

F I N A L   R E P O R T  
PAROLE BOARD STUDY COMMITTEE

December, 1984

The Parole Board Study Committee was created by the Legislative Council to review the present parole system in Iowa and recommend changes for the improvement of that system.

Members appointed to the Study Committee were:

Senator William Dieleman, Co-chairperson  
Representative Daniel Jay, Co-chairperson  
Senator Robert Carr  
Senator Julia Gentleman  
Senator Berl Priebe  
Senator Douglas Ritsema  
Representative Roger Halvorson  
Representative Donald Knapp  
Representative Raymond Lageschulte  
Representative Clay Spear

The Committee was granted three meetings. The meetings were held on October 15, November 9, and November 27, 1984. The following individuals made presentations before and worked with the Committee:

Ms. Jacqueline Day (Chairperson of Iowa Board of Parole)  
Ms. Virginia Harper (Iowa Board of Parole Member)  
Mr. Charles Larson (Iowa Board of Parole Member)  
Mr. Walter Saur (Iowa Board of Parole Member)  
Mr. Rick George (Executive Secretary of Iowa Board of Parole)  
Mr. Harold Farrier (Director of Iowa Department of Corrections)  
Mr. James Kilman (Iowa Department of Corrections)  
Ms. Linda Murken (Iowa Corrections Association)  
Ms. Mary Ellis (Director of Iowa Department of Substance Abuse)  
Mr. Dick Ramsey (Criminal and Juvenile Justice Planning Agency)  
Mr. Paul Stageberg (Statistical Analysis Center)  
Mr. Daryl Fischer (Statistical Analysis Center)  
Mr. Don Mason (Iowa County Attorneys Association)  
Mr. Ronald Barteel (Chair of Nebraska Board of Parole)  
Mr. Elwaine Pomeroy (Chair of Kansas Adult Parole Authority)

At the initial meetings the Committee members and invited speakers discussed the criminal justice system in general and the role which a board of parole can or is expected to play in that system. The Committee reviewed the present operation of the board and the complaints which had been lodged against the board. On the broader level, the Committee discussed the comparative

advantages and disadvantages of full-time, part-time, and mixed board of parole. The Committee continued on into the strengths, weaknesses and limitations of the present part-time board system in Iowa. The Committee also engaged in discussion of the unique problems posed for Iowa due to its prison cap restrictions and the various alternative strategies for alleviating the pressure which the cap can exert.

After its initial discussions and the review of information solicited from many different areas, the Committee concluded that although the part-time Iowa Board of Parole was doing the best it could with the present system, that there might also be room for improvement. The Committee then began work on the formulation of a system of modifications for the present parole structure and procedure which resulted in the following:

A memorandum report for the consideration of the Standing Committees on Judiciary regarding the advisability of changing the present structure of the Iowa Board of Parole from seven part-time members to a five member board to be composed of three full-time members and two part-time members. The following particular attributes for the new board were also suggested:

1. Providing that the members serve four-year staggered terms.
2. That their appointment be by the Governor and subject to the confirmation of the Senate.
3. That the qualifications for board members remain general, with the exception that one member should have an educational or vocational background in the correctional system.
4. That public hearings be required prior to parole release.
5. That post-diagnostic parole interviews be held for all offenders.
6. That the Iowa law codify both early release dates and conditional release dates for inmates.
7. That the required rules for the implementation of the new system and its attributes be subject to the procedures outlined in chapter 17A.

Committee action on collateral parole problems which had come before the Committee resulted in:

1. The recommendation for due pass of a bill to clarify the confidentiality of records and information of the Board of Parole.
2. The recommendation for due pass of a bill to provide discretion in the imposition of a mandatory minimum terms under certain restrictions.

3. The recommendation for consideration of a letter and suggested language forwarded to the appropriate appropriations subcommittee for the implementation of a parole buffer period which would provide that inmates without sufficient parole plans could remain in the institution for not more than ten days without triggering a prison cap overcrowding emergency.

The Committee adjourned with the hope that the suggested modifications would lead to a more fair and consistent parole procedure while at the same time better protecting the lives and property of Iowa's citizens. The Committee also felt that if nothing else, the creation of the Committee had at least forced the Department of Corrections and the Board of Parole to work more closely together, and received the assurance of both the Department and the Board that they would work toward the improvement of cooperation and communication between the Department and the Board.

The memorandum to the Committees on Judiciary, the bill on confidentiality, the bill on mandatory minimums, and the letter on a parole buffer period are attached with and made a part of this final report.

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December 13, 1984

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TO: THE HONORABLE MEMBERS OF THE JUSTICE SYSTEM APPROPRIATIONS SUBCOMMITTEE  
FROM: THE BOARD OF PAROLE STUDY COMMITTEE  
RE: CONSIDERATION OF PROPOSAL TO EXEMPT PAROLED, BUT AS YET UNRELEASED,  
INMATES FROM THE PRISON CAP ROLL FOR A PERIOD NOT TO EXCEED TEN DAYS.

Dear Members:

The Board of Parole Study Committee, created by the Legislative Council to study the parole system in Iowa and to recommend changes in that system as appropriate, has finished its interim work. During our meetings, it became apparent that a major problem in our parole system was caused by the prison cap. The problem was the forced parole of large numbers of inmates to avoid cap emergencies. These forced paroles have resulted in too many inmates being released prior to the completion of educational and vocational programs and without time to develop adequate inmate parole plans. At a minimum, we feel that the parolee and the Department of Corrections should have time to work out housing and employment for the parolee, and the notification of persons interested in the inmate's parole. However, there are times when the cap forces the physical removal of the inmate from the institution to avoid a cap emergency.

Therefore, we respectfully request that you consider the attached language for its possible inclusion in the cap language presently contained in your appropriations bill. The inclusion of this language may provide the Department of Corrections and parolees with enough time to work out the basic minimums that should be contained in an effective parole plan.

RESPECTFULLY SUBMITTED ON BEHALF OF THE BOARD OF PAROLE STUDY COMMITTEE:

DAVID J. LYONS  
Legal Counsel

DL:cf



PROPOSED AMENDMENT TO EXISTING PRISON CAP LANGUAGE CONTAINED IN APPROPRIATIONS FOR THE DEPARTMENT OF CORRECTIONS.

By adding the following NEW PARAGRAPH:

However, offenders for whom the board of parole has authorized parole, but for whom the director has determined that inadequate parole plans have been formulated, may remain within the correctional institution for a period of ten days following parole authorization or until adequate parole plans have been developed, whichever is the shorter period of time. During this period of time, the offender shall not be included in the list of names used to determine the existence of a prison overcrowding emergency.

MEMORANDUM

TO: THE STANDING COMMITTEES ON JUDICIARY  
FROM: THE BOARD OF PAROLE STUDY COMMITTEE  
RE: SUGGESTED CHANGES IN THE STRUCTURE AND PROCEDURE OF THE IOWA  
PAROLE BOARD SYSTEM

Dear Judiciary Members:

During the interim between the 1984 and 1985 legislative sessions, the Legislative Council created the Board of Parole Study Committee to review the current parole system in Iowa and make recommendations for improvements in the system. Our Committee held three meetings and heard from numerous experts from both within and without the state.

Considerable time was spent discussing the various forms which a parole board structure could take and the particular attributes which may increase the effectiveness of any particular system. The outcome of this discussion was the recommendation for consideration of a number of proposals modifying the present parole system in Iowa. For your consideration, then, we are attaching a short summary of our discussion on the proposals and suggested statutory language. We respectfully submit these suggestions to your committee for appropriate action.

Structure of Board:

Presently, the Iowa Board of Parole is composed of seven part-time members. The Committee has determined that the trend in other states is toward the establishment of full-time boards. However, evidence exists that there are advantages and disadvantages to both full and part-time boards. Therefore, some states have chosen to create a board composed of both full and part-time members. This Committee has determined that such a "mixed" board could be the most effective and productive system for Iowa. Therefore, the Committee suggests the following language be considered for adoption in Iowa:

Section 1. NEW SECTION. 904.1 BOARD OF PAROLE.

The board of parole consists of five members. Three members shall be full-time members and shall devote their full time to the parole system. Two members shall be part time. A chairperson of the board shall be elected by the members of the board to a term of one year and may serve more than one term consecutively. The chairperson shall be a full-time member.

Appointment, Confirmation, Terms, and Vacancies:

It was the determination of the Committee that the present appointment and confirmation procedures were adequate as contained in the statute. However, it was the Committee's feeling that the present six-year terms were too lengthy. Therefore, the Committee suggests the following language be considered for adoption in Iowa:

Sec. 2. NEW SECTION. 904.2 APPOINTMENT AND TERMS OF MEMBERS.

The governor shall appoint, subject to confirmation by the senate, members of the board of parole. The members so appointed shall serve four-year terms and be subject to reappointment. Vacancies shall be filled as regular appointments are made for the unexpired portion of a regular term.

Staggered Terms:

It was the determination of the Committee that in the transition to this new board, the terms should be staggered to provide a continuation of stability throughout the future of the new board. Therefore, the Committee suggests the adoption of the following language in Iowa:

Sec. 3. NEW SECTION. STAGGERED TERMS--TRANSITION.

The terms of all persons serving on the board of parole on June 30, 1985, shall expire on that date. Appointments of the new members shall be as follows:

1. One full and one part-time member to serve from July 1, 1985 to June 30, 1989.
2. One full and one part-time member to serve from July 1, 1985 to June 30, 1988.
3. One full-time member to serve from July 1, 1985 to June 30, 1987.

Thereafter, all appointments shall be for four-year terms beginning and ending as provided by section 69.19, except appointees to fill vacancies who shall serve the balance of the unexpired term.

Qualifications:

It was the determination of the Committee that the required qualifications for appointment to the Board of Parole should be general, with the exception that one member have some knowledge of the corrections system to provide a link between the new board and the correctional system which presently exists. Therefore, the Committee suggests adoption of the following language:

Sec. 4. NEW SECTION. QUALIFICATIONS.

The members of the board shall be of good character and judicious background, and at least one member of the board shall have an educational or vocational background in the correctional process.

Post-diagnostic Interview:

It was the determination of the Committee that a procedure which provided for a personal interview between the inmate and the Board shortly following the inmate's incarceration would provide a good forum for the dissemination of parole information to the inmate, arrangement of interview waivers, and chance for the Board to get a look at the prisoner before any length of the sentence has been served. Therefore, the Committee suggests the adoption of the following language for Iowa:

Sec. \_\_\_\_ . NEW SECTION. POST-DIAGNOSTIC INTERVIEW.

Immediately following an offender's diagnostic review, as provided by section 217A.52, the board shall arrange an interview with the offender to inform the offender of the earliest eligibility for parole, the maximum permissible length of the sentence, the rules and procedures regarding the issuance of parole, the availability of parole interview waivers, and other information deemed pertinent by the board.

Prerelease Public Hearing:

It was the determination of the Committee that prior to the final authorization of parole for an offender, the Board should provide a hearing at which any individual, whether public or private, could attend and address the Parole Board as to the advisability or unadvisability of the particular offender's release. In this manner, broader participation in the parole process could be developed and the sources of information available to the Board, and upon which the Board could make its final determination, would be expanded. Therefore, the Committee would suggest the adoption of the following language:

Sec. \_\_\_\_ . NEW SECTION. PREPAROLE AUTHORIZATION HEARING.

Prior to the board authorizing the parole of any offender, the board shall set a time and place for the holding of a hearing, open to the public, at which any individual, whether public or private, may address the board as to the advisability or unadvisability of the offender's release on parole.

Administrative Rulemaking:

It was the determination of the Committee that any new system of parole adopted would correspondingly require the issuance of some rules by the Board of Parole. It was further concluded that those rules should be required to proceed through, and according

to, the requirements for rule making provided in chapter 17A of the Code. Therefore, it is the suggestion of this Committee that the following language be adopted.

Sec. \_\_\_\_ . NEW SECTION. RULEMAKING.

The board shall implement administrative rules pursuant to chapter 17A to carry out the provisions of this chapter.

SENATE/HOUSE FILE \_\_\_\_\_

BY (PREPARED BY THE LEGISLATIVE  
SERVICE BUREAU FOR THE  
PAROLE BOARD STUDY COMMITTEE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the imposition of mandatory minimum sentences.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 901.10 IMPOSITION OF MANDATORY  
2 MINIMUM SENTENCES.

3 A court sentencing a person for the person's first  
4 conviction under section 204.406, 204.413, or 902.7 may, at  
5 its discretion, sentence the person to a term less than  
6 provided by the statute if mitigating circumstances exist and  
7 those circumstances are stated specifically in the record.  
8 However, the state may appeal the discretionary decision on  
9 the grounds that the stated mitigating circumstances do not  
10 warrant a reduction of the sentence.

11 EXPLANATION

12 This bill allows a sentencing court to use mitigating  
13 factors to avoid the imposition of a mandatory minimum term.

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SENATE/HOUSE FILE \_\_\_\_\_

BY (PREPARED BY THE LEGISLATIVE  
SERVICE BUREAU FOR THE  
PAROLE BOARD STUDY COMMITTEE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the confidentiality of Iowa board of parole  
2 records, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 904.6 CONFIDENTIALITY OF  
2 RECORDS.

3 The board of parole, its officers and staff are subject to  
4 the same requirements and rules relating to the con-  
5 fidentiality of inmate records as contained in section  
6 217A.18. However, all correspondence relating to the status  
7 or disposition of an individual inmate directed to the board  
8 of parole, its officers or staff, other than correspondence by  
9 public officials acting within the scope of their office, is  
10 confidential.

11 EXPLANATION

12 This bill provides that the Iowa board of parole, its of-  
13 ficers and staff shall be subject to the rules of  
14 confidentiality of inmate records contained within section  
15 217A.18. It does, however, provide for confidentiality of all  
16 correspondence received by the board, its officers or staff,  
17 other than that correspondence received from a public official  
18 while acting within the scope of the official's office.

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