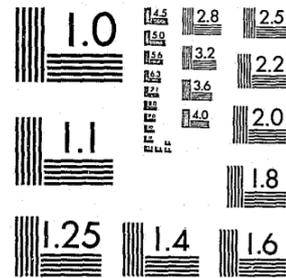


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BOARD OF PROBATION AND PAROLE

28TH ANNUAL REPORT

JULY 1, 1981 JUNE 30, 1982



WEST VIRGINIA

BOARD OF PROBATION AND PAROLE

1116 QUARRIER STREET
CHARLESTON, WEST VIRGINIA 25301
TELEPHONE (304) 348-6366

JOHN A. BAILES
CHAIRMAN

JOHN D. ROCKEFELLER IV
GOVERNOR

July 20, 1982

The Honorable John D. Rockefeller IV
Governor of West Virginia
State Capitol
Charleston, West Virginia 25305

Dear Governor Rockefeller:

We have the honor to submit herewith the Twenty-eighth Annual Report by the West Virginia Board of Probation and Parole for the period of July 1, 1981, through June 30, 1982.

Respectfully submitted,

John A. Bailes

John A. Bailes
Chairman

Janet M. Rader

Janet M. Rader
Member/Secretary

C. Frank LePage

C. Frank LePage
Member

JAB:JMR:CFL:ef

I INTRODUCTION AND BACKGROUND

II SCOPE OF ACTIVITY FOR 1981 - 1982

III STATISTICS AND ANALYSIS FOR 1981 - 1982

IV SUMMARY, CONCLUSION, AND RECOMMENDATION

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ACQUISITIONS

I Introduction and Background

By action of the West Virginia Legislature (House Bill #607, Chapter 42, Acts of the Legislature, 1965), duties and functions of the West Virginia Board of Probation and Parole were defined and limited to: (1) the determination to release or not release inmates from State penal institutions through the parole process; and (2) subsequent to parole, the determination to continue or revoke the parole granted. (Note: Though the title "Board of Probation and Parole" implies a broader scope and function, the 'Board' has no responsibility for probation, which remains a function of The Judiciary in West Virginia).

Members are appointed without term by the Governor with the advice and consent of the Senate and are directly accountable to him. The three-member Board must have no more than two members of one political party. The Chairman is designated by the Governor and the Member-Secretary is determined by the Board. Administratively, the Board operates in close cooperation with the Department of Corrections. On granting a parole by the Board, the physical release and the supervision of the parolee is performed by the Department of Corrections. Thus, field supervision and guidance of the parolee is under 'Corrections' and not the Board. The office is located at 112 California Avenue, Charleston, West Virginia.

Among other things, the Legislature requires at the time of the parole hearing:

- 1) That the inmate appear in person before the Parole Board.
- 2) That the inmate shall have served the minimum term of his indeterminate sentence, or shall have served one-third

of his definite term (If parole is not granted on the first interview, he is entitled to subsequent annual interviews).

- 3) That the inmate shall not be under punishment or in solitary confinement for any infraction of prison rules.
- 4) That the inmate shall have maintained a record of good conduct for a period of at least three months immediately preceding the date of release on parole.
- 5) That the inmate shall have satisfied the Board that, if released on parole, he will conduct himself in a lawful manner and that his release is not incompatible with the best interest of society generally.
- 6) If parole is denied, the inmate will be notified immediately.
- 7) The Board shall, with the approval of the Governor, adopt rules and regulations governing the procedure in granting parole.

II Scope of Activity

The West Virginia Supreme Court of Appeals recently held that: "...Our parole statute creates a legitimate reasonable expectation that parole will be granted". They also agreed with the United States Supreme Court which held: "The parolee is not the only one who has a stake in his conditional liberty. Society has a stake in whatever may be the chance of restoring him to normal and useful life within the law." The State Court also declared that due process requires that parole release interview processes include the following minimum standards:

- (1) Each prospective parolee must be given timely and adequate notice of the date and hour of his parole release interview;
- (2) An inmate is entitled to access to information in his record which will be used to determine whether he receives parole (absent overriding security considerations which must be recorded in his file);
- (3) Each inmate may personally appear before the Parole Board and give oral and documentary evidence;
- (4) A record, which is capable of being reduced to writing, must be made of each parole release interview to allow judicial review; and
- (5) Inmates to whom parole has been denied are entitled to written statements of the reasons for denial.

Once an inmate has satisfied the minimum statutory requirements for eligibility and insofar as possible the parole process in West Virginia usually progresses through the following steps:

1. The inmate is notified 30 days in advance of the date and time of his scheduled interview.
2. He is given access to information in his record which will be used in parole consideration (absent overriding security considerations).
3. He appears personally before the Board and is interviewed by the entire Board.
4. The interview is recorded.

INTERVIEWS AND DECISIONS GRANTING OR DENYING PAROLE

1981 - 1982 AND 1980 - 1981

	<u>West Virginia Penitentiary</u>		<u>Huttonsville Correctional Ctr.</u>		<u>W. Va. Prison for Women</u>		<u>Total</u>	
	1981-82	1980-81	1981-82	1980-81	1981-82	1980-81	1981-82	1980-81
Interviews Held	242	253	470	554	27	26	739	833
Paroles Granted	(39) 95	(43) 109	(53) 247	(57) 314	(78) 21	(54) 14	(49) 363	(52) 437
Paroles Denied	(61) 147	(54) 144	(47) 223	(43) 240	(22) 6	(46) 12	(51) 376	(47) 396

The data below indicates the Parole Board's activities as to interviews and the decisions granting or denying parole for the 1981-82 fiscal year:

	West Virginia Penitentiary	Huttonsville Correctional Center	West Virginia Prison for Women	Total
Interviews Held	242	470	27	739
Paroles Granted	95	247	21	363
Paroles Denied	147	223	6	376

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1981 THROUGH JUNE 30, 1982

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Abduction	1	0	0	1
Attempt to Commit Statutory Rape	1	0	0	1
3rd Degree Sexual Assault	2	4	0	6
1st Degree Sexual Abuse	1	2	0	3
2nd Degree Murder	4	7	0	11
Embezzlement	0	2	0	2
1st Degree Arson	0	2	0	2
2nd Degree Arson	1	1	0	2
4th Degree Arson	1	1	0	2
Breaking & Entering	26	62	1	89
Entering w/o Breaking	2	6	0	8
Entering w/o Breaking (Daytime)	0	3	0	3
Burglary	8	16	0	24
Burglary in the Nighttime	1	6	0	7
Daytime Burglary	0	3	0	3
Robbery by Violence	1	2	0	3
Armed Robbery	13	8	0	21
Unarmed Robbery	2	4	1	7

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1981 THROUGH JUNE 30, 1982

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
False Pretense	0	3	0	3
Aiding & Abetting False Pretense	0	1	0	1
Obtaining Goods Under False Pretense	0	1	1	2
Grand Larceny	20	58	3	81
Aiding & Abetting Grand Larceny	0	2	0	2
Accessory before the Fact to Grand Larceny	0	1	0	1
Breaking & Entering w/intent to commit Larceny	1	2	0	3
Aiding & Abetting Armed Robbery	1	2	0	3
Attempted Armed Robbery	0	1	0	1
Aiding & Abetting Breaking & Entering	0	0	1	1
Robbery by Force	0	1	0	1
Attempt to Commit Burglary	0	2	0	2
Cons. to Commit Grand Larceny	0	1	0	1
Cons. to Commit Armed Robbery	1	0	0	1
Cons. to Commit Robbery	0	1	0	1

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1981 THROUGH JUNE 30, 1982

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Attempt to an Acc. to Commit Robbery	0	1	0	1
Prin. in the 2nd Degree to B&E	0	1	0	1
Delivery of a Controlled Substance	1	8	0	9
Delivery of a Con- trolled Substance- Marijuana	0	6	0	6
Delivery of a Con- trolled Substance- Cocaine	0	1	0	1
Delivery of a Con- trolled Substance- Phencydicine	0	3	0	3
Delivery of Hashish	0	1	0	1
Possession w/int. to Deliver a Controlled Substance-Cocaine	0	1	0	1
Possession w/int. to Deliver a Controlled Substance	0	1	0	1
Possession w/int. to Deliver a Controlled Substance-Marijuana	1	3	0	4
Obtaining a Controlled Substance	0	1	0	1
Obtaining a Controlled Substance by False Pretense	0	0	1	0

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1981 THROUGH JUNE 30, 1982

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Transfer & De- livery-Marijuana	0	1	0	1
Possession w/int. to Deliver a Schedule III-Controlled Substance	0	1	0	1
Transfer of Marijuana	0	1	0	1
Delivery of LSD Schedule I	0	1	0	1
Sale of Marijuana	0	1	0	2
Obtaining a Controlled Substance by Fraud	0	2	0	2
Sale & Delivery of Marijuana	0	0	1	1
Maiming	0	1	0	1
Uttering	1	2	2	5
Uttering a Forged Check	1	4	2	7
Uttering a Forged Document	0	1	0	1
Uttering a Forged Instrument	2	0	1	3
Forgery	5	5	0	10
Forgery of a Check	0	0	1	1

TYPES OF CRIMES ON WHICH PAROLES WERE GRANTED

JULY 1, 1981 THROUGH JUNE 30, 1982

CRIMES	WEST VIRGINIA PENITENTIARY Moundsville	HUTTONSVILLE CORRECTIONAL CENTER Huttonsville	WEST VIRGINIA PRISON FOR WOMEN Pence Springs	TOTAL
Forgery & Ut- tering	2	3	0	5
Issuance of a Worth- less Check	0	2	0	2
Welfare Fraud	0	0	1	1
Obt. Welfare Asst. by means of False Statements	1	0	0	1
Burning Insured Property	0	1	0	1
Receiving Stolen Property	0	3	0	3
Transferring Stolen Property	0	4	0	4
Receiving & Trans- ferring Stolen Prop.	2	0	0	2
Voluntary Manslaugh- ter	1	5	4	10
Unlawful Wounding	1	1	0	2
Unlawful Assault	0	3	1	4
Felonious Assault	2	0	0	2
Escape	6	0	1	7
Attempted Murder	0	0	1	1

PAROLE VIOLATION HEARING CASES

The chart below indicates the number of parole hearing cases and decisions made by the Parole Board.

FISCAL YEAR 1981 - 1982

Parole Violation Cases conducted during 1981-1982-----	124
Paroles revoked on technical grounds-----	50
Paroles revoked on felony grounds-----	15
Parolees continued under supervision-----	34
Decision not to hold hearing-----	25

III Statistical Analysis 1981-82

Fewer interviews were held in 1981-82 than 1980-81 by 94, the present year apparently reflecting the normal year. In 1980-81, 436 paroles were granted, and represented 52% of those interviewed. (This followed a year in which there were 210 paroles granted, 30% of interviews.) The current year 363 paroles of 739 interviews (49%) were granted, which may reflect a conservative to moderate approach by the Board. Revocations as a percentage of paroles granted, while fluctuating between 13 and 32%, averages at the 18% level. (Reports of national averages indicate 35% and more as the norm.)

IV Summary, Conclusions and Recommendations

The Board operated at full level for the year. A very fine cooperation exists among the three members. Supporting staff are dedicated and perform well, cooperate with each other - a good spirit and morale are apparent.

Risk-taking describes, at least to some extent, the functions performed by the Board. Judgemental decisions are difficult but must be made with sensitivity for the good of the individual and for society. While admittedly imperfect, the parole system, operating as it does in our State, is far superior to alternate systems and may well be one of the best in its mode of operation to any parole system in the country.

During the year the Board has devoted much time to the revision of rules and regulations. With some minimum changes, these new rules should be ready to present to the Governor in a short time.

We have no major recommendations for change at the present time.

END