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TARGET RELEASE DATE DECISIONS:

December 16, 1977 through December 15, 1978

Research and Information Systems

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Introduction

Since the Minnesota Corrections Board (MCB) adopted its current guidelines for making target release date (TRD) decisions, there has been interest in the degree to which the guidelines are actually followed. Two previous analyses which indicate the numbers and types of departures have been reported to the MCB. These reports cover the periods January 1, 1977 to August 15, 1977; and August 16, 1977 to December 15, 1977. This report covers a full year of decisions, from December 16, 1977 through December 15, 1978. The emphasis of the report is on departures from MCB guidelines, although descriptive information on all TRD decisions made during the year is included as well.

The report contains three sections. In the first section the total number of TRD decisions made as well as the numbers and percentages of departures are reported. Data are reported for each institution. Also comparisons are made to the TRD decisions made in the two time periods previously studied. Descriptive information on number of decisions and on average time assigned for each matrix cell also is presented.

In the second section, departures are analyzed further according to the cells of the matrix. The purpose of this presentation is to discover whether departures and certain types of departures are more common at certain levels of severity and/or risk. This type of information could be useful in guideline revisions and in helping MCB members decide whether their departures are appropriate. This section includes a discussion of cases of limited sentences which appear to affect considerably MCB departures

In the third section, the actual reasons for discretionary departures are reported. Reasons are listed by each institution and for each matrix cell. The number of months of aggravation or mitigation is included with the reasons as are code numbers for the MCB members participating in the decisions. A few observations are drawn from this list of reasons, but its primary purpose is to provide a basis for discussions of departures among MCB members.

In analyzing the TRD decisions for the MCB, two sets of decisions had to be made: 1) which decisions should be included as new admission decisions; and 2) what criteria should be used to distinguish decisions within guidelines from decisions that depart.

New Admission Decisions

The time period for this analysis constitutes exactly one year. It would be useful, therefore, to obtain from the data collected an accurate picture of a year of MCB new admission TRD decisions. Normally an inmate is admitted to an institution and in approximately two months

receives a new admission hearing at which his TRD is set. Occasionally the hearing and TRD assignment are extended for reasons such as a need to obtain more information or the inmate's being in segregation. Thus most inmates assigned TRD's for this period of study were actually admitted from about September, 1977 through September, 1978, although a few may have been admitted earlier in 1977. Two types of cases, however, were problematic in deciding whether to count them as new admission TRD decisions for the year under review.

The first set of questions relates to inmates serving minimum sentences. As of December, 1977 the MCB started to assign the TRD for these cases at the new admission hearing. Prior to that time, the Board waited until the minimum sentence was served before assigning the TRD. Thus there would be a new admission hearing, but the target release date would be set at a later annual review. The question is whether to include these TRD decisions made at annual reviews from December 16, 1977 through December 15, 1978. (Some MCB members checked these decisions as annual reviews while others checked them as new admissions.) Since the decisions provide information on MCB decisionmaking it was decided to tabulate the information on these TRD's assigned. On the other hand, since current new admissions now include inmates serving minimum sentences and since inclusion of these earlier admissions might inflate the proportion of this type of case and TRD decision, (i.e. minimum sentence) it was decided to tabulate and report the previous minimum sentence TRD's separately from new admission minimum sentence TRD's assigned December 16, 1977 through December 15, 1978.

The second type of case which required a decision concerns inmates who have escaped. MCB rule (7-104.5n) provides guidelines on the amount of time to add on to the initial TRD for conviction of an escape. MCB members handled these cases in different ways, however. Sometimes a new admission form would be filled in by checking the risk and severity level appropriate for the escape offense. The TRD would be set by adding the new time on to the original TRD. At other times a special or annual review form would be filled in. The risk and severity levels checked corresponded to the original offense; time was simply added on to the original matrix time for the new escape. Since the inmates who escaped had not been released but were still under the custody of the institution, it seemed best to consider the time added on for escape as a case of extending the TRD for disciplinary reasons, rather than as a case of a new admission. Information on those who escaped from each institution and who had MCB hearings related to the escape during the year under study have been tabulated separately for those interested in these cases.

Criteria for Determining Departures

A primary interest of the MCB in having this report compiled is to learn how much they are departing from guidelines and why. It is therefore necessary to have clear rules as to what actually constitutes

a departure. The following criteria were established with the consultation of Dale Parent so that data in this report would be comparable to earlier data that he tabulated. The criteria are reported here so that readers have a clear understanding of how departures have been calculated.

Decisions Within Guidelines

If any rule regarding application of the guidelines is followed, the decision is considered to be within guidelines (e.g. 7-104.5 a through p).

Departures

If a rule is not followed but if the MCB has no flexibility in assigning a TRD not based on the matrix or rules, then the decision is considered a mandatory departure (e.g. limited sentence/matrix beyond expiration; minimum sentence).

If a rule is not followed and if the MCB bases its decision on aggravating or mitigating circumstances, the decision is considered a discretionary departure.

Special Cases When Matrix Exceeds Expiration

In tabulating departures, most confusion arises when the matrix exceeds expiration of a sentence. The following procedures have been used for these cases.

1. If the matrix exceeds expiration, if there is a lower level of risk at the appropriate offense severity level (7-104.5m), and if the decision assigns the matrix time for that lower level of risk; then the decision is within guidelines. An amount of departure therefore is not calculated.
2. If the matrix exceeds expiration, if there is no lower level of risk at the appropriate offense severity level, and if expiration is assigned; then the decision is a mandatory departure. The amount of departure is calculated as: # of months assigned (expiration) minus # of months by matrix (i.e. always a negative departure).
 - a. If the above situation exists but the MCB assigns a TRD below expiration, the decision is a discretionary departure. The amount of departure is calculated as: # of months assigned minus # of months to expiration (which is as high as the MCB has discretion to assign; i.e. always a negative departure).

3. If the matrix exceeds expiration, if there is a lower level of risk, and if the decision assigns a TRD above or below that lower level of risk; then the decision is a discretionary departure. The amount of departure is calculated as: # of months assigned minus # of months in the matrix at the lower risk level (i.e. departure can be positive or negative).

SECTION I

Total TRD Decisions, 12/16/77 - 12/15/78

During the year under review, the MCB assigned 1,027 target release dates at New Admission hearings. Data on these decisions for each admitting institution are reported in Table 1.

TABLE 1: TRD's ASSIGNED 12/16/77 - 12/15/78

<u>Institution</u>	<u>Total TRD's Assigned</u>	<u>Total Departures</u>	<u>% Departures</u>
MSP	525	134	26%
SRM	442	74	17%
MCIW	60	13	22%
Total	1027	221	22%

Of all the TRD's assigned, 22% constituted departures from MCB guidelines. MSP experienced the highest departure rate (26%) while SRM experienced the lowest (17%).

It is difficult to discuss general departure rates without some bases for comparison. The following sections will provide detailed information on mandatory and discretionary departures which will enable a better assessment of the MCB departure rate. Table 2 below reports comparative departure data for the two previous time periods studied.

TABLE 2: TOTAL DEPARTURES FOR THREE TIME PERIODS

<u>Institution</u>	<u>1/15/77-8/15/77</u>	<u>8/16/77-12/15/77</u>	<u>12/16/77-12/15/78</u>
MSP	22%	35%	26%
SRM	15%	21%	17%
MCIW	19%	33%	22%
Total	19%	28%	22%

Although the departure rate remains somewhat higher than in the first three quarters of 1977, it has declined noticeably from the last quarter of 1977. This pattern holds in all three institutions as well as for the total population. There are several possible explanations for this recent decline in departures. First, since the current time period is a full year and the previous two time periods are portions of a year, it is possible that some of the differences are due to seasonal variations in the inmates admitted. Second, there could be

changes in the population of inmates overtime, but one might expect long-term population changes (as opposed to seasonal variations) to continue to lead to more departures rather than a return to more decisions within guidelines. Third, it is possible that after publication of the increase in the departure rate toward the end of 1977 MCB members scrutinized their departures more carefully. There appear to be no changes in the guidelines from the last quarter of 1977 that could account for the decline in departure rate.

Table 3 through Table 6 present additional information on New Admission TRD's. Decisions are reported for each matrix cell for each institution and for all institutions combined. Three types of information are presented in these tables. First, the number of TRD's assigned per cell is recorded with the percentage noted in parentheses beneath. These figures enable one to discover where most TRD decisions fall within the matrix. Second, the average number of months assigned for all cases in the cell is reported. The upper level of the matrix time is included in parentheses below to enable one to judge how closely actual TRD's correspond to matrix guidelines. Third, the range (i.e. the lowest and highest cases) of months assigned within each cell also is reported since the average can be affected by extremely high or low cases. This information enables one to judge how much TRD decisions vary within each cell.

Table 6 indicates that most cases (89%) fall within the first three levels of risk. Although cases are spread more evenly over the levels of severity, cases below Severity VI are very rare. Thus the vast majority of cases fall within the upper left portion of the matrix. The bold lines in Table 3 through Table 6 highlight the upper left portion of the matrix where at least 90% of the cases fall.

Although the patterns of where TRD decisions fall are similar for all institutions, there are some notable differences. MSP cases are distributed fairly evenly over Risk levels I, II, and III; SRM cases cluster at Risk level II (52%); while 90% of MCIW cases fall within Risk levels I and II. Severity levels also differ somewhat. A larger proportion of MCIW inmates appear in the lowest levels of severity (69% in Severity levels I through III). On the other hand almost half of MSP inmates fall in severity levels IV through VIII. Thus, MSP tends to admit the largest proportion of higher risk and higher offense severity inmates, while MCIW tends to admit the lowest proportion of these inmates. These differences in inmates may help to explain some of the differences in types of departures that are discussed in sections below.

In general the average TRD assigned for each matrix cell is within a few months of the matrix guideline time. For the total population (see Table 6), the average months assigned is the same as the matrix upper level for seven cells (19%), is below the matrix level for nine cells (25%), and is above the matrix level for 20 cells (55%). One should note that the actual TRD assigned is affected not only by the

TABLE 3: NEW ADMISSION TRD DECISIONS,
12/16/77 - 12/15/78, MSP

SEVERITY	RISK										TOTAL #/%
	I #/% Average/ Matrix Range	II #/% Average/ Matrix Range	III #/% Average/ Matrix Range	IV #/% Average/ Matrix Range	V #/% Average/ Matrix Range						
I	15 (03%) 11 7-12	19 ^(c) (04%) 13 10-24	21 (04%) 14 9-18	4 (20%) 21 10-27	1 (20%) 27						60 (11%)
II	15 ^(c) (03%) 12 12-18	41 ^(c) (08%) 12 6-24	54 ^(c) (10%) 19 8-36	16 (03%) 25 19-42	9 (02%) 35 18-42						135 (26%)
III	11 (02%) 15 9-36	21 ^(c) (04%) 19 8-42	31 ^(d) (06%) 25 9-52	12 ^(c) (02%) 34 9-50	8 (02%) 39 24-57						83 (16%)
IV	46 (08%) 21 8-36	30 ^(c) (06%) 25 10-36	30 (06%) 32 10-110	4 (20%) 47 27-74	5 (20%) 65 24-161						115 (22%)
V	18 (03%) 26 12-60	18 (03%) 33 16-60	18 (03%) 65 43-110	1 (20%) 66	2 (20%) 63 44-82						57 (11%)
VI	25 (05%) 40 19-52	12 ^(c) (02%) 56 42-77	16 (03%) 69 35-164	2 (20%) 160 81-270	1 (20%) 268						56 (11%)
VII	4 (20%) 69 60-72	2 (20%) 86	2 (20%) 109	0 -	0 -						8 (02%)
VIII	5 (20%) 95 86-110	4 (20%) 150 108-228	2 (20%) 160 151-169	0 -	0 -						11 (02%)
IX	0 -	0 -	0 -	0 -	0 -						0 -
TOTAL	139 (27%)	147 (28%)	174 (33%)	39 (07%)	26 (05%)						525 (100%)

- a) Excludes for one case within guidelines an additional 45 days added on for misconduct prior to the hearing.
- b) Includes two dual commitments at 12 and 10 months.
- c) Includes one dual commitment within guidelines.
- d) Includes three dual commitments at 12, 24 and 30 months.

TABLE 5: NEW ADMISSION TRD DECISIONS,
12/16/77 - 12/15/78, MCIW

SEVERITY	RISK										TOTAL #/%
	I #/ % Average/ Matrix Range	II #/ % Average/ Matrix Range	III #/ % Average/ Matrix Range	IV #/ % Average/ Matrix Range	V #/ % Average/ Matrix Range						
I	7 12 (12%) (12)	7 -12 (12%) (12)	1 9 (02%) (12)	1 17 (02%) (17)	0 - - (28)	16 (27%)					
II	4 11 8-12 (07%) (12)	11 11 ^u 10-12 (18%) (12)	3 13 8-17 (05%) (17)	1 13 (02%) (24)	0 - - (36)	19 (32%)					
III	4 10 6-12 (07%) (12)	2 29 17-41 (03%) (17)	0 - - (24)	0 - - (32)	0 - - (45)	6 (10%)					
IV	4 20 ^u 17-27 (07%) (17)	5 23 8-34 (08%) (24)	0 - - (32)	0 - - (40)	0 - - (53)	9 (15%)					
V	2 22 17-24 (03%) (24)	3 36 10-50 (05%) (32)	0 - - (45)	0 - - (60)	0 - - (76)	5 (08%)					
VI	3 42 (05%) (42)	0 - - (50)	0 - - (60)	0 - - (75)	0 - - (92)	3 (05%)					
VII	0 - - (72)	0 - - (86)	0 - - (109)	0 - - (135)	0 - - (170)	0 -					
VIII	2 86 (03%) (86)	0 - - (108)	0 - - (145)	0 - - (194)	0 - - (240)	2 (03%)					
IX	0 - - (204)	0 - - (241)	0 - - (301)	0 - - (385)	0 - - (476)	0 -					
TOTAL	26 (43%)	28 (47%)	4 (07%)	2 (03%)	0 -	60 (100%)					

a) Excludes an additional 6-12 months added to one case for escape prior to assignment of the TRD.

TABLE 6: TOTAL NEW ADMISSION TRD DECISIONS,
12/16/77 - 12/15/78

SEVERITY	RISK										TOTAL #/%
	I #/ Matrix Range	II #/ Matrix Range	III #/ Matrix Range	IV #/ Matrix Range	V #/ Matrix Range						
I	29 (03%) (12)	64 (06%) (12)	29 (03%) (12)	12 (01%) (17)	1 (<01%) (28)						135 (13%)
II	31 (03%) (12)	114 (11%) (12)	86 (08%) (17)	25 (02%) (24)	16 (02%) (36)						272 (26%)
III	21 (02%) (12)	62 (06%) (17)	68 (07%) (24)	17 (02%) (32)	13 (01%) (45)						181 (18%)
IV	77 (07%) (17)	73 (07%) (24)	44 (04%) (32)	5 (<01%) (40)	6 (<01%) (53)						205 (20%)
V	33 (03%) (24)	61 (06%) (32)	29 (03%) (45)	2 (<01%) (60)	3 (<01%) (76)						128 (12%)
VI	32 (03%) (42)	20 (02%) (50)	18 (02%) (60)	2 (<01%) (75)	1 (<01%) (92)						73 (07%)
VII	6 (<01%) (72)	3 (<01%) (86)	3 (<01%) (109)	0 - (135)	0 - (170)						12 (01%)
VIII	12 (01%) (86)	6 (<01%) (108)	3 (<01%) (115)	0 - (194)	0 - (210)						21 (02%)
IX	0 - (204)	0 - (241)	0 - (301)	0 - (385)	0 - (116)						0 -
TOTAL	241 (23%)	403 (39%)	280 (27%)	63 (06%)	40 (04%)						1027 (100%)

matrix but by other guidelines as well. Thus, time can be added on the matrix time for injury, parole violations, consecutive sentences and dangerous offenders and time is reduced for attempted offenses. These actual variations above and below the matrix time then should be interpreted as the effects not only of departures but of other guidelines as well. Since the guidelines tend to add on more time than they reduce, the preponderance of cells with average TRD's above the matrix time should be expected. Inspection of the tables also reveals that the increases above matrix levels tend to appear more frequently at the higher levels of Risk and of Severity and that the amount of increase over matrix time is greater at these levels too.

The final type of information contained in Table 3 through Table 6 is the range of TRD's. In most cells there is considerable variation around the average. The noticeable range of months assigned highlights the fact that MCB members do not rotely treat individual inmates as categories of a matrix but that a number of other factors (e.g. other guidelines, mitigating factors, aggravating factors, and judicial limitations) are brought to bear in the decisionmaking for individual release dates.

Summary

An analysis of all New Admission TRD decisions during 12/16/77 through 12/15/78 reveals that most inmates admitted fall within the upper left portion of the matrix. The MCB rarely deals with inmates at Risk levels IV or V or Severity levels VI or above. The average months assigned to inmates during the year is quite close to the upper level of the matrix time, although in over one-half of the cells the average time assigned is greater than the matrix time. In most cells it is apparent that there is considerable variation around the average time assigned; that is, there tend to be a few extremely high or low TRD's. Of all New Admission TRD decisions, 22% constituted departures from guidelines. This departure rate remains higher than the first part of 1977 but is lower than that reported for the last quarter of 1977.

The average months assigned which remain quite close to matrix guidelines and the moderate departure rate of 22% indicate that MCB decision-making is highly structured by current guidelines. On the other hand, the range or variations of TRD's that appears at all levels of the matrix indicates that decision-making still treats cases on an individual basis. Some of the variation across individuals in the same matrix classification can be explained by MCB guidelines (e.g. additional time for parole violation, victim injury, and so forth); other variations result from guideline departures. The following sections investigate more closely MCB departures.

SECTION II

Departures From MCB Guidelines

During the past year, the MCB has departed from its guidelines in 22% of its TRD decisions. This figure represents a decline from the previous period studied. It is impossible to begin to assess this departure rate, however, without an understanding of the types of and reasons for the departures made. Section III will discuss reasons cited for departures, while this section analyzes the types of departures made by the MCB.

This section consists of three parts. First, mandatory departures are explored. Comparisons are made to the mandatory departures of the previous time periods studied. Data on mandatory departures are presented for each cell of the matrix to discover what types of TRD decisions are most affected by these departures and to discover the overall effects of these departures (i.e. to increase or decrease TRD's).

Second, discretionary departures are explored. Comparisons are made to the discretionary departures of the previous time periods studied. Data on discretionary departures are presented for each cell of the matrix to discover what types of TRD decisions are most affected by these departures and to discover the overall effects of these departures.

Third, cases of limited sentences where the matrix time exceeds expiration are examined more closely. While the rule to take these cases to the lower level of risk (7-104.5m) permits more decisions to be counted as within guidelines, it appears to have an additional effect of increasing aggravating discretionary departures.

Mandatory Departures

Mandatory departures are those decisions for which the MCB cannot exercise discretion in assigning the release date. Table 7 indicates the proportions of all departures that were mandatory ones. For the total population 36% of all departures were classified as mandatory, but the figures for each institution vary considerably.

TABLE 7: MANDATORY DEPARTURES AS A PERCENTAGE
OF ALL DEPARTURES 12/16/77 - 12/15/78

<u>Institution</u>	<u>Total Departures</u>	<u>Mandatory Departures</u>	<u>%</u>
MSP	134	39	29%
SRM	74	31	42%
MCIW	13	9	69%
Total	221	79	36%

These mandatory departures are compared to those of the two previous time periods in Table 8. The percentages reported in this table are based on all TRD assignments rather than all departures. As in the previous two periods most mandatory departures are cases of limited sentences where the assigned matrix time exceeds expiration of the sentence. The increase in limited sentence departures noted toward the end of 1977 seems to have been reversed. This increase in limited sentences in the last quarter of 1977 simply could be a result of annual fluctuations in the data since the average for the two 1977 time periods is 07%--a figure identical to that for 1978. On the other hand, the discussion of limited sentences and MCB rule 7-104.5m later in this report notes that without the MCB rule the mandatory departure rate would continue to be higher than for the 1/15/77 - 8/15/77 period. That is, the return to the earlier 1977 rate seen in Table 8 may be a result of rule 7-104.5m rather than a "real" decline in limited sentence mandatory departures. This point will be expanded later in this report.

Mandatory minimum sentence departures also have returned to the lower level of early 1977. It is possible that the figures for 8/16/77 - 12/15/77 include both previous and current minimum sentence inmates so that the change in MCB procedures for these cases may explain the temporary increase in these departures for the last quarter of 1977. (Recall that previous minimum sentence admissions are excluded from 12/16/77 - 12/15/78 tabulations.) In any case, minimum sentences affect only slightly the overall mandatory departure rate.

TABLE 8: MANDATORY DEPARTURES FOR THREE TIME PERIODS

	1/15/77-8/15/77		8/16/77-12/15/77		12/16/77-12/15/78	
	#	%	#	%	#	%
Total TRD's	859	-	308	-	1027	-
Total Mandatory Departure	70	08%	39	13%	79	08%
1. Limited Sentence	52	06%	30	10%	74	07%
2. Mandatory Minimum	7	<01%	9	03%	5	<01%
3. Prior MCB Commitment	11	01%	0	-	0	-

Additional information on mandatory departures is contained in Table 9 through Table 12. Mandatory departures are reported for each cell of the matrix for each institution (Table 9 to Table 11) and for the total population (Table 12). Each cell contains data on the number of limited sentence, minimum sentence, and total mandatory departures. The percentage is based on the total number of cases within each cell in order to highlight at which, if any, levels of Risk and Severity these departures predominate. The average that is reported is the average increase or decrease above or below guideline time resulting from the departures. The range of increase or decrease is not reported, but generally there is not much variation around the average for this type of departure.

TABLE 9: MANDATORY DEPARTURES,
12/16/77 - 12/15/78, MSP

SEVERITY	RISK																	
	I			II			III			IV			V		TOTAL			
	#	%	Average	#	%	Average	#	%	Average	#	%	Average	#	%	Average	#	%	Average
I Limited	3	20%	-4	2	11%	-3	4	19%	-3	1	25%	-7				10	17%	-4
I Minimum	0			0			0			0						0		
I Total	3	20%	-4	2	11%	-3	4	19%	-3	1	25%	-7	0			10	17%	-4
II Limited				1	02%	-2	3	06%	-7	1	06%	-14				5	04%	-7
II Minimum				0			0			0						0		
II Total	0			1	02%	-2	3	06%	-7	1	06%	-14	0			5	04%	-7
III Limited	1	09%	-3	1	05%	-9	3	10%	-15	1	08%	-23				6	07%	-13
III Minimum	1	09%	+24	1	05%	+2	0			0						2	02%	+13
III Total	2	18%	+10	2	10%	-4	3	10%	-15	1	08%	-23	0			8	09%	-7
IV Limited	6	13%	-9	4	13%	-15	2	07%	-28							12	11%	-14
IV Minimum	0			1	03%	+12	0									1	1%	+12
IV Total	6	13%	-9	5	16%	-8	2	07%	-28	0			0			13	11%	-12
V Limited				0												0		
V Minimum				1	06%	+4										1	02%	+4
V Total	0			1	06%	+4	0			0			0			1	02%	+4
VI Limited	1	04%	-23				1	06%	-25							2	04%	-24
VI Minimum	0						0									0		
VI Total	1	04%	-23	0			1	06%	-25	0			0			2	04%	-24
VII Limited																		
VII Minimum																		
VII Total	0			0			0			0			0			0		
VIII Limited																		
VIII Minimum																		
VIII Total	0			0			0			0			0			0		
IX Limited																		
IX Minimum																		
IX Total	0			0			0			0			0			0		
TOTAL Limited	11	08%	-9	8	05%	-9	13	07%	-11	3	08%	-15				35	07%	-10
TOTAL Minimum	1	01%	+24	3	02%	+6	0			0						4	01%	+11
TOTAL Total	12	09%	-6	11	07%	-5	13	07%	-11	3	08%	-15	0			39	07%	-8

TABLE 10: MANDATORY DEPARTURES,
12/16/77 - 12/15/78, SRM

		RISK											
		I		II		III		IV		V		TOTAL	
SEVERITY		#	% Average	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average
I	Limited			2	05% -3							2	03% -3
	Minimum			0								0	
	Total	0		2	05% -3	0		0		0		2	03% -3
II	Limited	1	08% -4	2	03% -4	1	03% -8	1	13% -20	1	14% -26	6	05% -11
	Minimum	0		0		0		0		0		0	
	Total	1	08% -4	2	03% -4	1	03% -8	1	13% -20	1	14% -26	6	05% -11
III	Limited	1	17% -2	2	05% -9	3	08% -15	1	20% -21	1	20% -36	8	07% -15
	Minimum	0		0		0		0		0		0	
	Total	1	17% -2	2	05% -9	3	08% -15	1	20% -21	1	20% -36	8	07% -15
IV	Limited	4	15% -7	3	08% -14	2	14% -24					9	11% -13
	Minimum	0		0		0						0	
	Total	4	15% -7	3	08% -14	2	14% -24	0		0		9	11% -13
V	Limited	2	15% -5	0								2	03% -5
	Minimum	0		1	03% +4							1	02% +4
	Total	2	15% -5	0	03% +4	0		0		0		3	05% -2
VI	Limited	1	25% -18	1	13% -27							2	14% -22
	Minimum	0		0								0	
	Total	1	25% -18	1	13% -27	0		0		0		2	14% -22
VII	Limited			1	100% -14							1	25% -14
	Minimum			0								0	
	Total	0		1	100% -14	0		0		0		1	25% -14
VIII	Limited												
	Minimum												
	Total	0		0		0		0		0		0	
IX	Limited												
	Minimum												
	Total	0		0		0		0		0		0	
TOTAL	Limited	9	12% -7	11	05% -10	6	06% -13	2	09% -20	2	14% -31	30	07% -12
	Minimum	0		1	01% +4	0		0		0		1	01% +4
	Total	9	12% -7	12	05% -9	6	06% -13	2	09% -20	2	14% -31	31	07% -11

a) This departure was made because Court received incorrect information on matrix time which was a factor in guilty plea. Thus this is not really a case of a limited sentence but is an "Other Mandatory Departure".

TABLE 11: MANDATORY DEPARTURES,
12/16/77 - 12/15/78, MCIW

SEVERITY	RISK											
	I		II		III		IV		V		TOTAL	
	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average
Limited					1	100% -3					1	06% -3
Minimum					0						0	
Total	0		0		1	100% -3	0		0		1	06% -3
Limited	1	25% -4	2	18% -2	1	33% -9					4	22% -4
Minimum	0		0		0						0	
Total	1	25% -4	2	18% -2	1	33% -9	0		0		4	22% -4
Limited	1	25% -2									1	17% -2
Minimum	0										0	
Total	1	25% -2	0		0		0		0		1	17% -2
Limited			1	20% -16							1	11% -16
Minimum			0								0	
Total	0		1	20% -16	0		0		0		1	11% -16
Limited	1	50% -5	1	33% -22							2	40% -14
Minimum	0		0								0	
Total	1	50% -5	1	33% -22	0		0		0		2	40% -14
Limited												
Minimum												
Total	0		0		0		0		0		0	
Limited												
Minimum												
Total	0		0		0		0		0		0	
Limited												
Minimum												
Total	0		0		0		0		0		0	
Limited												
Minimum												
Total	0		0		0		0		0		0	
Limited	3	12% -4	4	14% -10	2	50% -6					9	16% -7
Minimum	0		0		0						0	
Total	3	12% -4	4	14% -10	2	50% -6					9	16% -7

TABLE 12: TOTAL MANDATORY DEPARTURES
12/16/77 - 12/15/78

SEVERITY	RISK													
	I		II		III		IV		V		TOTAL			
	#	% Average												
I	Limited	3	10% -4	4	06% -3	5	17% -3	1	08% -7			13	10% -4	
	Minimum	0		0		0		0				0		
	Total	3	10% -4	4	06% -3	5	17% -3	1	08% -7	0		13	10% -4	
II	Limited	2	06% -4	5	04% -3	5	06% -8	2	08% -17	1	06% -36	15	05% -8	
	Minimum	0		0		0		0		0		0		
	Total	2	06% -4	5	04% -3	5	06% -8	2	08% -17	1	06% -36	15	05% -8	
III	Limited	3	14% -2	3	05% -9	6	09% -15	2	12% -22	1	08% -26	15	08% -13	
	Minimum	1	05% +24	1	01% +2	0		0		0		2	01% +13	
	Total	4	19% +18	4	06% -6	6	09% -15	2	12% -22	1	08% -26	17	09% -10	
IV	Limited	10	13% -8	8	11% -15	4	09% -26					22	11% -14	
	Minimum	0		1	01% +12	0						1	01% +12	
	Total	10	13% -8	9	12% -12	4	09% -26	0		0		23	11% -13	
V	Limited	3	09% -5	1	02% -22							4	03% -9	
	Minimum	0		2	03% +4							2	02% +4	
	Total	3	09% -5	3	05% -5	0		0		0		6	05% -5	
VI	Limited	2	06% -20	1	05% -27	1	05% -25					4	05% -23	
	Minimum	0		0		0						0		
	Total	2	06% -20	1	05% -27	1	05% -25	0		0		4	05% -23	
VII	Limited			1	33% -14							1	08% -14	
	Minimum			0								0		
	Total	0		1	33% -14	0		0		0		1	08% -14	
VIII	Limited													
	Minimum													
	Total	0		0		0		0		0		0		
IX	Limited													
	Minimum													
	Total	0		0		0		0		0		0		
TOTAL	Limited	23	10% -7	23	06% -10	21	08% -12	5	08% -17	2	05% -31	74	07% -11	
	Minimum	1	01% +24	4	01% +5	0		0		0		5	01% +9	
	Total	24	10% -6	27	07% -8	21	08% -12	5	08% -17	2	05% -31	79	08% -10	

Although all five cases of minimum sentence departures fall in Risk levels I and II, there are too few cases to draw any conclusions. Also one would expect these cases to fall toward the lower levels of the matrix since by definition these departures are ones in which the matrix time falls short of a mandatory minimum sentence.

The bold lines in Table 9 through Table 12 highlight cells in which a larger than expected number of limited sentence departures occur.^a Generally these departures appear in the lower levels of Risk and Severity (SRM departs slightly from this pattern). One might have expected the reverse to be the case since these are situations in which the matrix time exceeds sentence expiration. On the other hand, the MCB rule to go to the next lower level of Risk if the matrix exceeds expiration may explain why most cases counted as mandatory departures fall in portions of the matrix where a lower level may not be attainable.

The effects of these departures can be gauged not only by their number but also by the amount of decrease or increase in the release date that they entail. Given the preponderance of limited sentence departures, the overall effect of mandatory departures is to reduce guideline time. For the total population the average change in guideline time for all cases of mandatory departures is a reduction of ten months (see lower right cell, Table 12). Although only 07% of all new admissions receive limited sentence departures, the reductions for this 07% are not insignificant. It is also interesting to note that the amount of reduction in guideline time increases as the level of risk increases (see bottom rows of Table 9 through Table 12). Thus it is the highest risk inmates who are receiving the greatest reductions through limited sentence departures which are beyond the control of the MCB.

Discretionary Departures

In cases of discretionary departures the MCB chooses to depart from its guidelines because of aggravating or mitigating factors. The incidence of these departures during the past year are reported in Table 13. Of all departures for the total population 64% were discretionary ones. However, the percentage varies from 31% for MCIW to 71% for MSP. The percentage of TRD's that were discretionary departures is based on the total number of decisions for which discretion could be exercised (i.e. total minus mandatory). This procedure is consistent with previous departure reports. For the total population the MCB departs in 15% of the cases for which it could exercise discretion. Discretionary departures were lowest for MCIW (08%) and highest for MSP (20%).

- a. a cell is highlighted if the percentage is four or more points above the percentage for the institution or population.

TABLE 13: DISCRETIONARY DEPARTURES 12/16/77-12/15/78

<u>Institution</u>	<u>Total Discretionary Departures</u>	<u>% Of All Departures</u>	<u>% Of All Cases With Discretion</u>
MSP	95	71%	20%
SRM	43	58%	10%
MCIW	4	31%	08%
Total	142	64%	15%

The previous departure report noted an increase in the discretionary departure rate. Figures in Table 14 indicate that departures remain slightly higher than the earlier part of 1977 but have declined from the last quarter of 1977. The 3% decline holds for all three institutions as well as for the total population. The higher departure rate in comparison to the first time period is entirely due to MSP inmates.

TABLE 14: PERCENTAGE OF DISCRETIONARY DEPARTURES FOR THREE TIME PERIODS

<u>Institution</u>	<u>1/15/77-8/15/77</u>	<u>8/16/77-12/15/77</u>	<u>12/16/77-12/15/78</u>
MSP	13%	23%	20%
SRM	10%	13%	10%
MCIW	12%	11%	08%
Total	12%	18%	15%

Additional data for analyzing MCB discretionary departures are presented in Table 15 through 18. These tables are similar to those for mandatory departures except that the "+" indicates an aggravating departure and the "-" indicates a mitigating departure. Also, percentages are based on the total number of cases per cell for which discretion could be exercised rather than the total number of cases. Readers interested in the range of aggravation or mitigation can find all departure amounts listed in Table 24 toward the end of this report where reasons are cited.

For the total population 71% (101) of these departures result in aggravation while 29% (41) result in mitigation. The ratio of aggravating to mitigating departures is highest for MSP. The types of departures are evenly divided for SRM, however. Part of the differences in the institutions may be explained by when aggravation and mitigation tend to occur. It is apparent from the MSP data (Table 15) and somewhat less so for the total population table (Table 18) that aggravation is more common at higher levels of risk and mitigation is more common at lower levels of risk (see portions of matrix set off by bold lines; solid bold lines indicate higher than expected number of cases of aggravation; dotted lines indicate higher than expected number of cases of mitigation). Amounts of aggravation also tend to be somewhat higher at

TABLE 15: DISCRETIONARY DEPARTURES
12/16/77 - 12/15/78, MSP

SEVERITY	RISK												
	I		II		III		IV		V		TOTAL		
	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average	# % Average		
I	+		2	12% +6	1	06% +6	2	66% +8	1	100% +10	6	12% +7	
	-		0		0		0		0		0		
	Total	0	2	12% +6	1	06% +6	2	66% +8	1	100% +10	6	12% +7	
II	+	1	07% +6	1	03% +12	9	18% +10	3	20% +5	4	44% +8	18	13% +9
	-	0		3 ^{a)}	08% -2	0		0		0		3	02% -2
	Total	1	07% +6	4	10% +1	9	18% +10	3	20% +5	4	44% +8	21	15% +7
III	+	2	22% +9	2 ^{b)}	11% +13	6	21% +12	3	27% +5	4	50% +5	17	23% +9
	-	0		0		2	07% -6	0		1	13% -21	3	04% -11
	Total	2	22% +9	2	11% +13	8	29% +8	3	27% +5	5	63% 0	20	27% +6
IV	+	6	15% +13	1	04% +1	6	21% +29	2	50% +11	1	20% +2	16	16% +17
	-	3	08% -5	1	04% -16	0		0		0		4	04% -8
	Total	9	23% +7	2	08% -8	6	21% +29	2	50% +11	1	20% +2	20	20% +12
V	+	2	11% +10	2	12% +8	5	28% +40			0		9	16% +26
	-	2	11% -6	0		1 ^{c)}	06% -60			1	50% -96	4	07% -42
	Total	4	22% +2	2	12% +8	6	33% +30	0		1	50% -96	13	23% +5
VI	+	1	04% +5			4	27% +35	1	50% +147	1	100% +160	7	13% +65
	-	4	17% -10			1	7% -18	0		0		5	09% -12
	Total	5	21% -6	0		5	33% +24	1	50% +147	1	100% +160	12	22% +33
VII	+	0										0	
	-	1	25% -12									1	13% -12
	Total	1	25% -12	0		0		0		0		1	13% -12
VIII	+	2	40% +23									2	18% +23
	-	0										0	
	Total	2	40% +23	0		0		0		0		2	18% +23
IX	+												
	-												
	Total	0		0		0		0		0		0	
TOTAL	+	14	11% +12	8	06% +8	31	19% +22	11	31% +19	11	42% +20	75	15% +18
	-	10	08% -8	4	03% -5	4	02% -23	0		2	08% -48	20	04% -14
	Total	24	19% +4	12	09% +4	35	21% +17	11	31% +19	13	50% +10	95	20% +11

- a) Excludes two cases where minimum matrix time lowered by 2 and 3 months.
- b) Excludes one case where minimum matrix time raised from 11 to 14 months.
- c) Matrix time was 153 months due to dangerous offender policy. Mitigation of -60 still leaves a TRD of 93 months. Since the decision was checked "within guidelines" it is possible that calculations changed and that the 93 months is within. There is no supporting information in the files.
- d) Inmate received exceptionally high matrix time due to dangerous offender policy, explaining the large mitigation. TRD of 86 months still is above matrix time of 76.

TABLE 16: DISCRETIONARY DEPARTURES
12/16/77 - 12/15/78, SRM

SEVERITY	RISK											
	I		II		III		IV		V		TOTAL	
	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average
I	+		1 03% +12	2 29% +12							3 05% +12	
	-		2 06% -6	0							2 04% -6	
	Total	0	3 07% 0	2 29% +12	0	0	0	0	5 07% +5			
II	+		1 02% +6	2 07% +7							3 03% +7	
	-		0	0							0	
	Total	0	1 02% +6	2 07% +7	0	0	0	0	3 03% +7			
III	+	3 60% +8	1 03% +9	1 03% +2	1 25% +4						6 07% +7	
	-	1 20% -2	1 03% -9	2 06% -7	0						4 05% -6	
	Total	4 80% +5	2 06% 0	3 09% -4	1 25% +4	0			10 12% +2			
IV	+	1 ^b 04% +33	2 06% +6	1 ^c 08% +2							4 06% +12	
	-	0	4 ^d 11% -9	3 25% -18				1 100% -5			8 11% -12	
	Total	1 04% +33	6 17% -4	4 33% -13	0			1 100% -5	12 17% -4			
V	+	1 09% +14	1 ^e 02% +16	2 ^f 18% +13							4 06% +14	
	-	4 36% -6	1 02% -12	0							5 08% -7	
	Total	5 45% -1	2 05% +2	2 18% +13	0	0	0	0	9 14% +2			
VI	+		1 14% +22								1 08% +22	
	-		0								0	
	Total	0	1 14% +22	0	0	0	0	0	1 08% +22			
VII	+											
	-											
	Total	0	0	0	0	0	0	0	0			
VIII	+	2 40% +53	0								2 25% +53	
	-	0	1 50% -22								1 12% -22	
	Total	2 40% +53	1 50% -22	0	0	0	0	0	3 38% +28			
IX	+											
	-											
	Total	0	0	0	0	0	0	0	0			
TOTAL	+	7 10% +25	7 03% +11	8 08% +9	1 05% +4	0					23 06% +14	
	-	5 07% -5	9 04% -10	5 05% -14	0			1 08% -5			20 05% -10	
	Total	12 18% +13	16 07% -1	13 14% 0	1 05% +4	1 08% -5	0	1 08% -5	43 10% +3			

- a) Excludes 1 case where minimum raised from 33 to 39.
- b) Excludes 2 cases where minimum raised from 11 to 13 months.
- c) Excludes 2 cases where minimum raised from 18 to 20 months.
- d) Excludes 1 case where minimum raised for victim injury in a dismissed offense.
- e) Excludes 1 case where minimum raised from 26 to 32 for severity of offense.
- f) Excludes 1 case where minimum raised from 39 to 41 months.

TABLE 17: DISCRETIONARY DEPARTURES
12/16/77 - 12/15/78, MCIW

SEVERITY	RISK														
	I		II		III		IV		V		TOTAL				
	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average	
I	+														
	-														
	Total	0 ^{a)}		0		0		0		0		0		0	
II	+							1	100%	+1			1	07%	+1
	-							0					0		
	Total	0		0		0		1	100%	+1	0		1	07%	+1
III	+	0		1	50%	+14							1	20%	+14
	-	1	33%	-6	0								1	20%	-6
	Total	1	33%	-6	1	50%	+14	0		0		0	2	40%	+4
IV	+														
	-														
	Total	0		0		0		0		0		0		0	
V	+			1	50%	+24							1	33%	+24
	-			0									0		
	Total	0		1	50%	+24	0	0		0		0	1	33%	+24
VI	+														
	-														
	Total	0		0		0		0		0		0		0	
VII	+														
	-														
	Total	0		0		0		0		0		0		0	
VIII	+														
	-														
	Total	0		0		0		0		0		0		0	
IX	+														
	-														
	Total	0		0		0		0		0		0		0	
TOTAL	+	0		2	09%	+19		1	50%	+1			3	06%	+13
	-	1	05%	-6	0			0					1	02%	-6
	Total	1	05%	-6	2	09%	+19	0	1	50%	+1	0	4	08%	+8

a) Excludes one case in which the minimum time was raised from 4 to 7 months. The higher level of the TRD decision was within guidelines.

TABLE 18: TOTAL DISCRETIONARY DEPARTURES:
12/16/77 - 12/15/78

SEVERITY	RISK												
	I		II		III		IV		V		TOTAL		
	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average	#	% Average	
I	+		3	05% +8	3	13% +10	2	18% +8	1	100% +10	9	07% +9	
	-		2	03% -6	0		0		0		2	02% -6	
	Total	0		5	05% +4	3	13% +10	2	18% +8	1	100% +10	11	07% +6
II	+	1	03% +6	2	02% +9	11	14% +9	4	17% +4	4	27% +8	22	09% +8
	-	0		3	03% -2	0		0		0		3	01% -2
	Total	1	03% +6	5	05% +2	11	14% +9	4	17% +4	4	27% +8	25	10% +7
III	+	5	29% +8	4	07% +12	7	11% +11	4	27% +5	4	31% +5	24	15% +9
	-	2	12% -4	1	02% -9	4	06% -7	0		1	08% -21	8	05% -8
	Total	7	41% +5	5	09% +8	11	18% +4	4	27% +5	5	38% 0	32	19% +5
IV	+	7	10% +16	3	05% +4	7	18% +25	2	40% +11	1	17% +2	20	11% +15
	-	3	04% -5	5	08% -14	3	7% -18	0		1	17% -5	12	07% -11
	Total	10	15% +10	8	13% -7	10	25% +12	2	40% +11	2	33% -1	32	18% +5
V	+	3	10% +11	4	07% +14	7	24% +32			0		14	11% +22
	-	6	20% -6	1	02% -12	1	03% -60			1	33% -96	9	07% -23
	Total	9	30% 0	5	09% +9	8	28% +21	0		1	33% -96	23	19% +5
VI	+	1	03% +5	1	05% +22	4	24% +35	1	50% +147	1	100% +160	8	12% +60
	-	4	13% -10	0		1	06% -18	0		0		5	07% -12
	Total	5	17% -7	1	05% +22	5	29% +24	1	50% +147	1	100% +160	13	19% +32
VII	+	0									0		
	-	1	17% -12								1	09% -12	
	Total	1	17% -12	0		0		0		0		1	09% -12
VIII	+	4	33% +38	0							4	19% +38	
	-	0		1	17% -22						1	05% -22	
	Total	4	33% +38	1	17% -22	0		0		0		5	24% +26
IX	+												
	-												
	Total	0		0		0		0		0		0	
TOTAL	+	21	10% +16	17	05% +11	39	15% +19	13	46% +17	11	28% +20	101	11% +17
	-	16	07% -7	13	03% -9	9	03% -18	0		3	08% -34	41	04% -12
	Total	37	17% +9	30	08% +2	48	19% +12	13	46% +17	14	36% +11	142	15% +9

the higher levels of risk. The fact that MSP inmates tend to be higher risk admissions (see section 1) may explain, then, why aggravation is more apparent in the MSP data.

The overall effect of the discretionary departures is to increase guideline time (see bottom right cell of tables). In all institutions the average amount of aggravation is greater than the average amount of mitigation. This fact, as well as the larger number of aggravations, results in an average increase of nine months to the guideline time for all inmates receiving discretionary departures.

It is the discretionary departures that should be of most concern to the MCB since these are the ones they can control. However, before turning to the reasons cited for these discretionary departures, cases of limited sentences will be investigated further. It became apparent in tabulating data for this report that limited sentences might affect the discretionary departure rate as well as the mandatory rate.

Effects of Limited Sentences

When one treats limited sentences only as mandatory departures, one misses other effects that these sentences have on MCB decision-making. Limited sentences, in conjunction with MCB rule 7-104.5m, affect some decisions within guidelines and some discretionary departures as well. Table 19 provides information on cases of limited sentences. The first column includes cases in which the MCB could not go to a lower matrix level and which were counted therefore as mandatory departures. The second column includes cases for which rule 7-104.5m was followed. Here the MCB went to the next lower level of risk and the decision was considered within guidelines. The third column includes cases for which the MCB assigned expiration rather than going to a lower matrix level. These cases were tabulated as aggravating discretionary departures since they assign months beyond MCB guidelines (rule 7-104.5m). There may be a few cases of limited sentences not included in this table. These cases would be ones in which the MCB assigned a TRD below expiration (when there was no lower level) or below the next lower risk level. These would be mitigating departures beyond the effects of the limited sentence. These cases would not be included here because the MCB departure is not constrained or affected by the limited sentence.

TABLE 19: NEW ADMISSIONS WITH LIMITED SENTENCES, 12/16/77-12/15/78

Institution	Total Limited Sentences	Mandatory Departures (no lower level)		Within Guidelines (lower level)		Discretionary Departures (expiration)	
		#	%	#	%	#	%
MSP	69	35	51%	11	16%	23	33%
SRM	42	30	71%	8	19%	4	10%
MCIW	10	9	90%	0	-	1	10%
Total	121	74	61%	19	16%	28	23%

For the total population 61% of the limited sentences resulted in mandatory departures. It is interesting that for the remaining cases the MCB chose to aggravate to expiration (23% of the limited sentences) more frequently than it chose to go to a lower risk level (16% of limited sentences). Only for SRM inmates did the MCB follow rule 7-104.5m more often than it assigned expiration.

Table 20 identifies the 19 cases which were tabulated as "within guidelines". As one would expect these cases tend to fall toward the higher levels of risk where it is possible to follow rule 7-104.5m.

Perhaps of more interest are those cases where the MCB chose not to follow rule 7-104.5m. These cases are identified in Table 21. This table indicates the amount of aggravation resulting from the assignment of expiration as well as the matrix location of each case. This table points clearly to the effects of limited sentences on the MCB discretionary departure rate. In particular these cases account for some patterns identified in the section on discretionary departures. One sees that the cases fall predominantly at the higher risk levels and occur primarily among MSP inmates. (Compare this table to the highlighted portions of Table 15 and Table 18.) These cases then explain in large part the tendency of the MCB to aggravate more frequently at higher risk levels and to aggravate more frequently for MSP inmates.

It appears, then, that when a limited sentence affects the TRD, the MCB tends to want to assign expiration rather than a lower matrix level particularly for inmates of higher risk. Note, for instance, that over half of the cases (65%) where the MCB aggravated fall in Risk levels IV and V (see bottom row, Table 21) but that over half the cases (63%) where the MCB followed rule 7-104.5m fall in risk levels II and III (see bottom row, Table 20).

Thus the conclusions drawn in the discussion of discretionary departures need to be modified somewhat. Although it is true that the MCB tends to aggravate more frequently at higher levels of risk, this tendency should not be interpreted as a failure of the matrix to assign

TABLE 20: LIMITED SENTENCES FOLLOWING
RULE 7-104.5m

SEVERITY	RISK					TOTAL
	I	II	III	IV	V	
I				MSP: 1 1		MSP: 1 1
II			SRM: 1 1	SRM: 1 1		SRM: 2 2
III			MSP: 4 SRM: 1 5	SRM: 1 1	MSP: 1 1	MSP: 5 SRM: 2 7
IV		MSP: 1 SRM: 1 2		SRM: 1 1	MSP: 1 1	MSP: 2 SRM: 2 4
V		SRM: 1 1		SRM: 1 1		SRM: 2 2
VI		MSP: 1 1	MSP: 2 2			MSP: 3 3
VII						
VIII						
IX						
TOTAL		MSP: 2 SRM: 2 4	MSP: 6 SRM: 2 8	MSP: 1 SRM: 4 5	MSP: 2 2	MSP: 11 SRM: 8 MCIW: 0 19

sufficient time to higher risk cells. Instead the tendency appears to be a result of the effects of limited sentences in conjunction with rule 7-104.5m which the MCB finds especially inappropriate for riskier inmates. It is not that the matrix and guidelines require aggravation for higher risks but actually that the MCB is simply trying to get as close as possible to the original matrix time but is constrained by the limited sentence and rule.

Should the MCB want to reconsider rule 7-104.5m it is important to ask how such a change would affect MCB departure rates compiled for this report. Data on this issue are included in Table 22. The first columns repeat departure data tabulated according to current guidelines; the last two columns report departure rates recalculated if all limited sentence cases were assigned expiration and treated as mandatory departures (i.e. if rule 7-104.5m were dropped).

TABLE 22: DEPARTURE RATES WITH AND WITHOUT RULE 7-104.5m

<u>Type of Departure</u>	<u>Institution</u>	<u>Current Guidelines</u>		<u>Without Rule 7.104.5m</u>	
		<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
Mandatory Departures	MSP	39	07%	73	14%
	SRM	31	07%	43	10%
	MCIW	9	16%	10	17%
	Total	79	08%	126	12%
	Discretionary Departures	MSP	95	20%	72
	SRM	43	10%	39	09%
	MCIW	4	08%	3	06%
	Total	142	15%	114	12%
Total Departures	MSP	134	26%	145	28%
	SRM	74	17%	82	19%
	MCIW	13	22%	13	22%
	Total	221	22%	240	23%

First, the guideline change would increase the mandatory departure rate from 08% to 12%. The greatest increase would be for MSP. Second, the discretionary departure rate would decline from 15% to 12%. The rate for MSP would decline most since MSP inmates were most likely to be assigned expiration rather than a lower matrix level. Finally, the total departure rate would increase by only 1%. Thus rule 7-104.5m has had very little impact on the total departure rate, has reduced the mandatory rate, but has increased the discretionary rate.

Summary

The purpose of this section has been to investigate the MCB departure rate by analyzing in detail mandatory and discretionary departures. Mandatory departures account for 36% of all departures and most of these are cases of limited rather than mandatory minimum sentences. Mandatory departures occur somewhat more frequently at lower levels of risk, where the MCB often cannot go to a lower level to assign a TRD (i.e. cannot follow rule 7-104.5m). The effect of mandatory departures is to reduce TRD time because of the preponderance of limited sentence departures. The amount of reduction tends to be higher for higher risk inmates.

Discretionary departures account for 64% of all departures and constitute 15% of all TRD decisions in which discretion can be exercised. The effect of discretionary departures is to increase TRD time both because cases of aggravation outnumber cases of mitigation and because the average amount of aggravation is greater than the average amount of mitigation. Aggravation appears to be more common at higher levels of risk and for MSP inmates, although this pattern is explained largely by the influence of rule 7-104.5m.

Examination of MCB departures revealed that limited sentences, in conjunction with MCB rule 7-104.5m, affect more than the mandatory rate. The rule has been followed in less than half the cases where it could be (i.e. where there is a lower risk level); the MCB has chosen to aggravate to expiration instead. This fact results in an increase in the discretionary rate, especially at higher levels of risk where, perhaps, the rule seems most inappropriate. When departure data were recalculated without the rule, it was found that the mandatory rate increases, the discretionary rate decreases, and the total rate increases by only 1%.

Comparisons to the previous time periods suggest that both mandatory and discretionary rates have declined since 8/16/77-12/15/77 and are closer to the rates of 1/15/77-8/15/77. These comparisons, however, should be reconsidered in light of the effects of adopting rule 7-104.5m. Data for 1/15/77-8/15/77 should not be affected by the rule but data for 8/16/77-12/15/77 and for 12/16/77-12/15/78 should be. What, then, are the "real" changes in departure rates, as opposed to changes resulting simply from rule changes? Table 23 provides information to investigate this question. Data for 1/15/77-8/15/77 remain the same. A "+" or "-" is included with the 8/16/77-12/15/77 data to indicate the expected change had the MCB rule not been adopted (e.g. the mandatory rate would be greater than 13%). An estimate for the departure rate for the 1977 periods combined is included, assuming that 8/16/77-12/15/77 data would change in approximately the same manner as 12/16/77-12/15/78 data changed. Data for

the current period are calculated as if the MCB rule had not been adopted.

TABLE 23: "REAL" DEPARTURE RATES FOR THREE PERIODS

Type of Departure	<u>1/15/77-8/15/77</u>	<u>8/16/77-12/15/77</u> (without rule)	<u>Estimate for 1977</u> without rule	<u>12/16/77-12/15/78</u> (without rule)
Mandatory	08%	13%+	10%	12%
Discretionary	12%	18%-	12%	12%
Total	19%	28%+	21%	23%

These data suggest that for 8/16/77-12/15/77 the actual increase for mandatory and total departures would have been even higher had rule 7-104.5m not been adopted, although the discretionary rate increase would be somewhat lower. For the current period the "real" mandatory and total rates would decline from late 1977 but would remain higher than rates for earlier in 1977. If one uses the estimate for all of 1977 combined without rule 7-104.5m, one sees a "real" increase of about 2% in mandatory (i.e. limited sentence) departures and in total departures from 1977 to 1978 but a steady "real" discretionary departure rate of approximately 12%. These efforts to sort out the effects of rule 7-104.5m suggest that the MCB has been remarkably consistent in its discretionary departures but has had to experience a slight increase in mandatory departures because of more cases of limited sentences.

REASONS FOR DISCRETIONARY DEPARTURES

Data from this and previous departure reports do not indicate any major changes in MCB discretionary departures. Although there has been some increase, it may be due entirely to the adoption of rule 7-104.5m which in practice the MCB often chose not to follow. However, the fairly steady rate does not indicate whether or not reasons for the departures are appropriate. The purpose of this section is to reproduce for the MCB the reasons they cited for departures from 12/16/77-12/15/78.

Reasons for all discretionary departures are listed in Table 24. Several types of information are included for the MCB to consider in their review of these reasons. First, the reasons are categorized by institution and by matrix cells. Second, the amount of departure associated with each reason is listed. The actual months until release are noted in parentheses below since TRD's are affected by assorted guidelines and can differ considerably from the matrix level even without the discretionary departure. Third, code numbers for MCB members participating in each departure decision are listed. Each member can identify whether he/she has a tendency to cite certain reasons.

A couple issues could be considered in reviewing these reasons. First, the MCB might want to note whether their reasons are repetitious of factors already considered in the TRD decision--i.e. offense severity and/or risk-of-failure items. If some reasons are repetitious, is it appropriate to count them? Does this double count certain factors? Does the matrix not weigh these factors sufficiently? Are these particularly unusual cases of severity or risk-of-failure factors, and, if so, should the reasons make the unusualness more evident? The following reasons from Table 24 might be ones to consider in light of this first issue:

1. no prior history (risk)
2. lack of significant prior record (risk)
3. first felony (risk)
4. obvious history of assaultive and sexual deviant behavior (risk)
5. severe and bizarre crime of homicide (severity)
6. prior attempt to same thing (risk)
7. serious nature of offenses (severity)

A second issue is whether reasons are sufficiently operational or measurable; or whether one can identify a specific characteristic of a case that warrants the departure. This issue arises in a couple types of reasons. Occasionally the MCB will cite a reason which simply repeats the fact that the guideline time is inappropriate for the case without specifying why. Consider the following examples.

1. no need for more than minimal incarceration (why??)

2. matrix time is not consistent with criminal behavior pattern (why?)
3. matrix time excessive for crime and history of inmate (why?)

In other cases the terminology is loose and one might ask what the criteria are for determining the relevance of the reason. Consider the following examples:

1. numbers of felonies (how many??)
2. extended felony history (what is extended?)
3. large amount involved in burglary (what is a large amount?)
4. considerable victim loss (what is considerable?)

In general reasons have been cited for most discretionary departures. Most cases where written reasons are not provided occur with limited sentences where the MCB assigns expiration rather than the lower matrix level. Sometimes members provide aggravating reasons but sometimes they do not.

Reasons for departures are presented here to be a basis for MCB discussions of their departures. Should there be sufficient interest or heed, more systematic investigation of these reasons perhaps could be done, comparing amounts of departure with type of reason, MCB members present with type of reason, and so forth.

TABLE 24: REASONS FOR MCB DISCRETIONARY
DEPARTURES, 12/16/77 - 12/15/78

(compiled separately; attached at end of report)

Appendix A

CASES OF ESCAPE REVIEWED

12/16/77 - 12/15/78

It was decided not to include cases of escape as New Admission TRD decisions (see explanation on page 2). Data obtained on TRD extensions for escapes have been tabulated separately, however, and are reported in Table A.1.

The cases tabulated in this table are those reviewed from 12/16/77 through 12/15/78 but for which a TRD had been assigned previously. Cases are included only if a Risk-of-Failure worksheet was completed on the escape for the hearing and a copy forwarded to Research. These data then do not report the actual number of escapes from each institution during the time period but report TRD adjustments resulting from hearings on prior escapes.

These data exclude at least two cases where the escape occurred prior to the New Admission hearing. The TRD set at the New Admission hearing was tabulated with others for the year, excluding the additional months added on for the escape.

TABLE A.1: CASES OF ESCAPE
REVIEWED 12/16/77 - 12/15/78^a

SEVERITY	RISK					TOTAL
	I	II	III	IV	V	
I						
II		SRM: 4.5-6 9-12 2	MSP: 9-12, 9-12 SRM: 12 ^b 3		MSP: 9-12 1	MSP: 3 SRM: 3 6
III			MSP: 20 ^c SEM: 6-12, 9-12, 9-12 4	MSP: 18 MCEW: 6-12 2		MSP: 2 SRM: 3 MCEW: 7 6
IV		MSP: 9-12 1	MSP: 9-12 SEM: 9-12 MCEW: 18-29 ^d 3			MSP: 2 SRM: 1 MCEW: 1 4
V		MSP: 9-12 SEM: 9-12, 14-7 3	MSP: 9-12 SRM: 12, 6-12 3			MSP: 2 SRM: 4 6
VI			MCEW: 18-36 ^c 1			MCEW: 1 1
VII						
VIII						
IX						
TOTAL		MSP: 2 SRM: 4 6	MSP: 5 SEM: 7 MCEW: 2 14	MSP: 1 MCEW: 1 2	MSP: 1 1	MSP: 9 SRM: 11 MCEW: 3 23

- a) matrix location is for original offense
- b) new TRD exceeds expiration
- c) for two escapes
- d) for three escapes; new TRD exceeds expiration

Appendix B

CASES OF MANDATORY MINIMUM SENTENCES
WITH TRD'S ASSIGNED AT ANNUAL REVIEWS
12/16/77 - 12/15/78

During the year under review the MCB assigned TRD's to new admissions with minimum sentences. In addition, the MCB assigned TRD's to cases admitted earlier but whose TRD assignment had been delayed until the minimum sentence was served. Data on this backlog of minimum sentence cases are reported in Table B.1.

TABLE B.1: TRD's Assigned at Annual Reviews for Minimum Sentence Cases
12/16/77 - 12/15/78

<u>Institution</u>	<u>Total TRD's</u>	<u>Mandatory Departures</u>		<u>Discretionary Departures-a</u>		<u>Total Departures</u>	
		<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
MSP	55	9	16	9	23	18	33
SRM	30	5	17	6	24	11	37
MCIW	<u>3</u>	<u>0</u>	<u>-</u>	<u>0</u>	<u>-</u>	<u>0</u>	<u>-</u>
Total	88	14	16	15	20	29	33

a-Percentage is based on total number of cases for which discretion could be exercised (i.e. total-mandatory departures).

It is apparent from these data that this backlog of cases is not representative of the full year of new admission TRD's. The overall departure rate is considerably higher (33% compared to the 22% reported in Table 1). The higher departure rate is explained primarily by the larger proportion of mandatory departures. All of these mandatory departures are cases where the matrix falls short of the minimum sentence. For the full year of TRD decisions these mandatory minimums were negligible (less than 0%), while limited sentences which reduced matrix time accounted for most of the mandatory departure rate.

In addition, the discretionary departure rate is somewhat higher than for regular cases assigned TRD's. At least some of this increase can be explained by the MCB's consideration of poor institutional behavior as an aggravating factor in assigning the TRD to these inmates who have been incarcerated one to three years. Institutional behavior generally is not a factor in the TRD assignment for new admissions, given their brief incarceration.

When the TRD's were tabulated according to the matrix cells, it became apparent that the majority of minimum sentence departures for both MSP and SRM fell in Severity Level V and in Risk Levels II and III. These tabulations are not reported here but are available upon request.

END