUCATIONAL LEAVE:

A leave granted to an inmate to leave an institution for not more than fourteen hours in any day for educational or vocational training or for purposes associated with that training.

FURLOUGH OR FURLOUGH PROGRAM:

A program under which an inmate may leave an institution for a period not exceeding seven days. The purpose of this release may be to seek employment, to maintain family ties, to solve family problems, to seek post-release housing, to attend a short-term educational or vocational training course or for purposes associated with any of the above.

FURLOUGH YEAR: A furlough year begins on the date an inmate takes the first furlough and ends one calendar year later.

LONG TERM RELEASE:

Those programs which are regular daily release programs, such as work or education leave.

ON-GOING RELEASE:

See "long-term release".

SEPARATION CENTERS:

Facilities housing inmates six months prior to release, with programming concentrating on counseling for release, development of coping skills, and providing contact with agencies in the community. The agencies are expected to provide information to the transition inmate on housing, personal financial management, educational opportunities, transportation, health and employment.

TEMPORARY RELEASE PROGRAM:

The general term used to describe all forms of release including work release, furloughs, educational leave and other types of unescorted inmate leave.

WORK RELEASE:

A leave granted to an inmate to leave an institution on a regular basis for not more than fourteen hours in any day for the purpose of on-the-job training or employment, or for purposes associated with that work or training.

I INTRODUCTION

The Legislature amended the "Temporary Release programs for State correctional institutions" statute on July 29, 1977, and required the Commission of Correction to submit an evaluation of the program by March 1, 1978. The Commission has welcomed this charge, the first of such a nature in its brief history. This report contains our assessment of the program and our recommendations for its improvement. We have organized the review as follows:

September 1, 1977: The new law, its antecedents and effects:

1. History of the Legislation and Program
2. The Operation of the Program
3. Approvals and Disapprovals
4. Absconders and New Arrests

Commission Findings:

1. Commentary
2. Recommendations

February 15, 1978: The Department of Correctional Services
New Proposal

There were two major factors which limited the Commission's efforts. The Department of Correctional Services does not have the administrative data base to make a definitive evaluation possible. The Commission has not had the personnel or resources to collect the information that would remedy the deficiencies of the Department of Correctional Services data.

The Department of Correctional Services staff has for the most part been cooperative with the Commission staff. The Commission recognizes the serious pressures on the Department brought by rising population and disturbances in facilities. These pressures have clearly commanded the concerns of central office senior administrators.

It must be said that the New York State Department of Correctional Services does not have the administrative data base to make a definitive evaluation possible. We recommend the creation of a system of information controls which will enable the administrator to know what he has been doing while he is carrying out this program. Such a system would facilitate an independent assessment as well.

The evaluation of any social program such as Temporary Release is concerned with a comparison of various risks and benefits. To inform the legislature as to the balance calls for an examination of the dimensions of the program, its adequacy and efficiency, and the processes by which the objectives are to be achieved. This report will have something to say about all these matters, though not as much as its authors would wish. We are convinced that the report will support its recommendations; we hope that future reports of this nature can benefit from the remedies we propose for the acknowledged and serious gaps in information.

II SUMMARY

This report is the assessment of the Temporary Release program of the Department of Correctional Services, required of the Commission of Correction by the New York State Legislature. We conclude that:

1. The program is functioning at minimal capacity;
2. Policy changes can be made which would improve the likelihood of success of inmates after completion of the program;
3. The Commission can approve of the worth of the concept of work release. The program has not been sufficiently well developed to judge its true utility for New York State.
4. The processes and procedures should be simplified to serve the interests of the citizens of the State of New York, the staff of the Department of Correctional Services, and the inmates.

The report contains the following recommendations:

LEGISLATIVE CHANGES

1. Furlough and Release Program Legislation Separated

It is imperative that the furlough program be separated from the other release programs. The most realistic method of accomplishing this is by development of two separate bills, designed to become two separate, permanent statutes.

(See discussion, p. 20)

2. Delete Requirement For Commissioner Review

Legislative provisions requiring personal review by the Commissioner of the Department of Correctional Services or other specifically designated officers of the Department should be deleted.

(See discussion, p.30)

3. Redefinition of Eligibility Requirements in Statute

The Commission recommends redefinition of the eligibility requirements in the statute to limit participation in long term release programs to a maximum of three months.

Current restrictions on eligibility of prisoners based on the nature of the crime should be deleted from the statute. The Department should establish firm and readily understood criteria for admission to each program. These criteria should reflect standards developed through an objective scoring system. The criteria must be firm and not subject to revision due to rising population or other pressures.

The current screening mechanism coupled with the statutory eligibility requirements appear to result in a pool of inmates who are least likely to succeed in graduated release status.

(See discussion, p.30)

PROGRAM OPERATION CHANGES

4. Develop Information System

A fully current information base must be established. Reasons for data collection must be fully explained to facility staff to end confusion. An accurate, current information system could assure prompt identification of absconders or criminal acts by persons on Temporary Release. It could also enable the Department to make appropriate plans for the future development of these and other programs.

(See discussion, p.25)

5. Develop Career Incentives For Staff

Selection of staff assigned to the Temporary Release facilities should be enhanced by incentives for superior employees to compete for such assignment.

(See discussion, p.21)

6. Develop Training Program For Staff

Programming for personnel to be assigned to Temporary Release facilities should be specifically designed to provide training in advance of assignment and for regularly scheduled on-the-job training.

(See discussion, p.21)

7. Develop Ongoing Program For Inmates

Programming for prisoners to be assigned to Temporary Release facilities should contain a minimum of one month intensive pre-transfer orientation, and continuous group counseling and instruction while in the program.

(See discussion, p.22)

III - SEPTEMBER 1, 1977: THE NEW LAW, ITS ANTECEDANTS & EFFECTS

It is important to note that Commission staff were limited by time and staff constraints. The evaluation thus focuses on two major programs mandated by the law: The work-education or long term release programs and the furlough programs. It is clear from Departmental monthly reports that the greatest number of inmates participating in temporary release programs are either being released through the work-education program or the furlough program.

1. History of the Legislation and Program

It is necessary to review briefly the legislative and programmatic history of temporary release in New York State. This review can place the current program in a context and highlight the areas of improvement and difficulty. (See TABLE I, p.9)

The 1969 Law

The first temporary release law for New York State correctional institutions was passed in 1969 with bipartisan support. That program allowed for work release which enabled inmates to leave the premises of an institution for education, on-the-job training or employment.

Inmates were eligible for temporary release if they were eligible for parole or within one year of eligibility to parole. An additional condition of eligibility was that the inmate must have been confined in an institution with a work release program. A participating inmate was allowed out of the facility for a maximum of 14 hours per day. Parole officers were responsible for the supervision of inmates who were outside the bounds of confinement. Parole officers were also responsible for aiding the inmate in securing appropriate education, on-the-job training and employment opportunities.

The decision to release was the responsibility of the facility work release committee with the warden's approval.

The Department of Correctional Services further elaborated on the law, providing for internal guidelines for release decisions, appeals, procedures and accountability.

The 1972 Law

The Legislature amended the work release law by adding a furlough provision in 1972. This was the major substantive change in the law. The number of inmates potentially eligible for release was enormously increased because program placements did not need to be developed.

The addition of furloughs also enabled the Department to provide a greater number of inmates with transitional opportunities.

The merger of the Division of Parole and the Department of Correctional Services that occurred in 1971 was an additional important variable. The legislation did not specify what group or unit was responsible for supervision of the inmate outside the facility. The responsibility for helping inmates to develop a program was no longer specifically assigned to parole, but rather to appropriate employees or unit of the Department. It was expected that parole officers would continue to do this work.

The 1972 law was to be effective for two years. It was renewed in 1974 for an additional two years. The renewal in 1976 was for one year.

The 1977 Law

The Temporary Release Law was amended again in 1977. The most significant amendment to the law that year was the provision effecting eligibility. The new criteria included the provision that inmates convicted of a crime involving serious physical injury, forcible sex or use of a weapon were ineligible unless the Commissioner approved their release in writing. Inmates convicted of absconding or escape were ineligible. The factor of eligibility for parole or within one year of eligibility for parole was retained.

The history of the Department's release programs can be noted briefly. Initially, the Department operated work release out of selected facilities. Not all facilities had a work release component. The Department began to operate small facilities in the New York City area after changes in the law in 1972. This move can be seen as related to population pressures, the availability of facilities formerly used by other state agencies and the Department's interest in getting inmates closer to their home communities.

In 1976 the VERA Institute of Justice, under the leadership of Herbert Sturz, was asked to develop a new temporary release selection system for the Department of Correctional Services. VERA's review of the State program suggested that a point system could balance the concerns of the public, administrators and inmates and provided uniform method of selection to make the temporary release program effective and systematic.

The point system developed by VERA enabled inmates to know that behavior in prison could have an effect on the likelihood of selection. Good institutional behavior could earn points; criminal history would not be the only criteria for selection. Program and work participation during incarceration and lack of conflicts resulting in institutional disciplinary action allowed the inmate to take responsibility for impact on his own release.

The VERA plan suggested that not only could the selection process be more systematic, but also that there were specific factors which had some predictive power on indicating successful candidates for the program. The point system appeared to reflect the Department's increasing awareness of management concerns through creation of appropriate procedures. It also would satisfy the inmate's need for information. It would respond to the community concerns that inmates were being released arbitrarily.

This attempt on the part of the Department to rationalize and clarify its decision making for inmates and staff alike must be recognized as valuable. Such a system could also provide increased accountability.

The Department and VERA used four facilities to test and modify the point system. The Department was moving toward implementation of the point scoring system in all facilities when the 1977 legislation was enacted. The requirement of a subjective review severely limited the utility of the point system.

The changes embodied in the 1977 law can be seen as a response to public outcry over several offenses committed by inmates in work-education release status.

The Legislature also apparently viewed the Department's supervision and accountability as inadequate. The legislation allowed for continuation of temporary release programs, but limited inmate participation through the addition of the provision of written approval from the Commissioner. The selection process, which grew out of the eligibility criteria, has thus been the major focus of the Department for the period of the evaluation by the Commission of Correction.

2. Operation of the Program

The selection process: (See CHARTS I and II)

An inmate must first apply for temporary release. It is his(her) responsibility to complete the application and submit it for review. (See APPENDIX A for application). In those facilities using the VERA point system, the inmate's application is reviewed by a temporary release clerk. The temporary release interviewer meets with the inmate to review the application, scores the application and completes a record check. This is a full time position. Some interviewers serve more than one facility.

TABLE I

TEMPORARY RELEASE IN NEW YORK STATE PRISONS:

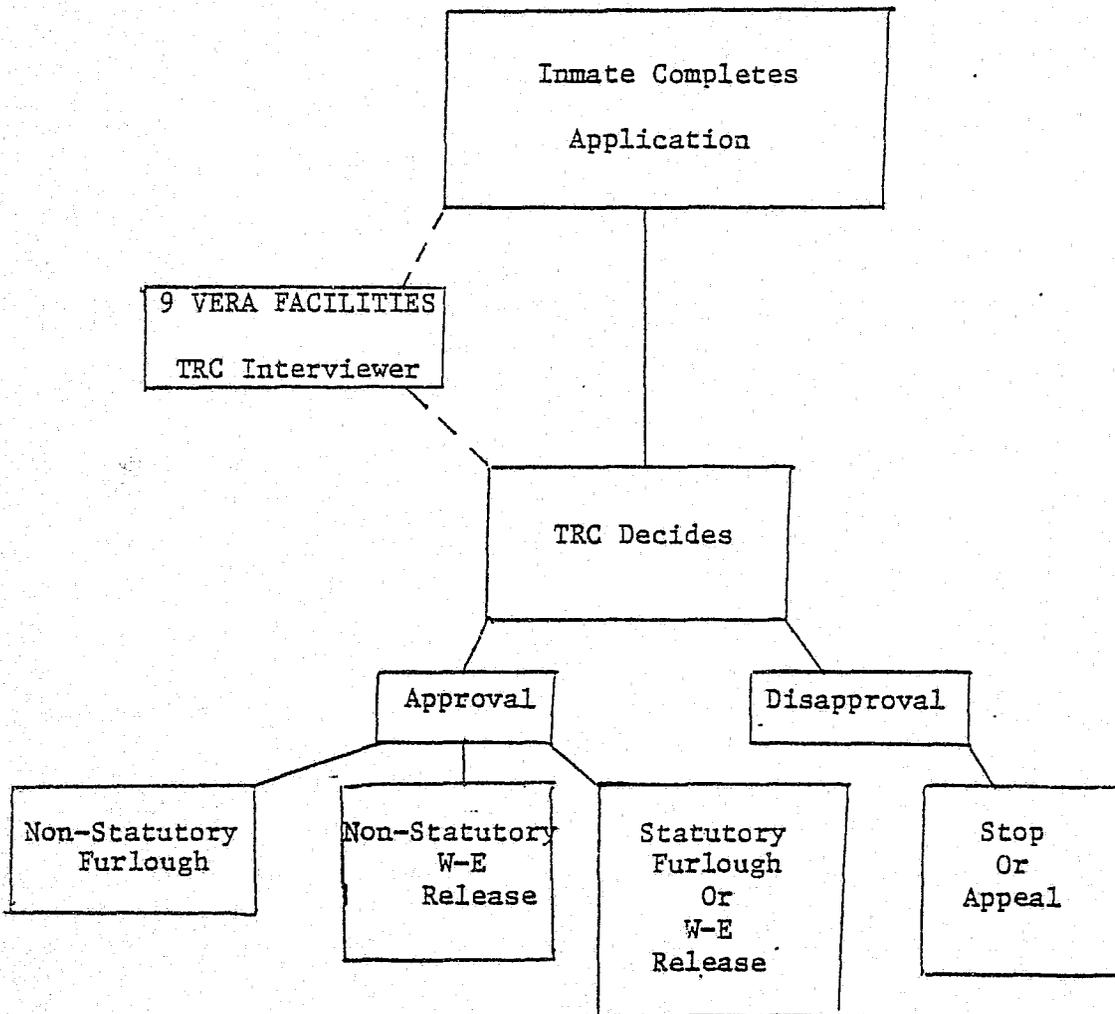
A STATUTORY SUMMARY

Issues	1 1969	2 1972	3 1973
Eligibility	Eligible for parole or one year to parole, confined in institution with work program.	Eligible for parole or one year to parole, confined in institution with work or furlough program.	Eligible for parole or one year to parole; not convicted of escape or absconding; has Comm. approval if serious physical injury, forcible sex, weapons use.
Release Decision	Work Release Committee with Warden's approval.	Temporary Release Committee with superintendent approval.	Temporary Release Committee with Comm. approval in some cases.
Amount of time out of facility daily.	14 hours/day.	14 hours/day Furloughs not to exceed 7 days.	14 hours/day.
Supervision outside institution	Parole.	Not specified.	Parole officers.
Programs mandated.	Work release including education.	Work release, furlough, volunteer work, leave of absence	Work release, furlough, Comm. services(vol.), leave of absence education.
Program development	Parole-responsible for securing appropriate education, on-the-job training, and employment opportunities.	Appropriate employees or unit of department.	Appropriate employees or unit of department.

1. Laws of New York, Ch. 472 (May 9, 1969)
 2. N.Y. Correction Law § 852 (McKinney 1968)
 3. Id.

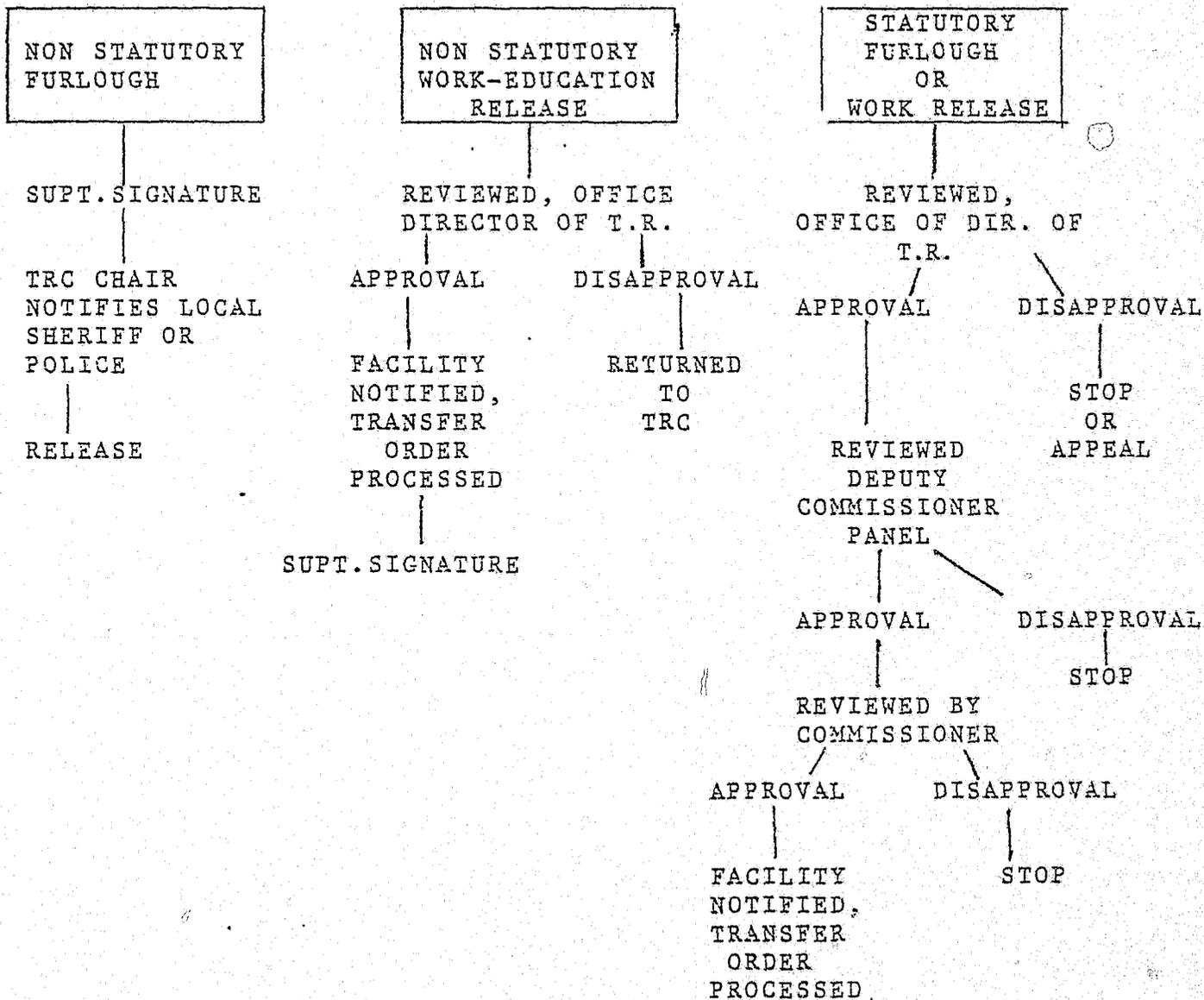
CHART I

APPLICATION MOVEMENT IN FACILITY



CONTINUED ON CHART II

CHART TWO:
MOVEMENT OF CASES APPROVED AT TRC



In facilities not yet using the point system, the Temporary Release Committee used statutory categories and departmental guidelines to determine eligibility. (See APPENDIX B for guidelines). Temporary Release Committees consist of four members, one of whom serves as Chairperson. Each of the members has other responsibilities in the facility. Departmental rules and regulations require that there be a member from parole, program services, and security.

Inmates must score a total of 32 points for furloughs or 35 points for long term release to be considered for release. The maximum possible score is 47. The Temporary Release Committee interviews inmates who have a score high enough for eligibility. It also interviews inmates who are in Open Date, Own Program status and those whose institutional records are outstanding. Inmates in facilities not using the point system are interviewed by the Temporary Release Committee.

In all facilities the Temporary Release Committee screens inmates for release. The statute requires the Superintendent of the facility to approve the committee's decision to release an inmate. He(She) indicates approval by signing approval for release. An inmate whose offense does not place him in a statutory category is released at the facility without further review.

Several categories of inmates must have the Commissioner's personal approval for participation in temporary release. They are screened further. After the Temporary Release Committee at the facility reviews the file, if they recommend release, this recommendation must be forwarded to the central office.

Cases which fall into the following categories must be referred to central office:

- 1) All cases discussed in the statute, i.e., those involving use or threatened use of a weapon, those causing serious physical injury or a forcible sex offense;
- 2) All cases which necessitate further investigation, i.e., those in which there has been a finding of mental instability or a designation as a central monitoring case;
- 3) All cases scoring in the low range but who are either Open Date, Own Program or Open Date status or have outstanding institutional records.

The Office of the Director of Temporary Release also monitors the transfer to other facilities of inmates who are not statutorily excluded.

The Department sees the central office review procedure as having three steps: the Office of the Director of Temporary Release; Deputy Commissioner Panel; Commissioner Ward.

Inmate folders are first reviewed in the Office of the Director of Temporary Release by one member of a group of five people all of whom are Senior Parole Officers. Cases are assigned randomly.

If a member of the review panel approves the release, the case is then sent to a Deputy Commissioner's panel for review. Again, cases are assigned randomly. The Deputy Commissioner's panel consists of two members both of whom are central office executive staff, and the Deputy Commissioner. At least a majority of the panel must favor releasing the inmate. The Deputy Commissioner casts the deciding vote. If the panel concurs that the inmate be released, the case folder is then sent to the Commissioner.

Executive Deputy Commissioner Douglass reviews all cases which have been approved by the Deputy Commissioner panels. This is seen as a further check rather than a separate level of review.

Commissioner Ward's executive assistant then reviews the contents of the file to be sure that all necessary material is in the file. This is not seen as a separate review.

At this point Commissioner Ward reviews the cases and determines whether the person should or should not be released.

TABLE II
FACILITIES USING POINT SYSTEM;
FACILITIES WITH RELEASE COMPONENT

FACILITY	VERA POINT SYSTEM February 1978	PROJECTED POINT SYSTEM April 1978	WORK OR EDUCATIONAL RELEASE OPERATI COMPONENT February 1978
ALBION	X		X
ARTHUR KILL		X	
ATTICA	X		
BAYVIEW			X
BEDFORD HILLS	X		
CLINTON	X		
CLINTON ANNEX			
COXSACKIE		X	
EASTERN		X	
EDGECOMBE			X
ELMIRA	X		
FISHKILL		X	
FULTON		X	X
GREAT MEADOW	X		
GREEN HAVEN	X		
HUDSON			X

SIGNIFICANT ISSUES AFFECTING SELECTION PROCESSES:

GUIDELINES

Inmates are rejected because they are viewed, on one of the subjective levels, as unlikely candidates for success in temporary release status.

Guidelines, which have not been developed separately for each level of decision making, suggest that the point score be emphasized. They also suggest that reviewers stress what they perceive as the likelihood of inmate success on release. Departmental Rules and Regulations for Temporary Release Programs state:

"In making its decision, the Temporary Release Committee should center its attention on the inmate's score on the 11 items in the point scoring system, and on their interview with the inmate as well as other methods of evaluating inmates, including further investigation procedures and specific recommendations of the professional staff.

Committee members may also take note of those aspects of the applicant's record not formally taken into account by the point system, such as the quality of the inmates performance in programs or on work assignment, or the nature of prior disciplinary infractions. The Commission shall also take into account any factors, besides the items in the point system, which in their best judgement, they find significant. In general, the applicant's ability to profit from participation in temporary release should be weighed against whatever risk to the community or to the program would be posed by his release." (Rules & Regulations II, 13-14)

Additionally, the Rules and Regulations state:

"Inmates should be denied temporary release if their presence in the community or in minimum security institutions would pose an unwarranted threat to their own or public safety or if their presence in the community could cause such intense negative public reaction that the inmate's successful participation in the program would be made difficult and public acceptance of the temporary release program would be jeopardized."
(Rules & Regulations II, 17)

Each level of reviewing process focuses on its own concerns. Commissioner Ward stated in an interview that Temporary Release Committees at the facilities focus on institutional behavior.

The Commissioner believes that the staff of the Director of Temporary Release focuses on a casework approach. All of the current staff (February 1978) are senior parole officers. Their experience in the field, rather than written guidelines determines their decisions. Their views reflect the legislation and guidelines. Reviewers appear to focus on five major issues when making decisions regarding release. These issues are:

- 1) Does the inmate have a long history of arrests;
- 2) Does the inmate have a history of violent street crime;
- 3) Does the inmate have a history of alcohol or drug abuse;
- 4) Does the inmate have a history of sex offenses;
- 5) Is the inmate notorious in any way.

Commissioner Ward stated that his responsibility in this review process was to look at the function of sentencing and to see the release of the inmate from the public's point of view.

TIME

Director of Temporary Release, Martin Horn, indicated that the process described above, that is, from inmate application through Commissioner Ward's review, generally takes approximately six weeks. Much of that time, of course, the application is waiting to be processed or to be passed on through the system.

Processing in central office is the most time consuming. Once the case is received for review in central office it could take a month to complete the reviewing process. Mr. Horn said that he suggests that the Deputy Commissioner's panel have five days to review the case and that the Commissioner also have five days. Commission staff found, in reviewing central office cases, that generally speaking, the time frame of one month from date of panel member's signature to Commissioner Ward's signature is fairly accurate. The dates within that time frame do not appear to fall into Mr. Horn's suggested allowance.

Not all cases move at this rate. A review of monthly statistics indicates that many cases remain in a pending status. Commission staff were not able to ascertain why cases were held up other than that staff were not able to manage the volume of cases received in central office. Department records indicate that there were 1124 applications received in central office for the four month period, September 1, 1977 through December 31, 1977. A total of 734 cases were reviewed; 496 were rejected by the review panel; 29 by Deputy Commissioner panels; 29 by Commissioner Ward. There were 180 cases approved through the central office review mechanism. The total number of cases pending in this time period was 330, approximately 35 percent. Approximately 30-40 percent of the cases received in October, November and December were in pending status in each month.

The small size of the reviewing staff and the Department's intent to monitor the participants especially closely has meant that the movement of folders is slow.

APPEALS

Inmates may appeal disapproval on the basis of accuracy or merit. They may only appeal decisions made at the Temporary Release Committee or at the central office review panel level. They may not appeal the decision of a Deputy Commissioner's panel or of Commissioner Ward. The process of appeal is dependent on the issue raised by the inmate.

If the question is one of accuracy of the information used by the Temporary Release Committee in making its decisions, the Temporary Release Committee chairman reviews that decision.

If the inmate appeals the Temporary Release Committee decision based on his belief of meriting release, the appeal is reviewed by the central office panel. Reviewers are responsible for appeals from all facilities in an assigned geographic area.

If the appeal is based on a question of accuracy of information used by the central office panel, that appeal is handled by the Assistant Director of Temporary Release. If he originally handled the case, the case is appealed to the Director of Temporary Release.

If the appeal is based on the merit of the central office decision, that case is appealed to the Director of Temporary Release.

Central office staff indicated that they would be likely to ask other panel members to review a case they had originally rejected. There are no formal guidelines for this. The informal guidelines appear to be a result of ongoing discussion among the reviewers.

Central office staff said that decisions that question merit are rarely overturned. Commission staff was unable to verify this by case review. Errors in computation of point scores may cause a case to be reconsidered. If outstanding warrants were cited as reasons for disapproval, and those warrants are cleared, inmates may appeal.

The appeals process has not been clearly articulated. It appears that the policy regarding appeals has not been clarified. Reviewers did not know if, in the instance of a previous decision being overturned, the case would be sent on to completion of review, or would be sent back to begin the process again.

RELEASE

The office of the Director of Temporary Release notifies the facility of the release decision. If the approval is for furlough, the facility schedules the release.

If the approval includes transfer to a different facility for work or educational release, the office informs the Division of Classification and Movement that the inmate has been approved. The transfer order is then carried out from the facility which contacts the Division of Classification and Movement to arrange for the inmate's transfer.

The Division of Classification and Movement does not direct which inmates are transferred or what days inmates will be transferred. It is the decision of the facility which inmates are transferred on what day. The Division assigns buses to transport inmates from facility to facility and decides only the facilities, not the inmates.

The Director of Temporary Release has developed a two week follow up mechanism as a check on the transfer of inmates. This is useful to ensure that inmates are, in fact, moved through the system.

The Temporary Release Committee is responsible for checking the inmate's disciplinary record immediately prior to release to assure that the status has not changed.

FLOW

The institution of the 1977 law and its implementation has slowed the flow of inmates into all forms of temporary release. There have been fewer applications than might be expected and a decreasing number of approvals at each decision making level.

Monthly reports mandated by the 1977 law indicate that there has been a steady decrease in the number of approvals and, with release of inmates to parole, a decreasing number of participants housed in work release facilities.

It is worthwhile to remember that the Thanksgiving and Christmas holidays are generally times of increased furloughs. The slight rise in number of furloughs granted in November and December can be attributed to this. The drop in furlough applications in October and November would appear to indicate that inmates' expectations for furlough had diminished.

TABLE III

MOVEMENT IN TEMPORARY RELEASE PROGRAMS

September 1, 1977 through December 31, 1977

<u>Participant Movement</u>	<u>September</u>	<u>October</u>	<u>November</u>	<u>December</u>
Number of Applications				
Work Release	400	614	557	268
Education Release	27	97	124	54
Furloughs	1667	1479	1376	1038
Number of Furloughs Granted	301	270	291	359
Number of Work Release, education release, community service and industrial training leave participants	766	606	445	386

FURLONGHS:

The furlough program serves a different purpose from the ongoing release programs. The purpose of furloughs is to maintain family ties and to seek employment contacts for the period following release.

The maximum number of furlough days available to inmates in a furlough year is 28. No one may take a furlough of more than 7 days at one time. No one may take more than 6 furloughs in a furlough year.

Inmates in all facilities are eligible for furloughs. Furloughs were designed to allow inmates to begin the reintegration process without the necessity of the development of a program component.

Furloughs have had the lowest risk with many fewer absconders or arrests than other release programs.

Historically this has also been true. Inmates and staff alike suggest that there are several reasons why furloughs are so successful:

- 1) Furloughs are not longer than 7 days; one does not have sufficient time to do other than visit family.
- 2) Successful furlough completion is a basis for improved opportunities for future release program participation.

- 3) Inmates believe successful completion of furloughs contribute to the increased likelihood of release at the next parole board appearance.

The supervision of inmates in furlough status is limited. The current law mandates supervision by parole officers. Inmates are instructed at the facility that they are required to report to the nearest area parole office when they arrive at their approved furlough residence. The brief time the inmate has on furlough generally does not allow for sufficient opportunity to review future plans in detail with a parole officer he may never see again. If an inmate is 9 to 12 months from a release date, it would be unrealistic for the parole officer to help him(her) to begin development of concrete plans.

Furloughs thus have both a different purpose and a different success rate. The Department can accommodate a greater number of inmates in this transitional program without significant increase in costs.

PROGRAMS IN NEW YORK CITY FACILITIES:

The work and educational release facilities operating in New York City involved a large percent of inmates, so they were the major source for Commission information gathering about program operation. These facilities were in a serious state of flux during the entire time of the Commission's study. It is more profitable to discuss systemic problems noted than to describe the operation of the program, as what was noted in November may not be operating in March.

There are, as of this writing, (February 1978) five release facilities in New York City. They are: Lincoln, Edgecombe, Parkside, Fulton and Bayview. Bushwick has been closed as a result of the drastic population reduction. Bayview currently has no inmates and is awaiting development of a pre-release and pre-work release program.

Commission staff found in interviewing inmates, staff and administrators at these facilities that there was a great deal of confusion about the future of the program. This confusion further exacerbated serious problems with program operation.

There was not sufficient clarity in job descriptions. There was overlap in the roles of the counselors and parole officers. This led to a confusion about responsibilities.

Security staff had no specific training to work in a release setting. They were not prepared to be sensitive to potential crisis signs.

Some staff suggested that there were problems with the role of the Temporary Release Committee and the Adjustment Committee.

Staff and administrators alike were demoralized by the outlook for the future of Temporary Release. This lack of enthusiasm was transmitted to inmates.

Inmates voiced their concerns about the operation of the program. They noted the lack of evening programs in facilities. There were few, if any, ongoing evening programs for education or recreation scheduled in these facilities.

Inmates told Commission staff that there was not much personal counseling available to them. Parole officers and other counseling staff are scheduled for nights on duty. It appears that this is not seen by inmates or parole officers as an opportunity for counseling sessions.

Provisions for visiting are limited as inmates are expected to go home on furloughs regularly.

Orientation for inmates is not ongoing in nature. It makes no effort to prepare an inmate comprehensively for the community. The orientation which does exist does not even adequately help inmates to understand the temporary release procedures. Up-to-date inmate handbooks were not available in all facilities.

COSTS:

The Commission was interested in examining the costs of the Temporary Release Programs, as this is surely an important consideration in determining the utility of any social program. Again, the Department staff were quite cooperative in attempting to provide the Commission staff with needed information. The overall costs for the Temporary Release Program operation were approximately \$9,400,000 projected for fiscal year 1977-1978. This figure is based on the projected costs for the operation of the New York City facilities: Bayview, Bushwick, Edgecombe, Fulton, Lincoln, Parkside; the Rochester facility; the centralized administrative operation for New York City which is located in Long Island City; the costs associated with Temporary Release activities at the upstate facilities of Albion, Eastern, Elmira, Fishkill, Hudson, Woodbourne and Tappan; and the central office costs incurred as a result of the activities of the Office of the Director of Temporary Release. The figure does not include the amount necessary to maintain Temporary Release interviewers associated with the scoring mechanism. The funds from that project were not budgeted by the Department from state purposes funds but rather were provided through federal grants.

Significant savings may not result if the Release programs are not operated in the future. Inmates will continue to be housed, clothed and fed in Department facilities. If the Release facilities are to become general confinement facilities, program and other staff will likely be increased. The capital costs associated with such conversion are not included in this discussion.

The overall costs of the program do not themselves provide a sufficiently clear view of the costs of the program. It is necessary to examine these costs in light of other Department expenditures.

The Department provided Commission staff with comparative operating costs for Temporary Release and other facilities. The costs are based on Department recommended appropriations in the Executive budget for fiscal year 1978-1979. These recommendations are based on the projected average annual population figures. Some variation in the number of inmates or dollars could be expected. These figures are presented in TABLE IV. The average annual cost per inmate is projected at \$11,131. Four of the release facilities have annual costs less than that amount.

All of the maximum security facilities examined have per capita costs that are lower than the Department's average. It would be logical to assume that the lower costs are a function of economies of scale. That is, the maximum security facilities in this sample all have populations of more than 1500 and therefore are less expensive to operate than smaller facilities with fewer inmates. It may then be that the greater costs of some work release facilities are not so much a function of work release as they are a function of the size of the facility.

If work release continues to diminish in size and conversion to general confinement is contemplated, the New York City facilities will maintain fewer bed spaces. It is not clear that the elimination of more work release beds could save the Department a substantial amount of money.

The Commission believes that the Department must reconcile itself to providing improved programming for inmates in release facilities. This must be done to promote the safety of the community as well as to improve the inmates' chances for success. The increase in programming may impact on the operational costs of the facilities. The Department will surely consider this in the most cost effective way.

TABLE IVPer Capita Annual Costs of Several Facilities

<u>Facility by Type</u>	<u>Estimated Cost Per Inmate Per Annum</u>
Maximum Security	
Attica	\$ 9,180
Clinton	10,394
Elmira	9,116
Green Haven	8,538
Medium or Minimum Security	
All Camps (Average)	8,628
Fishkill	13,107
Wallkill	10,829
Release Facilities	
Bayview	10,760
Edgecombe	9,293
Fulton	12,793
Lincoln	10,815
Parkside	11,500
Rochester	7,214
Multi-level Security	
Bedford Hills	15,911
*Average for all (34) State Institutional Operations	11,131

RECIDIVISM

One measure of success frequently raised in considering prison programs is recidivism. Commission staff attempted to ascertain the effect of release programs on the rearrest rates of those who had successfully completed a work release experience. Records and statistics currently available do not provide this information.

The Department has information about the prior criminal history of inmates currently in custody. That does not provide information about inmates who are released from the system.

Currently there is no way of knowing the percent of people who are released from New York State prisons and rearrested within one year. It is possible to know, when a person is arrested that he was incarcerated previously. It is not possible to know what the rearrest rates are for inmates released from New York State facilities. The Department does not maintain follow-up data on former inmates. It could only know of recidivism if the person were returned to the Department. The Department is examining that data.

The Department does not maintain information about the type of programming an individual experienced while incarcerated. There is thus no way of knowing what programs have had an effect on individuals, except through a case-by-case review.

The Division of Criminal Justice Services was approached for information about rearrest rates. That Division cannot now produce the information about rearrest for formerly incarcerated individuals. It was suggested that the new Offender Based Transaction Statistics System will be able to provide this information. The Offender Based Transaction Statistics System is designed to trace the movement of individuals through the criminal justice system. It is planned to allow for the maximum amount of information to be exchanged among various criminal justice system agencies. Once operational, it is planned that this system will provide data on individuals from arrest through completion of parole or maximum expiration of sentence. It is not clear when Offender Based Transaction Statistics System will be fully operational.

APPROVALS AND DISAPPROVALS

The Commission staff examined 148 cases which were reviewed in the Department of Correctional Services central office. This examination was an attempt to discover any systematic differences between those inmates who were approved for temporary release and those inmates who were disapproved.

TABLE C-I presents the breakdown of cases in the sample reviewed by the Commission.

TABLE C-I

Distribution of Cases Reviewed by Commission

	<u>NO.</u>	<u>%</u>
Cases Approved	39	26
Cases Disapproved	89	60
Non-Statutory Cases Approved for Transfer	19	13
Non-Statutory Cases Disapproved for Transfer	<u>1</u>	<u>.6</u>
TOTAL	148	99.6 ²

Non-statutory cases are reviewed for transfer in central office to ensure monitoring of movement of inmates between facilities. These cases were dropped from the group analyzed on the approval-disapproval continuum.

TABLE D-I

Dispositions of Cases 9/1/77 - 12/31/77	Reviewed	Central Office
	No.	%
Cases Approved	180	16.01
Cases Disapproved	554	49.29
Cases Pending	<u>390</u>	<u>34.70</u>
TOTAL CASES	<u>1124</u>	<u>100.00</u>

TABLE D-I presents all cases reviewed in central office. As was noted in the discussion of flow, more than one third of the cases were not approved or disapproved.

It is reasonable to compare TABLE C-II with TABLE D-II. Cases not included on the approval-disapproval continuum were dropped in each instance.

TABLE C-II

Distribution of Cases Reviewed by Commission

	<u>Approval - Disapproval</u>	
	No.	%
Cases Approved	39	30.47
Cases Disapproved	<u>89</u>	<u>69.53</u>
TOTAL CASES	128	100.00

TABLE D-II

Distribution of Cases Reviewed by Central Office

	<u>Approval - Disapproval</u>	
	No.	%
Cases Approved	180	24.52
Cases Disapproved	<u>554</u>	<u>75.48</u>
TOTAL CASES	734	100.00

A higher percent of the Commission sample was approved than in the total of cases reviewed. Commission staff examined several variables, in comparing approvals and disapprovals. Preliminary analysis is inconclusive. The Commission suggests that the Department should attempt to discover what difference exist between these two groups. It would also be important to discover how the guidelines and objective criteria are reflected in the approval and disapproval groups.

ABSCONDERS AND NEW ARRESTS

In the time period, September to December 1977, there were 56 absconders and 14 arrests among more than 1500 inmates in temporary release status. Records are maintained on the number of transactions, not on the number of individuals. That is, the statistics provided describe the number of furloughs granted, not the number of inmates participating in those furloughs. The lack of an on-line computer system prohibits data collection of this type. The number of arrests and absconders includes participants in furlough and long-term release programs. These figures include only those individuals who were in release status during that time period. It does not include individuals who had previously absconded and were then arrested in that time period.

The most significant information discovered in the review of absconders and new arrests is the problem of department record keeping. Commission staff reviewed the records of 38 absconders and 7 "new arrests." In some cases, Commission staff was unable to obtain the folders of inmates from the central office file as these were checked out to central office staff members other than in the office of the Director of Temporary Release. Information needed to complete a check sheet on a case was not always in the file. In some instances, the score sheets for the Departmental guidelines were not in the folders. Others did not have a criminal history summary sheet in the folder. This may have been a result of the fact that inmates might have been transferred to release status prior to the new procedures taking effect.

Other important data not found in the central office files were memos of agreement, transfer orders, and in at least one instance, a blotter sheet. If a reviewer, for example, needed to examine an inmate's folder, and some of the above materials were missing, the review could be held back for considerable time. Reviewers cannot know the chronology without complete folders. In addition, it was clear to the Department that the Commission was charged with monitoring the temporary release program and that complete records are necessary for such an evaluation to present an accurate picture.

In some instances, inmates had either returned to the facility voluntarily or had been returned by a police or other correction agency. A number of those files lacked notice of Superintendent's proceedings against the inmate. Thus, it was not clear if the inmate had been transferred without the Superintendent's proceeding, or if the proper paper had not been filed.

Staff in central office indicated that they were aware of the difficulties in maintaining the folders in an up-to-date fashion. They had also noticed the lack of chronological order of filing, which complicates understanding of the case at hand. The lack of sufficient material in the folders was also noted by a researcher from the Virginia Department of Corrections.

It would seem that this problem with record keeping has implications for Departmental operations other than temporary release. The Department will have continued difficulty in planning for program development and facility operation if it does not develop more useful and readily understood information gathering and record keeping systems.

There were no violent crimes among the new arrests that Commission staff were able to review.

Many of the absconders returned to the facilities voluntarily after an absence of several days. Others were returned involuntarily.

A cursory check of absconder parole board appearance dates did indicate that there were some inmates who absconded shortly after a parole board appearance at which they were denied release. The size of the sample was such that it is not possible to conclude that this is a significant trend. It does, however, suggest that the Department should itself review the cases of absconders. Such a review could provide the Department with information about possible crisis moments in the experience of inmates. The possibility of predicting such moments could enable the Department to improve supervision and promote crisis intervention counseling.

Commission staff note that the Department has instituted some important safeguards to prevent parole board appearance related abscondings. The Department and the Parole Board now have all New York City inmates appear at hearings at Queensborough Correctional Facility, a medium security facility. If a person is held by the Board, he is returned to a more secure facility directly from Queensborough. These policy changes can be crucial in determining the program's success and in promoting inmate success.

IV COMMISSION FINDINGS

COMMENTARY

The Commission concludes that the Temporary Release Program is operational and in a marginal condition of development. The limited number of prisoners assigned to the program reflects the constraints of legislation and the extremely retentive formulation of Department policy. We hold that the program is far from the realization of its full potential.

THE REVIEW PROCESS

The statute now requires that any prisoner committed to the Department for a crime of violence must pass through a complex review process before he can be admitted to the program. This review must be attested to by written authorization of the Commissioner. This interpretation has led to a succession of personal reviews including those by the Director of Temporary Release, the Deputy Commissioner and by the Commissioner himself. The Commissioner has construed the intent of the legislature in the most narrow sense and has required both of his staff and himself to conduct these reviews personally. There is evidence that this was the intent of the Legislature. The objections to this procedure are numerous. Personnel time is allocated to a laborious and time-consuming activity, the completion of which unreasonably delays the assignment of prisoners to the program. Officials with heavy responsibilities for general management of the Department are unable to give systematic attention to a decision-making process that requires detailed case review and consideration of feedback on policy development. Finally, and most seriously this procedure reflects a misunderstanding of the principles of accountability in public administration. We propose the deletion of this requirement.

ELIGIBILITY REQUIREMENTS

As the law now stands, eligibility for this program is limited to persons who are (a) eligible for parole, or (b) within one year of such eligibility. Further, no person can be assigned to this program who is serving a sentence for (a) a crime involving the use of weapons, (b) a crime of violence, or (c) a crime involving a forcible sex act, unless his application has been reviewed by the process described in The Review Process subsection above. Further, any person who has been convicted of escape from prison or absconson from Temporary Release is ineligible.

These limits are primarily addressed to the nature and extent of the risks that the Department can be allowed to assume in the conduct of this program. Also contained within these restrictions is implicit encouragement of the Department to maintain eligible prisoners in the program for what we believe to be an undesirably long period of time. We shall discuss these problems in order.

As to the limits placed on risk, the Department is placed in the middle of conflicting imperatives. On the one hand, the limit of its capacity to hold prisoners is definite and not subject to adjustment. Prisoners must eventually be released, in nearly all but the most heinous cases, regardless of risk. In common with nearly all contemporary authorities on the subject of crime control, the Commission holds the view that risk to the public is reduced by a practice of realistically graduated release. A prisoner in a minimum custody situation is subject to a test of his responsibility that exceeds the test of maximum custody. Likewise, a prisoner who is held in conditions of Temporary Release, free to work or attend school in the community but subject to rigorous staff supervision is under a test that assesses the nature of the risk the state faces when eventually it releases him outright, as eventually it must.

The results reported in the discussion of Absconders and New Arrests partially supports this reasoning. There were 14 arrests of Temporary Release participants from September 1 through December 31, 1977. From the records available to Commission staff, it appeared that no arrests were for charges of crimes against the person. We believe that this result is acceptable, especially when it is born in mind that the prisoners assigned to this program have been the product of a narrow selection policy. Eventually, some program participant will commit a serious crime; this contingency must be expected in any graduated release policy. The responsibility of the Department is to use the Temporary Release strategy as an opportunity to observe the behavior of its prisoners under conditions of limited freedom, to influence their conduct constructively, and to withdraw the freedom allowed when there is an indication that an individual cannot manage himself responsibly.

Finally, we are of the opinion that the inference drawn from the legislation that prisoners may be held in Temporary Release facilities for periods up to and even exceeding a year is counter-productive. A more limited period, generally speaking, up to three months is all that is necessary to meet the objectives of Temporary Release for most offenders. It is our opinion that a policy on placement developed by the Commissioner in consultation with this Commission would afford better protection and improved achievement of public objectives.

RECOMMENDATIONS

LEGISLATIVE CHANGES

1. The purposes of the furlough program and the long term programs need to be clearly articulated. It appeared to Commission staff, based partly on the higher percentage of furloughs than long term release applications approved, that the Department did recognize two separate programs.

Furloughs can be part of a transitional services strategy. Inmates who have successful furloughs are more likely to be successful in ongoing release programs than they would otherwise be. In some instances, then, furloughs would precede movement to ongoing release status.

Most inmates will be released. Through furloughs, the Department can provide an opportunity for many inmates to begin to reconstruct family and community ties. (See Furloughs, p. 20)

2. The legislative provisions requiring the current review mechanism should be deleted. The mechanism is unwieldy, unmanageable, and in the current budget, not funded. It is a poor use of Commissioner Ward's and staff time. It does not necessarily promote the intended purpose, which is increased accountability. The demand for the Commissioner's signature and review of inmate case folders is, at very least, extremely expensive in financial and management terms. (See Selection Process, p. 8)

3. The Department has a seven year history of temporary release. In that time period, the Department has recognized the need to develop an improved selection mechanism. The Department has made some effort to improve its selection mechanism, notably through the VERA point system.

The Department should continue to improve its selection procedures, being guided by the concerns of the public.

The concerns of the Legislature must be recognized. This is attempted with the statute limiting eligibility. The eligibility criteria in the current law reflects the Department's guidelines under previous laws.

The question of eligibility must be examined closely. The Department should develop criteria for eligibility and selection recognizing the intent of the Legislature to limit participation in long term temporary release programs. The Department should review its own criteria at regular intervals, to be sure that eligibility and selection are closely monitored. The Commission, through its State Facilities Bureau, should also monitor these aspects of the program. The Department must be encouraged to use temporary release as part of its efforts in programming and improving the release process. It must not use the release programs in response to population or other pressures.

The Commission recognizes community outrage and concern when a violent crime is committed by a person who has committed a violent crime in the past. Yet, many persons who are excluded through the categories in the current statute, who have committed a crime of violence, may constitute a good risk. Individuals who commit crimes of passion are unlikely to repeat that type of crime. National statistics indicate that people convicted of murder have the lowest rearrest rates of any group of previously convicted persons.

The current statutory categories have resulted in a high proportion of persons convicted of street crimes and drug related offenses in the program. The inadvertent effect of the legislation has been to limit the pool of individuals to those least likely to succeed in the graduated release experience. The release program, as it is presently staffed and organized, probably cannot provide the intensive programming and services the second group needs. (See Selection Process, p. 8 and Guidelines, p.16)

PROGRAM OPERATION CHANGES

4. No effective social planning can occur without a complete data base. The Department must improve its methods for collecting and storing information.

The statistics mandated by the legislation provide some information but do not, for example, provide a clear view of the flow of inmates through the system. Thus it is difficult to ascertain how many inmates moved through the system in the time frame studied. It is only with such information that one can truly understand the arrest and absconder figures. These figures must be presented as a rate, and are not, without a figure for the total number of participants. (See Costs, p.22; Recidivism, p.25; Approvals and Disapprovals, p.26; Absconders and New Arrests, p.28)

5. Staff selection mechanisms should encourage the interested employee to move to a Temporary Release facility.

Commission staff were informed in several instances of staff who bid for positions in Temporary Release facilities in order to move up the career ladder. Once they had achieved the new position, they immediately bid to return to their original facility.

Clearly the Department cannot be expected to change the Civil Service laws and practices. However, it can be expected to develop career ladders and positions on those ladders commensurate with new programs. The Department should attempt to recruit, select, and train staff to work in release facilities. (See Programs in New York City Facilities, p.21)

6. Those who work in Temporary Release facilities need training to deal with the situations inmates are facing daily. The staff also need support systems which provide them with information about the community.

The opportunity for continued training must be made available to staff. Line staff are not consulted often enough in any bureaucracy, and yet they work most closely with clients. Staff training could provide the opportunity to consult with staff and improve their working situation. (See Programs in New York City Facilities, p.21)

7. The Department must improve its orientation program for inmates. Commission staff found, in interviewing staff, that there were no explicit descriptions of orientation programs. There was the distinct sense that the orientation program had not actually been developed. From the descriptions of both staff and inmates, it was clearly not operational.

In interviewing inmates, Commission staff found that most inmates did not know what to expect in the release facility. Most inmates relied on the inmate grapevine for information about the operation of the program. Inmates commonly spoke of threats from staff during the orientation period, with special emphasis on getting a job as quickly as possible. Inmates said that they knew that if they did not take the first job that came along, they would be sent back. When asked how they knew this, they replied that the grapevine and the counselors told them. As this is not the stated policy of the Department, it does appear that the orientation period needs very close examination.

Orientation to the facility is not sufficient orientation. Inmates must be prepared to cope more effectively with new situations. Orientation should include information, a "how-to" program. It should also include counseling for the problems of re-entry associated with job and family. (See Programs In New York City Facilities, p.21)

V THE DEPARTMENT OF CORRECTIONAL SERVICES' NEW PROPOSAL:

A COMMENT

Commission staff had completed the early drafts of this report before receiving "Position paper: Recommending major revisions in New York State's Temporary Release Program." This document became available on February 9, 1978 with the Commissions report due March 1, 1978.

The position paper outlines the Department's plan to move toward a policy of providing transitional services to all inmates prior to release. The Department proposes three components for the program:

1. institutional leave from all facilities;
2. separation centers, the first to be developed at the new Downstate Facility at Beacon;
3. community correction centers to be operated in several of the former work release facilities.

The Commission is encouraged by the Department's efforts to create a release process which takes a greater number of inmates into account. Programming which provides only a small number of inmates with services cannot be the best use of the Department's resources. This proposal indicates that the Department is making an attempt to rationalize a release process for the greater number of inmates it will release in a given year. This can only be applauded.

The Commission recognizes the Department's efforts in planning. There is no difficulty in recognizing that the Department has raised the issues which are central to the question of release from prison. This review of the Department's program description will examine the plans for the program with regard to the needs of the inmate and the needs of the Department.

THE CONCERNS OF THE DEPARTMENT

The description of institutional leave programs, or furloughs, point out the advantages for the Department and for the inmate. The Department can promote improved facility management through use of the leave programs. Inmates can maintain ties with families. In its report on Temporary Release in New York State, the Commission has recommended the separation of the furlough and long term release programs. The Commission can concur with the Department's efforts to have these programs separated legislatively.

The Department's proposed use of the Downstate facility appears to be innovative. There are some questions to be raised.

The Department proposes the Downstate facility as the model for separation centers. These separation centers will provide programming for inmates in the six months prior to release. The Department has not described the programming component in the proposal, however it is Commission staff's understanding that programming will follow a life skills model. The Department has suggested that it will model the new program on the Pre-Release Program currently in operation in 17 facilities,

In its proposal, the Department has suggested that with the Downstate facility in operation and the current work release facilities as community corrections centers, it will be able to release 5,000 inmates through this new program.

The Commission notes the discrepancy in the number of inmates released annually (projected 1978, 8,000 - 9,000) and the number to be served (5,000 total). Thus, while the Department is proposing a program to serve all inmates, it does not have the capacity, with this program to do so.

The Department has suggested that 4,000 inmates per year can move through the Downstate facility. If the program component at Downstate is 3 months in length, the Department may be able to accommodate close to that number. The Department has pointed out, however, that it expects a cadre of approximately 200 inmates at all times. This in itself lowers the number of inmates who can be accommodated in the program to approximately 800 per three month period or 3200 in one year.

The Department has also suggested that separation centers, of which Downstate is the prototype, will provide programming for inmates in the last six months prior to release. The Pre-Release model is three months in length. The Commission questions the Department's actual intent for Downstate: will the program be three or six months in length?

The Department cannot, as is discussed in the proposal, know sufficiently in advance when the majority of inmates will be released. The greatest percent of inmates are released by action of the Parole Board (57.2% in 1975).

The Department's 1975 annual statistics, the latest, published data, indicate that 25.9% of inmates are released through conditional release and 6.2% of inmates are released through maximum expiration of sentence. This would mean that without release dates set in advance, this program may not make sufficient use of the Downstate facility. If the proportions for the type of release remain constant, the Department could expect 2,560 of 8,000 or 2,880 of 9,000 to be released with a definite date. This does not approach the Department's projected 4,000 population use for Downstate. The average number of inmates available for transfer to Downstate for a six month period would thus range from 1,200 to 1,500. This number could be accommodated by a program of six months' duration. Flow of inmates could affect this. The Commission recognizes the possibility for sufficient use of the facility.

The Commission is concerned that the possibility of under utilization of the Downstate facility for the new program would prompt the Department to use the facility for other than separation. The questions should be raised before the Department begins implementation of this new policy and program. It is especially important that these issues be clarified in light of the lack of oversight which would be provided with specific legislation. The Department has, in the past, not been sufficiently cognizant of the status of individual inmates and the Commission recognizes the temptation to move inmates without regard to classification. Movement should not precede eligibility dates. The Commission will review the Department's plan for Downstate with emphasis on the use of the facility.

The Department has proposed a six month stay at the Downstate facility. The pre-release program, on which the Downstate model is based, is a 90 day program. The Commission feels the need to emphasize that this is further reason to be concerned about the Department's planned use of the Downstate facility. The program for Downstate must be clearly articulated.

It is the Commission's understanding that the Downstate facility will not include a long-term release program component. Inmates at Downstate, as eligible inmates in all facilities, will have opportunities for furloughs.

The Department proposes community correction centers for selected inmates. Programming in community correctional centers will be for work or educational release. The community correction centers with improved supervision standards and tightened eligibility criteria coupled with shorter stays, appear to retain the best intent of the former work-educational release facilities. The improvements suggested by the Department are important to recognize. These improvements focus on screening through an objective scoring mechanism coupled with strict supervision standards.

The concern the Commission raises about the use of the Downstate facility are appropriate here also. These concerns focus on numbers of inmates in each facility, the length of stay of each inmate, and the types of programs available to each inmate. The Commission will be interested in evaluating the programs available as well as the operation of the facilities themselves.

THE CONCERNS OF THE INMATES

The Department has recognized that inmates need more than the \$40 release money and a bus ticket. Inmates need programs which can and do prepare them to find housing, work and their place in the law abiding community. The Department proposal indicates that the Downstate facility's program focus will follow the pre-release model in use in 17 facilities.

The Commission has seen no evaluation of the effectiveness of the pre-release model. It can be recognized as a viable model in construct, yet without an assessment of its operation, it is difficult to support its continued use. The Commission would, therefore, urge the Department to begin to develop assessment criteria for its programs. The Commission would urge the Department to identify the needs of inmates at release and specify ways in which this program provides for those needs.

The Commission is encouraged that the Department has proposed inviting community groups to help meet inmate needs. This opportunity provides the public with better information about prisons, and the Department with a greater understanding of the community. It can also provide a flexible program, as it enables the Department to avoid committing itself to particular programs and program staff.

The Commission is encouraged that the Department proposes instituting a review of the effectiveness of the programs providing services. The Commission cautions the Department that dependence on such agencies without appropriate accountability procedures could mean that services will not be provided to inmates. The Commission cannot over emphasize its concern about accountability. The Department has had continued difficulty in promoting accountability. The Department must develop policy and procedures to promote improved accountability, with outside programs and perhaps more importantly, within its own programs.

THE CONCERNS OF THE COMMUNITY

The Department in its proposal indicates that 98% of incarcerated individuals return to their communities at some point. The Department has also recognized its responsibility to the communities to manage the degree of risk. It has suggested that the communities are likely to be safer with the gradual, informed release of inmates rather than the current drastic release available to most inmates.

One significant way in which the Department will promote increased community safety other than in providing inmates with improved pre-release experiences, is through improved eligibility and selection criteria. The Department's proposal states this intent explicitly.

The Department's proposal to use an objective scoring mechanism rather than the subjective review in use currently is a reasonable approach. An objective scoring review is less costly and more efficient and produces decisions to release that are as valid as the decisions made subjectively.

The Commission supports the use of an objective mechanism to determine eligibility and selection for release program participants. The Commission is concerned, however, that the Department may yield to other pressures to unwisely manipulate eligibility criteria. The restraints in the current legislation served to prevent this, but also served to limit efficient use of the release facilities. The Department's interpretation of the intent of the legislation resulted in the creation of an unyielding and time-consuming process for review. The Commission is interested in the development of objective criteria which are not subject to manipulation by the Department.

Another equally important way that the Department can promote community safety is through strict supervision standards. The new proposal emphasizes the improved monitoring of inmate movement as incorporated in the Temporary Release Rules and Regulations issued January 1, 1978.

The Commission believes that this proposal is an opportunity for beginning the needed planning in the Department. There are many questions which must be answered before the Commission can wholeheartedly endorse this proposal. The Commission is encouraged that the Department is developing this plan in greater detail, continuing to focus on the needs of the community, the Department, and the inmates.

THE CONCERNS OF THE COMMISSION

The Commission endorses the Department's efforts in long-term planning. The new proposal presents the Department's view that it must recognize the re-entry needs of various classifications of inmates. By doing so, the Department meets the concerns of the Commission.

The current proposal is a beginning. It is the Commission's belief that the Department should be encouraged to move toward providing re-entry services for all inmates leaving the system.

APPENDICES

The Commission thanks the Department for providing copies of the application, the point score, the temporary release guidelines and the criminal history summary.

TEMPORARY RELEASE PROGRAM
APPLICATION EVALUATION FORM

SUBSEQUENT APPL. _____

FACILITY _____ APPLICATION NO. _____

FULL INMATE NAME _____
TRANSACTION CODE 1 1

ABBREVIATED INMATE NAME _____

APPLICATION DATE ____/____/____

NYSID NO. _____

DEPT. ID _____

YOUTHFUL OFF (1=yes, 2=no) _____

TR TYPE _____

PURPOSE _____

PRIOR VIOLENCE _____

STATUTORY CATEGORY (1=yes, 2=no) _____

CENTRAL OFFICE REVIEW (1=yes, 2=no) _____

B.O.B. _____	DATE REC. _____	HE DATE _____
CR DATE _____	PAROLE DATE _____	COMM. CRIME _____
ATTEMPTED _____	ACCOMPLISHED _____	COUNTY OF RESIDENCE _____

POINT SYSTEM

		CODES	POINTS
1. PREVIOUS INCARCERATIONS	FELONIES _____ MISDEMEANORS _____	-	-
2. PRIOR OR SUBSEQUENT FELONY CONVICTIONS		-	-
3. PRIOR OR SUBSEQUENT MISDEMEANOR CONVICTIONS		-	-
4. OUTSTANDING WARRANTS AT OR AFTER CURRENT COMMITMENT		-	-
5. PREVIOUS PAROLE OR PROBATION REVOCATIONS		-	-
6. CRIMES OF VIOLENCE		-	-
	SUB-TOTAL CRIMINAL HISTORY _____		
7. PROGRAM PARTICIPATION I	Program months _____ Work months _____	-	-
8. PROGRAM PARTICIPATION II	Program months _____ Work months _____	-	-
9. DISCIPLINE I	1st quarter penalties _____ 2nd quarter penalties _____ 3rd quarter penalties _____ 4th quarter penalties _____	-	-
10. DISCIPLINE II	penalties _____	-	-
11. TEMPORARY RELEASE RECORD	Success _____/____/____ 1st yr ABSC/ARR _____/____/____ 2nd yr ABSC/ARR _____/____/____ Revoked _____/____/____ Late _____/____/____ Drug _____/____/____ Alcohol _____/____/____ Violation of Program Rules _____/____/____	-	-
	SUB-TOTAL INSTITUTIONAL RECORD _____		
	STANDARD ADJUSTMENT _____		26
	TOTAL _____		
RANGE (1-low denied, 2-low ODOP, 3-low for special TRC consideration, 4-for regular TRC consideration)			

FURTHER INVESTIGATIONS: History of Mental Instability _____ Sex Offender _____
Organized Crime _____ Notorious _____

INTERVIEWER _____

DATE _____

CHAIRMAN _____

DATE _____

INMATE

VERA INSTITUTE
OF
JUSTICE

POINT SCORE

Criminal History

1. Previous incarceration following adjudication (+1 point if none within last 10 years, 0 points if misdemeanor or youthful offender incarcerations only within last 10 years, - 1 point if one or more felony incarcerations within last 10 years. The 10 year period is counted back from the date of present incarceration, excluding any period of incarceration in that time, in effect, extending the 10 year period by an equal amount of time).
2. Number of felony convictions prior or subsequent to commitment offense. (+2 points if none within last 10 years or subsequent to commitment date of current incarceration, 0 points if one within past 10 years or subsequent to commitment date of current incarceration, - 2 points if 2 or more within last 10 years or subsequent to commitment date of current incarceration. The 10 year period is counted back from the date of current incarceration, excluding any period of incarceration in that time, in effect, extending the 10 year period by an equal amount of time).
3. Number of misdemeanor convictions prior or subsequent to commitment offense. (+ 1 point if none within last 10 years or subsequent to commitment date of current incarceration, 0 points if 3 or less in last 10 years or subsequent to commitment date of current incarceration, - 1 point if 4 or more in last 10 years or subsequent to commitment date of current incarceration. The 10 year period is counted back from the date of current incarceration, excluding any period of incarceration in that time, in effect extending the 10 year period by an equal amount of time).
4. Outstanding warrants at time of or subsequent to date of commitment. (+ 2 points if none, 0 points if 1 or more).
5. Previous revocations of parole or probation in last 10 years (or subsequent to commitment date of current incarceration) if resulting from abscondance or rearrest (+ 2 points if none, 0 points if one or more). The 10 year period is

counted back from the date of current incarceration, excluding any period of incarceration in that time, in effect extending the 10 year period by an equal amount of time).

6. Nature of prior, current and subsequent convictions of crimes against the person within the last 10 years or subsequent to date of commitment of current incarceration (- 6 points if any conviction for murder or sex crimes or first or second degree kidnapping; - 4 points if any convictions for manslaughter or first or second degree arson, or first degree robbery or burglary; - 2 points if any convictions for second or third degree robbery, assault, possession of a dangerous weapon, menacing, first degree reckless endangerment, second degree burglary, first degree criminal trespass, first degree riot, first degree coercion, unlawful imprisonment and criminally negligent homicide; 0 points if no convictions for crimes against the person. The 10 year period is counted back from the date of current incarceration, excluding any period of incarceration in that time, in effect, extending the 10 year period by an equal amount of time).

Institutional Behavior Items

7. Program participation I (Maximum 3 points) Participation months are used to calculate this score. A participation month is a 30 day period of regular participation in either a program or a work assignment within the two years prior to application, 1 point may be earned by accumulating either -
 - a) 8 participation months in work assignments
 - b) 8 participation months in program, or
 - c) 8 participation months in any combination of work assignment and program.2 points may be earned by accumulating 16 participation months, provided that no more than 12 of these months are for work assignment.
3 points may be earned by accumulating 24 participation months, provided that no more than 12 of these months are for work assignment.
8. Program participation II (Maximum 1 point)
An inmate may earn this point by accumulating 8 program or work assignment participation months for the period 25-36 months prior to application.

9. Discipline I (Maximum 4 points)
(+ 1 point if 0 Disciplinary Proceeding decisions in the last 3 months imposing any term of special housing or keeplock or a loss of privileges for 14 days or more; + 1 point if 1 or fewer Disciplinary Proceeding decisions imposing such penalties in the last six months; + 1 point if 2 or fewer Disciplinary Proceeding decisions imposing such penalties in the last nine months; + 1 point if 3 or fewer Disciplinary Proceeding decisions imposing such penalties in the last 12 months.

10. Discipline II (Maximum 1 point)
(+ 1 point if three or fewer Disciplinary Proceeding decisions imposing any term of special housing or decisions imposing any term of special housing or keeplock, or a loss of privileges for 14 days or more in the period 12-24 months prior to application, provided that the inmate has been incarcerated at least 24 months at the time of application; 0 points if 4 or more).

11. Temporary release record
(- 6 points if convicted of a crime, or arrested pending disposition of charges, or absconded while on temporary release within the last year; - 3 points if revoked from work release or educational leave for reasons other than rearrest or abscondance within the last year; - 3 points if convicted, or arrested pending disposition of charges, or absconded while on temporary release within the period 13-24 months prior to application; - 2 points if failed to proceed to or stay at approved destination while on temporary release, or if failed to comply with parole check-in requirements, or if returned late or under the influence of drugs or alcohol within the last 3 months; + 2 points if most recent unescorted participation on temporary release was successful and occurred during the past year or + 4 points if the two most recent unescorted participations on temporary release were successful and occurred during the past year; 0 points if none of the above).

CRIMINAL HISTORY SUMMARY

Inmate Name: _____
 Department Identification Number: _____
 Facility: _____
 Type of Program Requested: _____

INSTRUCTIONS: Once an inmate's eligibility for Temporary Release has been established, this Criminal History Summary shall be completed by the Interviewer or Temporary Release Committee Chairperson, and signed below.

All yes items should be added together to establish a score for criminal history.

The employee completing this form shall sign his or her name in full at the bottom.

The score on this summary shall be utilized by the Temporary Release Committee in reviewing the inmate's application as specified in the program directives and regulations.

	<u>YES</u>	<u>NO</u>
1. Has the inmate been convicted of any felonies other than the one for which he is now serving time?	2	0
2. Has the inmate been incarcerated as a result of any prior felony convictions?	2	0
3. Has the inmate been convicted of any prior misdemeanors?	1	0
4. Has the inmate been incarcerated as a result of any prior misdemeanor convictions?	1	0
5. Has the inmate had any parole or probation revocations resulting from re-arrest or abscondance?	2	0
6. Did the inmate have any outstanding warrants at the time of commitment or thereafter?	2	0
7. Answer the following questions (7a, 7b, and 7c) if the inmate has had any prior or current convictions of crimes against the person.		
a) Has the inmate ever been convicted of <u>any</u> crimes within the following group?	6	0
Murder (1st or 2nd degree)		
Kidnapping (1st or 2nd degree)		
Rape (1st, 2nd or 3rd degree)		
Sexual Misconduct		
Sodomy (1st, 2nd or 3rd degree)		
Sexual Abuse (1st, 2nd or 3rd degree)		
Incest		
b) Has the inmate ever been convicted of Manslaughter (1st or 2nd degree); Arson (1st or 2nd degree); Robbery (1st degree); Burglary (1st degree)?	4	0
c) Has the inmate ever been convicted of any crimes within the following group?	2	0
Robbery (2nd or 3rd degree)		
Assault (1st, 2nd or 3rd degree)		
Possession of a Dangerous Instrument		
Menacing		
Reckless Endangerment (1st degree)		
Unlawful Imprisonment		
Coercion (1st degree)		
Riot (1st degree)		
Burglary (2nd degree)		
Criminal Trespass (1st degree)		
Criminally Negligent Homicide		

TOTAL: _____

Tabulated by: _____

Date: _____

TEMPORARY RELEASE DECISION GUIDELINES

Inmate Name: _____
 Department Identification Number: _____
 Facility: _____
 Type of Program Requested: _____

INSTRUCTIONS: This form shall be completed by the Interviewer or Temporary Release Committee Chairperson.

This form shall be used as an aid to the Temporary Release Committee in examining the inmate's records to determine suitability for temporary release.

These guidelines should be utilized as described in the program directives and regulations.

This form shall be signed below by the person completing it.

CRIMINAL HISTORY

	<u>YES</u>	<u>NO</u>
1. Inmate has a history of criminal activity as a juvenile.	---	---
2. Inmate has a long criminal history, without any appreciable break except when incarcerated, of arrests and convictions. (More than 2 felony and 1 misdemeanor convictions.)	---	---
3. Inmate's file reveals that the conviction for which he is currently under sentence is based on a number of counts covering separate incidents over a period of time.	---	---
4. Inmate's history shows a repetition of the offense for which he is currently under sentence. (This should be viewed as a particularly negative indicator if the pattern of habitual criminal conduct involves forcible sex offenses, the infliction of serious physical injury, or the use or threatened use of a dangerous weapon.)	---	---
5. Although the offense for which the inmate is currently under sentence is his first felony conviction, his record includes <u>4 or more</u> misdemeanor convictions.	---	---
6. Inmate has a history of burglary offenses combined with a history of either assaultive and weapons offenses or entry of occupied residential dwellings.	---	---
7. Inmate has a long history of previous arrests. (5 or more)	---	---

PERSONAL CHARACTERISTICS

8. Inmate is 25 years of age or younger.	---	---
9. Inmate was 23 or younger at time of commitment.	---	---
10. Inmate is not married, and has no dependents who were supported by him. (This factor should be weighed less heavily for women, particularly those applying for work release.)	---	---

DRUG HISTORY

Many inmates have used drugs. Drug abuse in and of itself is not predictive of success or failure. Therefore, distinctions must be made between types of drug abusers.

11. Inmate began hard drug use as a young teenager and has continued to use drugs without any significant drug-free period except when incarcerated or in a drug program.	---	---
12. Inmate was a non-addict drug seller of large quantities.	---	---
13. Inmate's criminal record is associated with drug abuse, showing a pattern of arrest and conviction for crimes that stem from his drug use.	---	---

INSTITUTIONAL BEHAVIOR

14. Inmate has had a disciplinary infraction involving the use of physical violence within the previous six months.	---	---
15. Inmate has served time in special housing within the last twelve months.	---	---
16. Inmate's disciplinary record shows a significant increase in the number of infractions within the previous year.	---	---
17. Inmate changes from programs frequently without completing any, or changes work assignments frequently without mastering new skills.	---	---
18. Inmate has frequent program absences, is often tardy and has poor reports from teachers or supervisors.	---	---

Completed by: _____

Date: _____



END