

MARCH 1990

CRIMINAL JUSTICE AND
CORRECTIONS
ADVISORY COUNCIL

TO

BOARD OF PARDONS

MONTANA STATE

OF

PRESENTATION

TABLE OF CONTENTS

1. Introduction.....1

2. Inmate Waivers.....5

3. Annual Review Cases.....10

4. Parole Revocation Hearings.....13

5. Early Parole Hearings.....17

6. Emergency Releases.....18

7. Supervised Release.....19

8. Discharge From Supervision.....20

9. Pre-Parole Programming.....22

10. Conclusion.....26

Name	Position	Experience
Henry Burgess	Chairman	18 years
Thomas Keegan	Secretary	6 years
Ian Elliot	Member	1 year
Anthony Marra	Auxiliary Member	20 years
John Lynch	Executive Secretary	16 years
Craig Thomas	Administrative Officer	11 years
Cathy Leaver	Administrative Assistant	7 years

Members and Staff

Some fashion of releasing authority has been in existence in Montana since 1889. The Montana Board of Pardons as it exists today, with the exception of the auxiliary member who was added in 1979, was created in 1955. The auxiliary member is required to attend hearings that regular Board members are unable to attend. At these hearings, the auxiliary member has all the rights and responsibilities of a regular member.

The Board consists of three regular members and the auxiliary member. The Board's staff includes an Executive Secretary, Administrative Officer, Administrative Assistant and a Secretary. I. The Board members are appointed by the Governor with advice and confirmation of the Senate. They are not salaried state employees but do receive \$50 per day when conducting Board business and are reimbursed for expenses. The Board is attached to the Department of Institutions for Administrative purposes only.

INTRODUCTION

The Board of Pardons is committed to the effort of reducing or controlling population in ways that do not compromise public safety but must have the resources needed to accomplish this goal. This report reviews several areas of concern that directly affect parole and population and offers a number of possible solutions that the Board of Pardons feels could be effective.

With a much larger number of cases in the near future, illustrates that the Board and its staff will be required to deal involve extensive travel. A review of the population projections Correctional Center and the pre-release centers all of which there have been added the responsibility of the women's approximately 380 inmates and a total of 590 cases. In addition, Board and its staff has not expanded since 1976, when there were Despite the huge increase in prison population and cases, the recommendations to the Governor on Pardon and Commutation requests. pre-release facilities on alternate months. The Board also makes Women's Correctional Center, Swan River Forest Camp, and five (5) The Board currently conducts hearings at Montana State Prison, released 370 inmates on parole and 3 inmates to supervised release. The Board and its staff processed 1,268 cases in 1989, eligibility is set by law in section 46-23-201.

the supervision of the Department of Institutions. Parole subject to the conditions imposed by the Board and placed under Board of Pardons before his/her term expires. The parole is "parole" is the release to the community of a prisoner by the

Kathy Delaney Secretary I 1 Year

BOARD OF PARDONS CASELOAD INCREASE

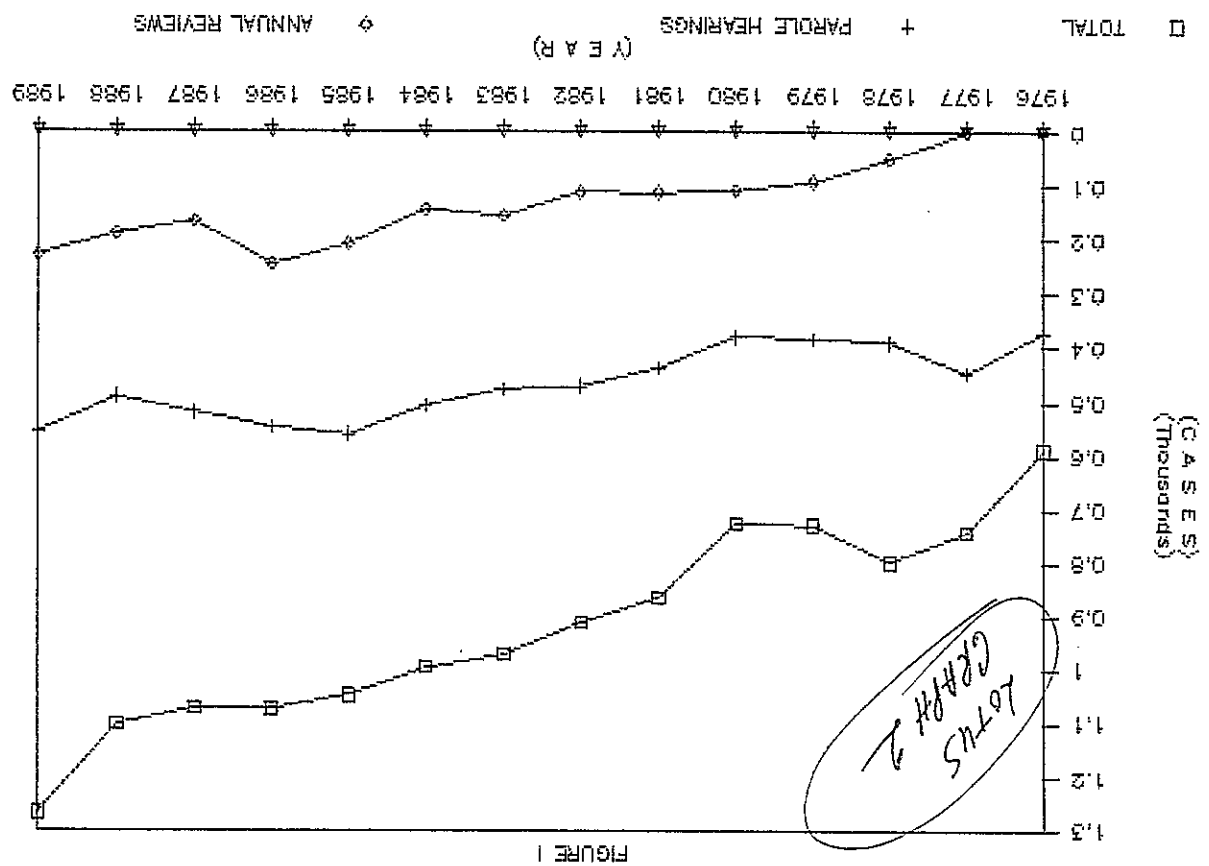
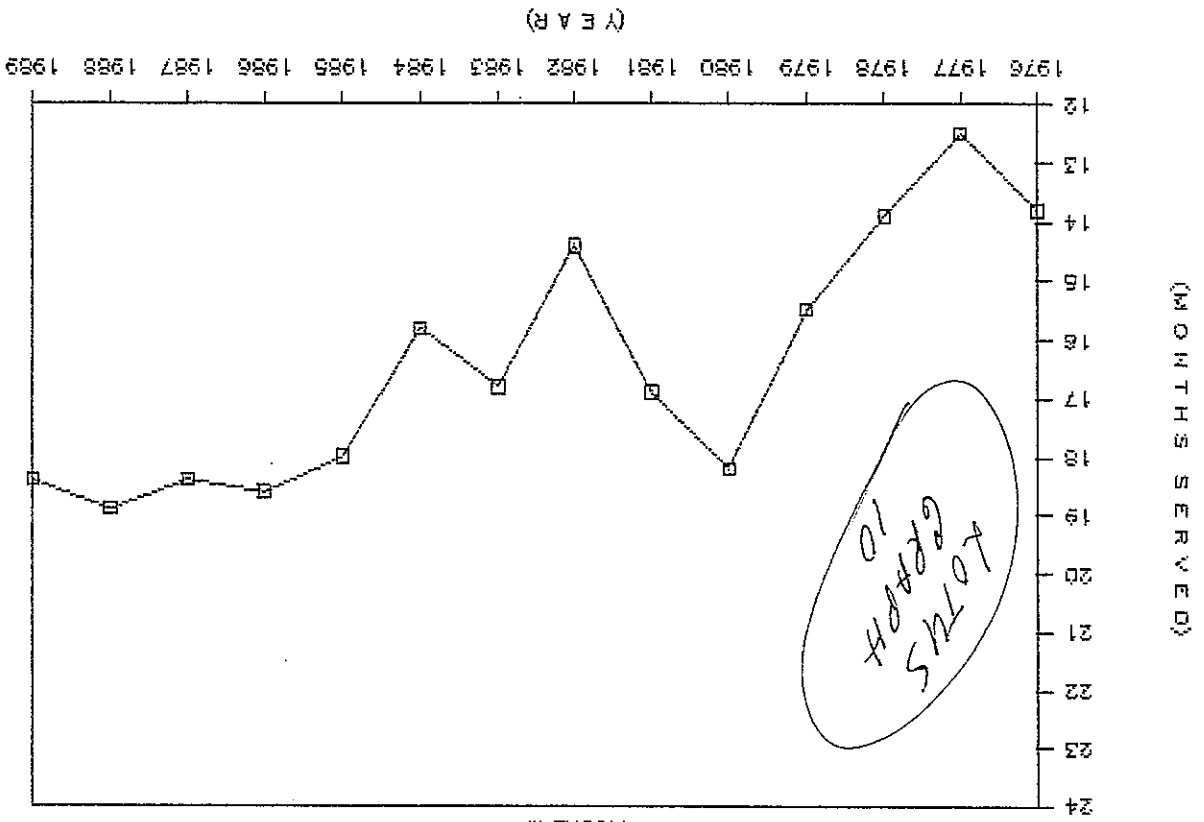


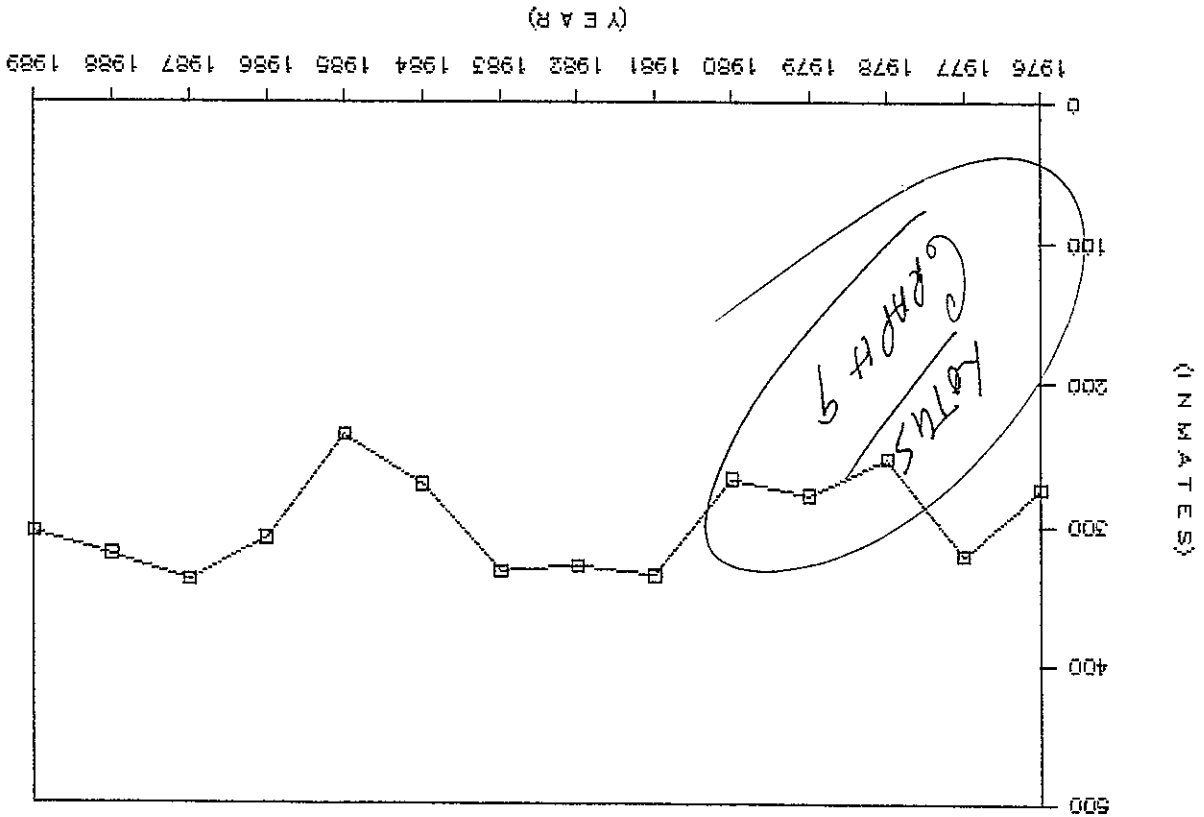
FIGURE 1

Graphs I-IV illustrate the Board's activities over the last number of years and displays the increase in caseload.



MONTHS SERVED - FIRST BOARD APPEARANCE

FIGURE III



INMATES GRANTED PAROLE 1976-1989

FIGURE II

Y-Vertical
X-Horizontal

1988-1989 Advisory Council.

The Board has recognized for some time that the number of inmates on waive status is a serious concern. This concern was the catalyst in the Board request for a pre-parole program during the

to the future success of the potential parolee. Board feels that not only should inmates have the privilege of Board at anytime upon 30 days written notice to the Board. The hearings. Inmates who waive their appearances can return to the current Board policy allows inmates to voluntarily waive their

INMATE WAIVERS

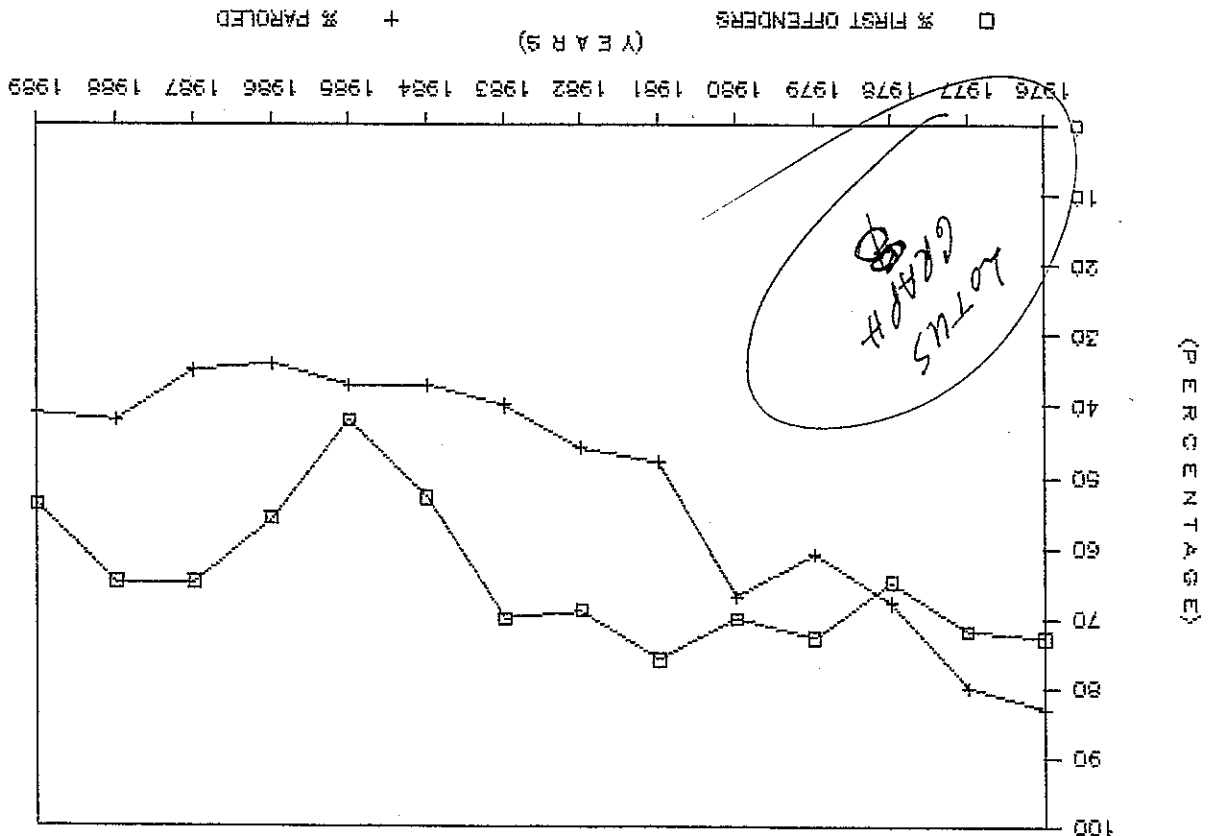


FIGURE IV
PAROLEES GRANTED-FIRST TIME OFFENDERS

LOTUS GRAPH

There are currently 326 inmates waiving parole consideration. It should be noted that many inmates waive their appearances on more than one occasion and the majority return for subsequent action within a 90-120 day period. In addition the majority of inmates appear 60 days prior to their release date and it would be inappropriate to force them to come before the Board. The inmates that continue to waive are receiving treatment, completing pre-release, or are under penalty for institutional misconduct. For example, in October, 1989, 35 inmates voluntarily waived their hearings. As of February, 1990, the status of those 35 inmates was as follows:

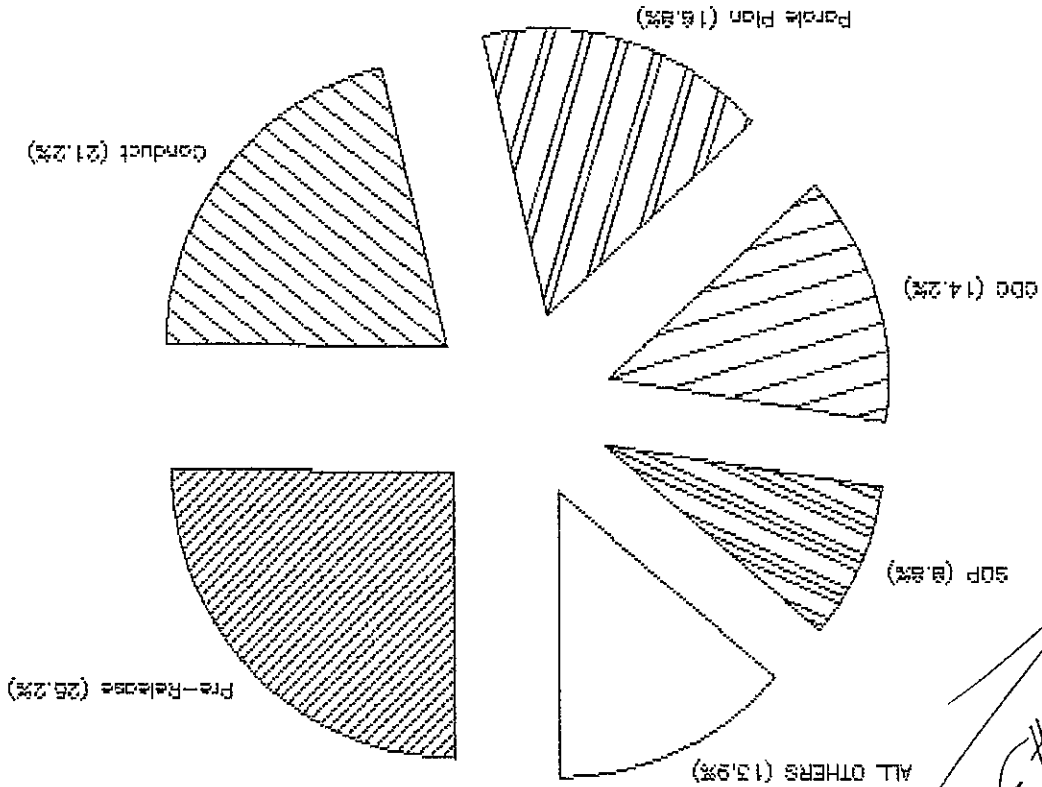
1. 13 remained at MSP, WCC or Swan on waive status. Of those
 2. 10 were completing pre-release.
 3. 4 had appeared and were granted parole.
 4. 6 had appeared and were denied parole.
 5. 2 had Board appearances pending.
- It should also be noted that many inmates waive on more than one occasion. For example in October:

13:

- a. 3 were completing treatment programs. (Anger/sex/CDC)
- b. 2 have extensive criminal records.
- c. 3 recently failed a pre-release program.
- d. 3 have extensive misconduct.
- e. 1 discharged.
- f. 1 was pending local approval for pre-release.

REASON WAIVED (JUNE-DECEMBER 1989)

FIGURE V



NOT US
@ 2/27/89

Figure V illustrates the specific reasons inmates gave for waiving June-December 1989. These numbers are consistent with the general pattern over the last number of years.

- 3 inmates waived on two occasions.
- 2 inmates waived on three occasions.
- 1 inmate waived on four occasions.

As can be noted there are five major reasons for inmates not wanting to appear before the Board.

1. Inadequate parole plan-The inmate has been unable to develop a suitable release plan which includes residence, employment, schooling, training, etc. As this report demonstrates, the majority of these inmates appear within 90-120 days with such a plan. Without a structured and well developed plan, the chances for success are greatly reduced.

2. Institutional conduct-The inmate has been unwilling or unable to maintain an adequate period of conduct that is clear (3-6 months) of major institutional rule infractions. Releasing an inmate without this requirement reduces significantly the ability to operate the institutions in an orderly fashion. Additionally, poor conduct is an indicator of how an inmate will perform while on supervision. Finally, parole is an earned privilege and poor behavior does not promote accountability or acceptable behavior. There may also be liabilities if inmates are released with poor conduct records.

3. Need for chemical dependency treatment-A large number of inmates that are admitted to Montana State Prison have chemical dependency problems that are directly related to their criminal behavior. Releasing an inmate without the appropriate chemical dependency counseling is promoting failure and may compound the current population problems. Increased institutional treatment availability would aid greatly in inmate progress toward parole.

the centers.
early release to an intensive supervision program, administered by
and increased capacity would be appropriate. Included could be an
reveal an increase in appropriate candidates, perhaps added centers
programs would be of great benefit. If the population projections
report, pages 22-26. Additionally, enhanced chemical dependency
in all of these areas. This program will be detailed later in this
Pre-Parole Programming would help reduce the numbers and delays
this very reason.

encouraged to complete pre-release prior to a parole interview for
would not be considered. Inmates, in many instances, are
The Board generally paroles inmates from pre-release that normally
release; often it is the only avenue of release for many inmates.
The inmate is placed in the best position possible prior to
release are invaluable to the inmate and the system as a whole.
period, support, counseling and opportunities provided by pre-

5. Pending transfer or completing pre-release-The transition

serious release consideration.
exception, completion of extensive treatment is a must prior to any
significantly increases the chances for re-offending. With little
have many drastic and damaging effects. Lack of treatment
situation. Release without treatment is inappropriate and could
inmates is extremely high risk and high profile in a community
4. Need for sex offender treatment-This particular group of

There are currently 337 inmates on annual review status. Inmates that are placed on this status are generally seen by the Board as very poor parole risks with limited chance of success on parole. During the calendar year 1989, the Board of Pardons considered two hundred and twenty eight (228) annual review cases. Two hundred and four (204) of these cases were researched for criminal history and institutional performance. Note that some annual review inmates discharge their sentences during the year and others were paroled. The number researched excludes out-of-state cases and those inmates who were scheduled to discharge the month of review or the following month. Twenty seven (27) of the total were removed from annual review status by the Board during 1989. A profile of 204 inmates on annual review status is as follows.

upon the inmate at a later date." original sentence even if an additional sentence may be imposed denied parole will always be afforded an annual review on his submitted will be considered by the Board. An inmate who has been his record, progress in prison, and any written information be afforded an annual review, at which time he will not appear, but states: "An inmate denied parole for more than one (1) year will The Board of Pardons Administrative Rules (20.25.401, (7)),

ANNUAL REVIEW CASES

The 204 inmates on Annual Review Status have:
These numbers realistically reflect the caliber of inmates currently on annual review status. These numbers exclude other factors, including previous parole rescissions, pre-release failures, misdemeanor offenses, treatment failures, outstanding charges and/or detainers and consecutive sentences to follow. The Board reviews these cases yearly, and if at all possible, without a substantial risk to the community or the

1. 394 major institutional rule infractions during year of report. (Individual maximum 14)
2. 158 need extensive treatment.

Institutional Adjustment

1. 173 parole violations. (Individual maximum 6)
2. 114 probation violations. (Individual maximum 3)
3. 287 total violations of supervision.

Supervision History

1. 268 violent offenses.
2. 95 sex offenses.
3. 363 total assaultive offenses. (Current and prior offenses)

Assaultive Offenses

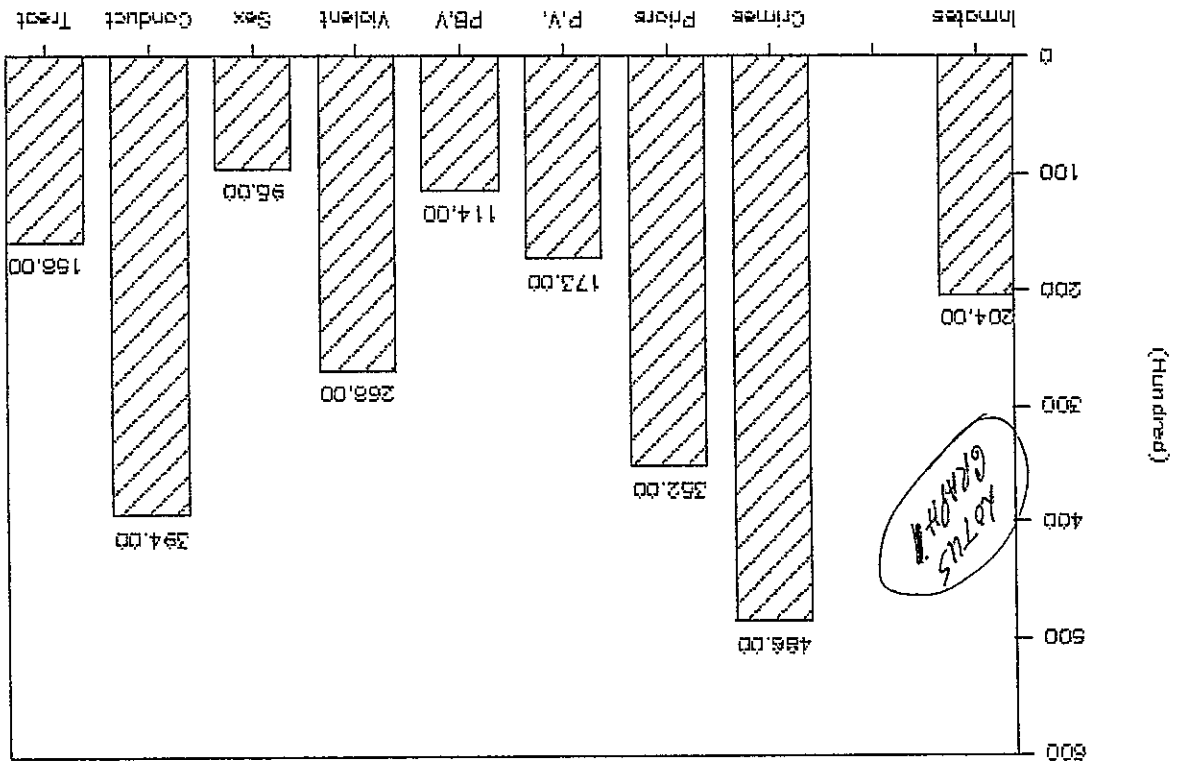
1. 486 felons currently being served. (Individual maximum 16)
2. 352 prior felony convictions. (Individual maximum 14)
3. 838 total felony convictions. (Includes all felony counts)

Felony Convictions

inmate, grants hearings and releases to those deserving consideration. In the Board's opinion this group is not a viable option in reducing prison over-crowding.

1989 ANNUAL REVIEW PROFILE

FIGURE VI



If a parolee is returned to the institution upon warrant issued by the Department of Institutions, after having had (or waived the right to) an on-site hearing, probable cause having been found, the Board will schedule a full revocation hearing for the parolee at the next regularly scheduled Board meeting. The decision of the Board following a revocation hearing is based on the reports of the supervising officer, the on-site hearing, (if one is conducted) and the information and evidence presented at the hearing. The burden of proof at a parole revocation proceeding requires only a preponderance of evidence.

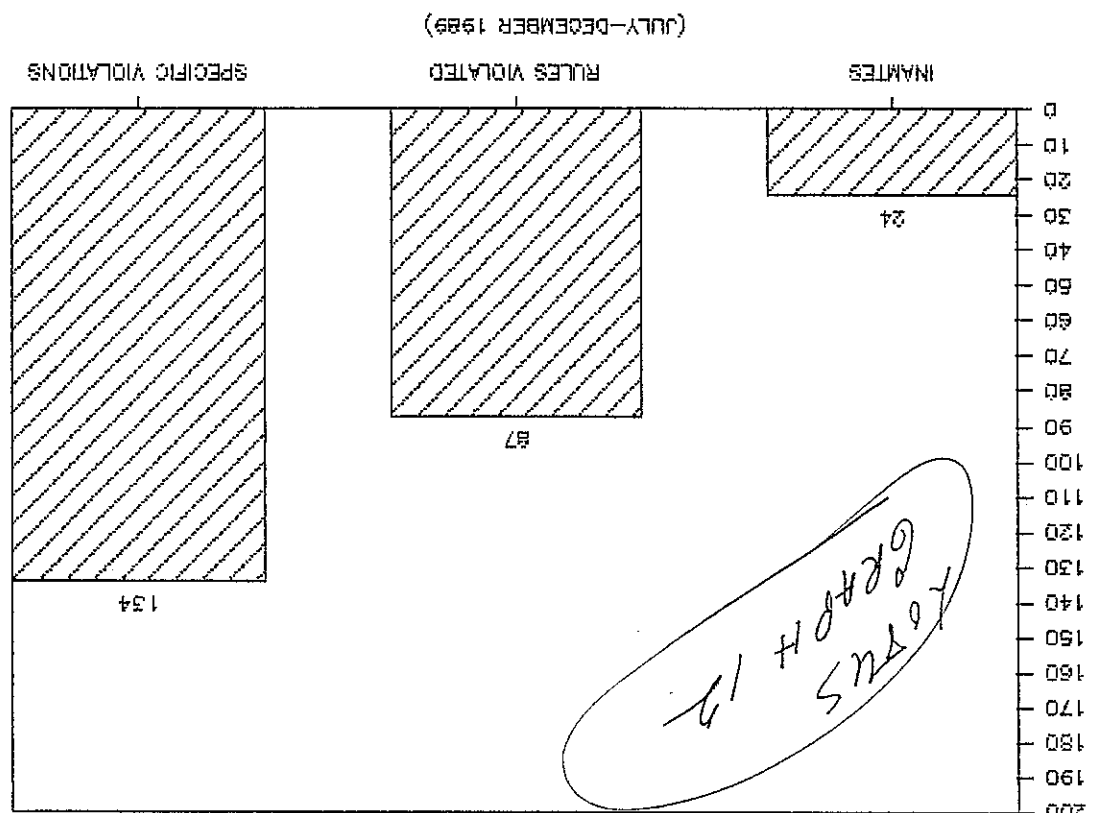
In calendar year 1989, the Board revoked ninety two (92) paroles while approving three hundred and ninety six (396) releases and actually released three hundred and seventy (370) inmates on parole. Seventy one (71) of the revocations were for technical violations, while only twenty one (21) were revoked for new crimes. New Crimes-The Board has little or no option in this area. Any parolee who commits a crime while at large on parole or conditional release shall be convicted and sentenced and sentenced therefore, shall serve ~~secutively~~ with the remainder of the original sentence in section 46-18-401, MCA. Under certain circumstances, the Board may also choose to run the sentence.

PAROLE REVOCATIONS

Technical violations-include violations of special Board conditions or of the standard conditions of release. Compliance with these conditions is the "backbone" of a successful parole system. Consistent violations of these conditions usually indicates or predicts current or future criminal behavior. Revocation of parole under these circumstances is necessary for the protection of society, protection of the inmate and for the credibility of the system with the community and inmate population. Figure VII shows that technical violators fail to comply with numerous conditions of parole. Of the twenty four (24) inmates researched (July-December, 1989), 87 rules were violated with 134 specific violations within those rules.

TECHNICAL VIOLATION PROFILE

FIGURE VII



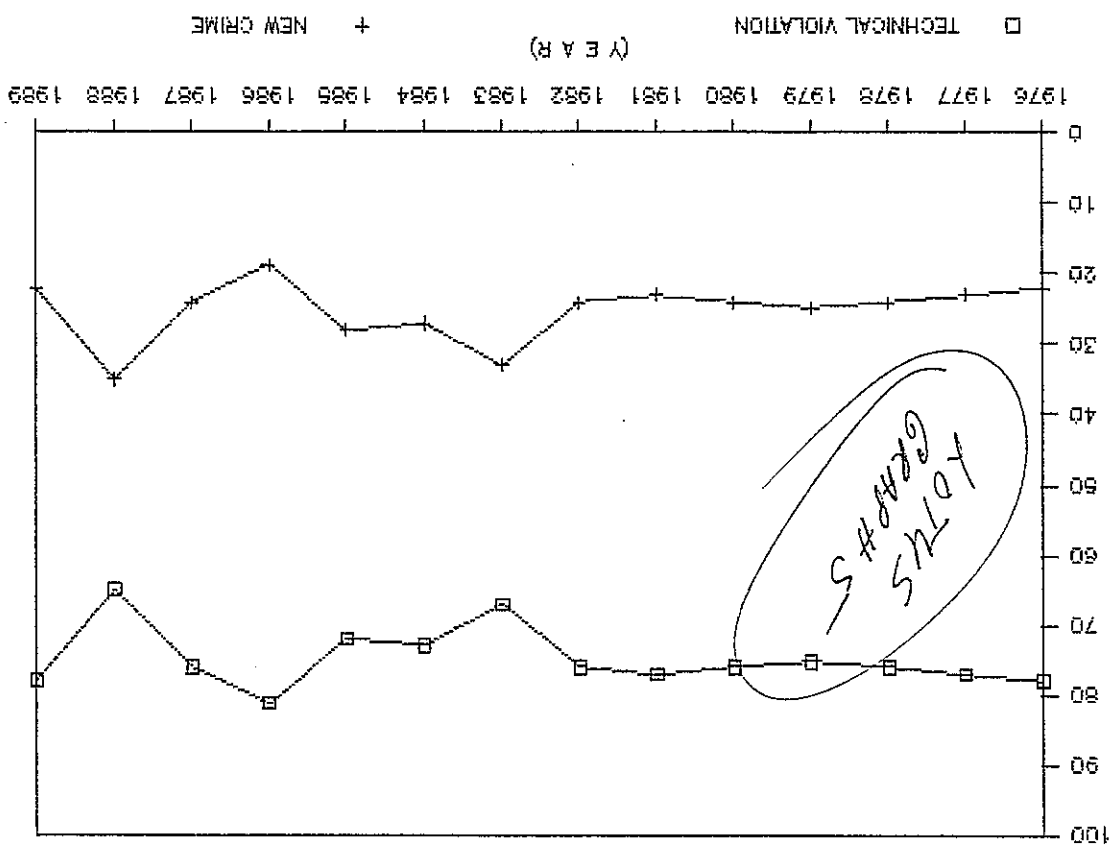
(JULY-DECEMBER 1989)

releases in a particular year.
The percentages compare the number of returns with the number of

release and limiting parole for extremely poor risk inmates.
allowing inmates to prepare before appearing, utilizing pre-
including the following: requiring treatment prior to release,
relatively low. This is a result of sound parole policies
remained fairly consistent over this period, and the numbers are
violators. As can be noted, the percentage of revocations has
compare the percentage of technical violators and new crime
Boards' revocation activities from 1976, through 1989, and also
later in this report, pages 22-26. Figures VIII and IX review the
A Pre-Parole Programmer could aid in this area and is discussed

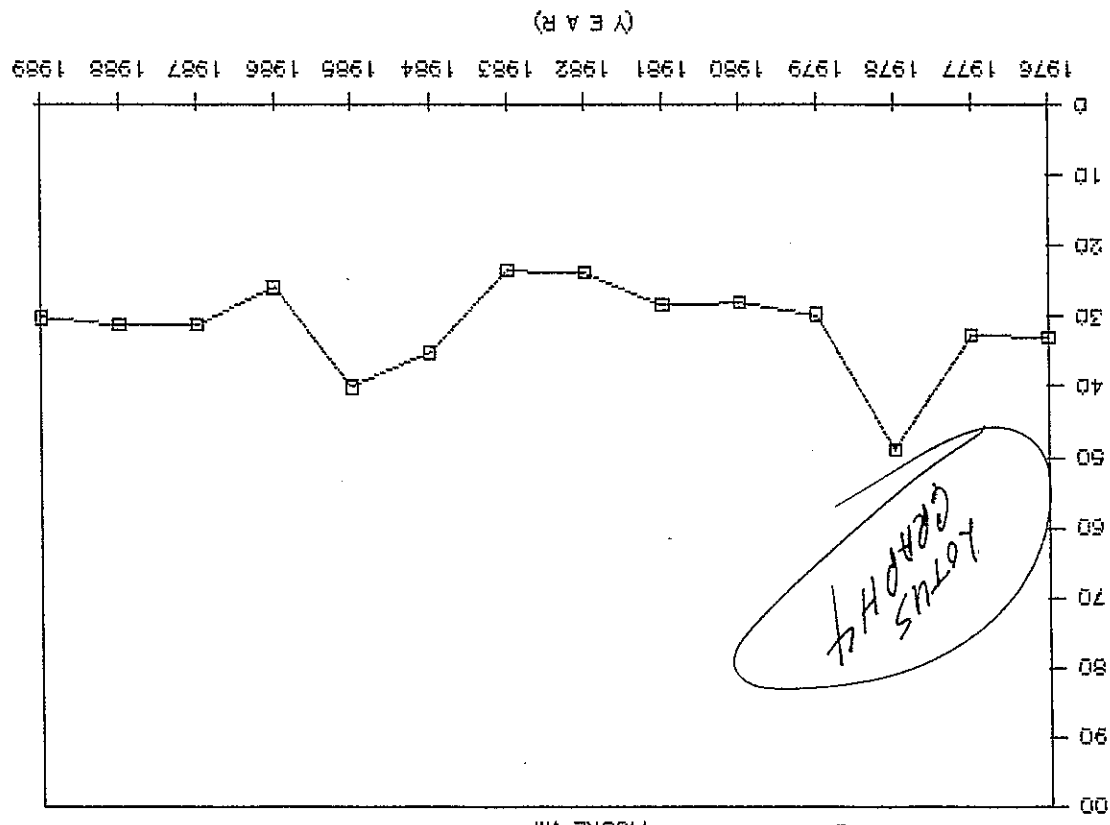
drastic counterproductive results.

conditions are met. A drastic policy change in this area may have
re-paroles technical violators who are returned after certain
well as other professional counseling. In addition, the Board often
additional conditions, and counseling by supervising officer as
increased supervision, verbal warnings, official reinstatement with
following: pre-release placement, treatment, county jail placement,
hearing. These alternatives include but are not limited to the
return. The Board also approves alternatives after the formal
Hearings Officers often use alternatives prior to ordering a
used by the supervising officer prior to an on-site hearing. The
substantial risk. Alternatives and gradual sanctions are routinely
alternatives are considered if the inmate does not present a
Prior to the return of an inmate for technical violations many



TECHNICAL - NEW CRIME VIOLATIONS

FIGURE IX



REVOCATION HISTORY

FIGURE VIII

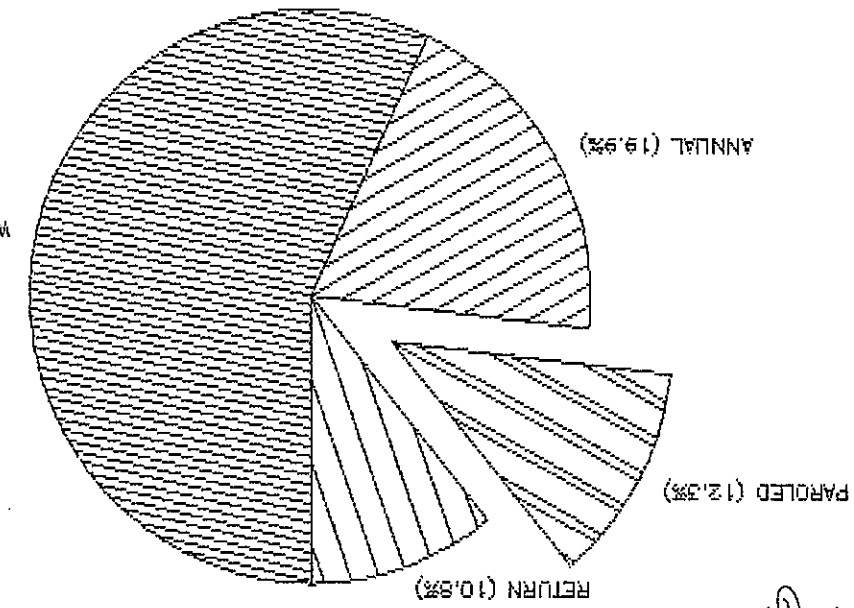


FIGURE X
EARLY PAROLE HEARINGS 1985-1989

*LOUIS
GRENTH*

Early parole is provided for in section 46-23-201 (3) and (4), MCA. It was created by the Legislature in 1983, to relieve overcrowding at Montana State Prison and Women's Correctional Center. It allows for the Board of Pardons to release inmates 120 days before their eligibility date. The law was made permanent by the 1985 Legislature. To qualify, the inmates must have been incarcerated for at least one year at the time of release and the population of the facilities must exceed designed capacity by a set number for more than 30 days. This provision has been utilized by the Board since 1983, and over the last five years 49 inmates have been paroled under this provision. This program has been ineffective as can be noted from figure X.

EARLY PAROLE

Emergency release is part of the Board's process as a humanitarian feature. In the case of imminent death of an inmate, the Board has released a small number of individuals to avoid death in the institution. In cases where an inmate is in need of extensive, costly, and unavailable medical treatment, the Board has occasionally approved release. This situation is limited and would have little effect on prison over-crowding.

EMERGENCY RELEASE

A pre-parole program could aid in the preparation of this type of inmate. Abolition of the early parole program is not recommended. A provision authorizing granting of up to 90 days good time, by the Warden, to inmates discharging their terms would be very productive. In August-September, the Board was able to release a large number of inmates that meet this category to short term paroles. A flat discharge of these inmates would be more effective and less time consuming.

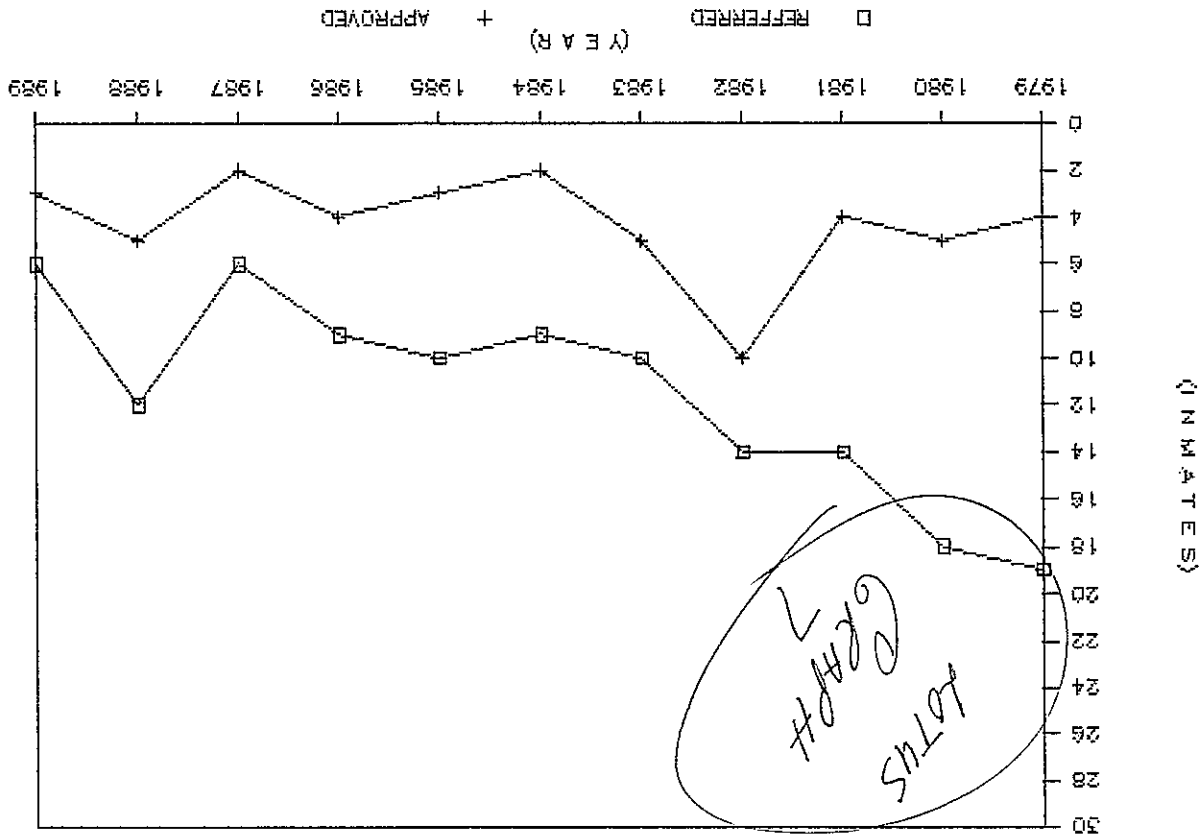
The major reasons for the ineffectiveness include the inmates' lack of preparation. The vast majority of early hearing inmates were eligible and were not prepared. Inmates eligible for this program under the time restrictions, (must have served at least one year to parole) are serving longer sentences, which in turn means more serious offenses and/or extensive records. The criminal background of this particular inmate usually makes release more difficult.

SUPERVISED RELEASE

Any prisoner that the court has not designated ineligible, may make application for participation in a recognized educational, treatment, training, or work program. The inmate must have served at least one-half of the time required to be considered for parole and not more than 24 months before he is eligible for parole. They additionally must qualify under the rules established by the department and requests must be approved by the Board. A probation and parole officer and a sponsor are responsible for supervising the activities of the prisoner during the supervised release. Some long term inmates may qualify for "Work Furlough" which was replaced by the current supervised release program. Figure XI reviews the Board's involvement over the last ⁷ ~~ten~~ years.

SUPERVISED RELEASE 1979 - 1989

FIGURE XI



The Board of Pardons may conditionally discharge a parolee from parole supervision before the expiration of his/her sentence. If the Board determines that such a discharge is in the best interests of the parolee and society, and receives a recommendation from the Probation and Parole Officer, it may order the conditional discharge. The Board retains the right to revoke a parole even when conditionally discharged from supervision if the parolee

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New
Page 21

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LOTIS
GRAND II

DISCHARGE FROM SUPERVISION

to pre-parole section) 1976. A pre-parole program would greatly aid in this area. (refer illustrates the cases referred to the Board has decreased since plan. This program has been under-utilized and as figure XII conduct within the institution, coupled with a very good release and inmates that are approved must have excellent progress and the Board views supervised release as an extraordinary privilege, inmates is somewhat restrictive and difficult to pass. Finally, very difficult. Secondly, the grid that has been used to screen offenders that are serving long sentences. This makes approval that applied have been very high risk, high profile violent several factors that affect these numbers. First, many inmates Board are limited and the number approved is small. There are As can be noted, the number of cases eligible and referred to the four inmates on supervised release or furlough. inmates were approved for participation. There are currently only In 1989, six cases were referred to the Board; three of these

Pre-Parole programming is a proposal by the Montana Board of Pardons to better prepare an inmate for his or her parole hearing and possible release. The inmate, with direct aid from a Board of Pardons administrative officer to prepare for the parole hearing, would be encouraged to accomplish certain specific objectives in areas of training, education, institutional conduct, institutional work, and institutional treatment. When all goals and objectives are fulfilled, the Board would conduct a formal hearing on or about sixty (60) days (or in the case of early hearings one hundred and twenty (120) days) prior to his or her regularly scheduled release date. Cooperation between the Board of Pardons and the Montana State Prison classification and treatment staff is paramount. Inmates whose parole programming has been established and accepted must be given priority in treatment and programs.

Process-During the inmates' orientation period at Montana State Prison or at the Women's Correctional Center, he or she would be personally contacted by a Board administrative officer and aided in developing an initial institutional programming plan. After relevant testing and evaluation information is reviewed, including input from field officers and prior treatment specialists, specific areas of need can be identified and a program established, to be reviewed and approved by the Board chairman, with a personal interview in certain cases. The inmate would be furnished with a copy of a packet outlining the parole process and recommended

PRE-PAROLE PROGRAMMING

regularly scheduled parole hearing, he or she should be thoroughly

When the inmate ultimately appears before the full Board for

order to expedite processing.

programming process well in advance of a parole release date in

interstate compact administrators would be included in the

supervision program when made readily available for parolees.

supervision, and other recommendations such as the intensive

would outline probable conditions of release, suggested levels of

process would encompass a community-based programming plan and

member well in advance of a possible placement. This facet of the

with the appropriate parole officer notified by the Board staff

and appropriate parole plan would be developed during the process

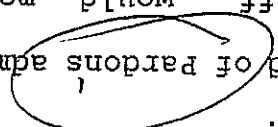
be addressed during the incarceration. In addition, a significant

program. Any changes, problems, or additional areas of need would

accomplishing his or her objectives as outlined in the pre-parole

prison staff, would monitor the inmate's progress toward

The Board of Pardons administrative officer, with the aid of the



institution.

be initiated with parole violators who are returned to the

supervision could be included. The programming process would also

an early review for supervised release and/or suggested levels of

program or any other appropriate facility or program. In addition,

pre-release facility, Swan River Forest Camp, the Lighthouse Drug

parole program could possibly include pre-parole placement at a

orientation packet and recommended program by signature. The pre-

parole program; he or she would acknowledge receipt of the

prepared for the parole interview which would greatly enhance the possibilities of release, and under the best possible conditions.

Pre-Parole Programming would:

1. Provide the inmate with a clear understanding of the parole process and of his or her responsibilities.
2. Make the inmate accountable for self-rehabilitation involving the development of his or her own treatment program.
3. Improve inmate behavior by outlining the consequences of poor institutional performance.
4. Reduce the number of re-hearings held by the Board as a result of lack of preparation by the inmate, thereby reducing additional and unnecessary time served.
5. Reduce the number of parole hearing waivers due to lack of preparation and programming, again reducing the time served and increasing appropriate releases.
6. Speed the parole release process, both in-state and out of state, by providing more structured and appropriate release plans through early communication involving the inmate, field services and the Board of Pardons.
7. Aid the Board and field services in providing an appropriate parole program and supervision level, which in turn would provide additional protection to the community, as well as reducing the number of parole violators returned.
8. Clearly identify individuals who are unwilling or unable

to successfully comply with parole supervision, again reducing the number of parole violators returned and increasing community confidence in the corrections system.

9. Identify and increase the number of supervised release candidates, again increasing the number of appropriate releases.

10. Provide a better opportunity for parole violators to return to society.

11. Expedite proper and timely placement in pre-release centers.

Pre-parole programming provides all the advantages of contract parole, yet greatly reduces the legal complications of a binding contract. Implementing costs and the Board of Pardons budget request is attached to this report.

Potential bed savings-pre-parole programming would, by reducing time served alone, potentially save a minimum of 102 beds and a maximum of 208 beds through 1997. This program was recommendation #6 of the 1988, Advisory Council but was not presented to the Legislature. 1

Attachment
3-6-90
CT/Council

Administrative Officer
Craig Thomas

Henry Burgess, Chairman
John Lynch, Executive Secretary

BOARD OF PARDONS

Respectfully submitted;

The Board of Pardons has and will make an all out effort to reduce and/or control prison population. However, the present staff has reached the point of saturation and can no longer be expected to absorb the huge increase in responsibility or take on additional duties. The attached 1992-1993 budget request reviews the Board's position and requests for more resources. The budget request also points out the inadequacies of the current organization and provides more than adequate justification for the additional positions, equipment and supplies. This request directly impacts the areas discussed in this presentation. If the Board and its staff is expected to aid in the area of overcrowding and provide an effective and efficient parole system the needed support and resources must be provided. The Board will need the full support of the Council, Governor, Legislative body and the Department of Institutions when the Board's budget requests are reviewed. When adequate resources are provided the Board is confident that positive results will follow!

CONCLUSION