STAFF EVALUATION

The Board of Pardons and Paroles

A Staff Report
to the
Sunset Advisory Commission

1986

BOARD OF PARDONS AND PAROLES

February 1986

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SUMMARY OF THE STAFF REPORT

The Board of Pardons and Paroles was created in 1936 to recommend paroles and acts of clemency to the governor. In 1983, the board was given the final authority to parole inmates and to revoke parole when necessary. The board is also responsible for the supervision of all inmates released from prison. The board is composed of six full-time board members appointed by the governor. While the Board of Pardons and Paroles is not subject to automatic termination under the Sunset Act, it is subject to sunset review. The board currently has 1,040 employees authorized for fiscal year 1986 including nine parole commissioners who assist the board in making parole decisions.

To fulfill its major responsibilities of selecting and supervising releasees, the board has established the following programs and activities -- parole selection, executive clemency, parole supervision, hearings, community services and additional support activities. The agency operates from a headquarters in Austin, and has 42 district offices located in eight geographical regions. The region/district structure is used for local supervision of releasees by agency parole officers. The agency also has four offices near the prison units of the Texas Department of Corrections (TDC) where the parole selection process is carried out by parole commissioners and supported by other agency staff. When it becomes necessary to consider the revocation of an inmate's release, the board has hearing officers throughout the state who hold revocation hearings in the releasee's town or community. Also, the agency contracts with halfway houses around the state to assist releasees with reintegration into society and with other special needs such as alcohol/drug and mental health problems.

The sunset review of the board's programs and responsibilities indicated that there is continuing need for state involvement in adult parole services. The review indicated that the board has generally met its goals and objectives in an efficient and effective manner and should be continued for a 12-year period. The review also determined that if the agency is continued, a number of changes should be made to improve the efficiency and effectiveness of its operations. These changes are outlined in the "Recommendations" section.

I.
RECOMMENDATIONS

THE AGENCY SHOULD BE CONTINUED FOR A 12-YEAR PERIOD WITH THE FOLLOWING CHANGES:

Overall Administration

1. **The board should be required to adopt a policy which clearly separates board and staff functions and specifies that the executive director answer directly to the board chairman. The statute should specify that the executive director is responsible for the agency's day-to-day administration.** (p. 36)

The review indicated that some difficulties exist in the separation between the board's responsibilities and those of the executive director. The lack of separation is caused, in part, by the absence of any policy which clearly defines the responsibilities of the board and the agency director. In addition, there is no clear line of responsibility between the board and the agency director. Full-time board members can become individually active in agency administration and give conflicting instructions to the agency director. Finally, the agency's statute does not clearly state that the executive director is responsible for the agency's day-to-day administration. The review indicated several ways to address the problems identified. The solutions identified make up the recommendations listed above.

2. **The board should regularly update its rules and adopt its major policies and procedures as rules.** (p. 38)

The board's rules have not been comprehensively updated since 1981, and some changes in board policy have never been published in the Texas Register. The rule-making process should ensure that those affected by the actions of the agency are aware of its policies and procedures. The board should therefore regularly update its rules and adopt its major policies and procedures as rules in accordance with the Administrative Procedures and Texas Register Act.

3. **The board should be required by statute to continue efforts to study recidivism of releasees under its supervision and to use this information to evaluate agency operations.** (p. 40)

The agency has established methods to adequately study the recidivism of releasees under its jurisdiction. Also, the information is used by the agency to measure the effectiveness of its programs. However, since the statute does not contain a directive to collect and use recidivism data, the agency could discontinue these efforts at any time. Because recidivism is generally considered the best measure for release and supervision programs such as those conducted by the board, collection and use of recidivism data should be mandated by statute.

Evaluation of Programs

Parole Selection

4. **Parole commissioners should meet specific education or experience requirements.** (p. 41)

The parole statute does not contain any qualifications for parole commissioners. Relevant experience or education would benefit their decision making. While qualifications for parole commissioners are currently required by board policy, they should be included in the statute to ensure that they continue to be required.

5. **Decision makers should be required to disqualify themselves from parole decisions involving a possible conflict of interest.** (p. 41)

Decision makers can receive an inmate's case to consider for parole where they have had previous contact with the inmate which could bias the parole decision. In these cases, decision makers should refrain from voting on the case. The board should be required to develop a policy specifying the conflict of interest situations where decision makers should refrain from voting.

6. **The board should be required to develop standard guidelines for parole decisions.** (p. 42)

The parole law requires that a decision to parole an inmate should be made only in the best interest of society. The board has adopted rules which outline parole selection procedures but has not adopted guidelines for actual parole decisions. While decision factors used by parole panel members are generally the same, decision-makers are not required to use those factors in their decisions. Standard guidelines would ensure that all parole decisions follow the same procedures using the same decision criteria.

7. **The board should establish a program to develop preliminary parole plans and a tentative parole month for qualified inmates. (p. 44)**

An inmate does not know what factors are involved in a parole decision until he/she nears parole eligibility; therefore, he/she does not have a good idea of what can be done while incarcerated to improve their chances for parole. Also, an inmate does not have a clear indication of when he/she will receive parole. A preliminary parole plan system would address these problems. Establishing a plan of progress and a tentative parole month for an inmate would let him/her know what factors will be involved in the parole decision and would give a better indication of when parole will occur.

Parole Supervision

8. **The parole supervision fee payment schedule should be clarified in the agency's statute.** (p. 48)

The statute requires a releasee under the board's supervision to pay $10 to the board for each month he/she is required to meet personally with the parole officer. The agency has encountered some confusion and implementation problems due to the statutory language relating to payment of supervision fees. In order to clarify agency directives and reduce administrative fee collection problems, language should be deleted which ties the collection of supervision fees to personal meetings with the parole officer. The statute should instead require a $10 fee for each month the releasee is under active supervision, regardless of actual personal contact meetings.

9. **The board should have the authority to collect a supervision fee from other states' releasees receiving supervision in Texas.** (p. 50)

The board does not have the statutory authority to collect supervision fees from releases from other states under supervision in Texas. Currently, the board is only collecting supervision fees from releasees of the Texas Department of Corrections. The statute should be amended to authorize supervision fee collection for releasees from other states now residing in Texas. This would increase the amount of revenue generated from supervision fees and ensure that all releasees under the board's supervision are paying for supervision services received.

10. **The board should consider contracting with local probation departments for the supervision of releasees when a cost savings can be achieved.** (p. 51)

The review indicated that there are similarities between the supervision of releasees carried out by the board and the supervision of probationers carried out by local probation departments throughout the state. Because there are over 180 more probation offices than parole offices in the state, probation offices, in some areas are significantly closer to releasees than parole offices. Parole officers in more rural areas sometimes drive long distances to supervise a relatively small number of releasees. The board should therefore examine the feasibility of contracting with local probation departments for the supervision of releasees in certain areas of the state. Also the board's statute should be amended to specifically authorize contractual agreements with these probation departments.

Hearings

11. **The board should provide better training for its hearing officers.** (p. 54)

Hearing officers employed by the board conduct revocation hearings to determine whether a releasee has violated a condition of release. Hearing officer recommendations become the basis for the board's decision to send a releasee back to prison. Although hearing officers make important and difficult decisions, the training they receive has been inconsistent. With better training, hearing officers can more ably conduct revocation hearings, especially with regard to the due process rights of releasees.

12. **The board should request an attorney general opinion on the compliance of its hearing process with federal due process requirements.** (p. 55)

The review revealed some questions as to the compliance of the board's release revocation proceedings with due process requirements set forth by the U. S. Supreme Court in Morrissey v. Brewer, 408 U.S. 471 (1972). A formal attorney general opinion should be requested to help clarify the interpretation of the federal court case and the board's compliance with the case's due process requirements.

13. **The board should develop a system of alternative sanctions for violation of release conditions.** (p. 57)

Because of the prison overcrowding problem, the board has been less inclined to revoke a person's release for a less serious violation of a release condition. The board has not developed any guidelines for the use of alternative disciplinary actions in lieu of incarceration. A system of sanctions would give guidance to agency personnel in imposing the various sanctions available and would also let releasees know ahead of time the consequences of their behavior.

Community Services

14. **The board should require evidence of community involvement before contracting with a halfway house.** (p. 59)

Because the board contracts with privately operated halfway houses for the care of certain inmates released from prison, it has been involved in controversy surrounding the location of a halfway house in a particular community. Community opposition has led to legal action against halfway houses, the relocation or closing of houses and the withdrawal of board contracts. The statute should be amended to require evidence of community involvement before the board contracts with a halfway house. By ensuring a halfway house has sufficiently involved the community in which it is located, controversy surrounding board contracts with halfway houses could be reduced.

15. **The statute should be amended to remove the restriction on the pre-parole transfer program which prohibits participation by inmates previously denied parole.** (p. 61)

Inmates currently serving time for an aggravated crime, inmates previously convicted of an aggravated crime, and inmates who have previously been denied parole are not eligible to be considered for the pre-parole transfer program. This program allows the transfer of suitable inmates to halfway houses up to 180 days before their parole eligibility date. The number of inmates placed in the program has been much less than intended, due in part to the statutory restrictions which significantly reduce the pool of inmates eligible for pre-parole transfers. Deleting the statutory restriction prohibiting participation in the pre-parole transfer program by inmates previously denied parole would increase the pool of eligible inmates. Those inmates released would help alleviate overcrowding at TDC. The more dangerous felons convicted for aggravated offenses would remain ineligible for the pre-parole program.

16. **The board should enter into a memorandum of understanding with the Texas Department of Mental Health and Mental Retardation to increase the availability of MHMR services to releasees.** (p. 62)

The agency attempts to work with other state agencies to provide services for releasees. In addition to other efforts, the agency has begun a project with the Texas Department of Mental Health and Mental Retardation (TDMHMR) and the Texas Department of Corrections to serve the special needs of mentally retarded offenders. The board should develop an agreement with TDMHMR to improve the availability of services to offenders with mental health problems in addition to continuing efforts with the mentally retarded.

17. **The board should ensure that adequate information is available to a halfway house before placement of a releasee in that facility.** (p. 64)

The board contracts with halfway houses to provide care and services to releasees, helping them make the transition from prison to community life. Halfway houses must have information on releasees to determine what programs and services these releasees need. The review indicated that the board has not consistently provided halfway houses with information, particularly for the growing number of mandatory releasees referred to them. Lack of information reduces the ability of the halfway house to deal effectively with a releasee. To enable a halfway house to better serve releasees under its care, the board should ensure that adequate information is available to the halfway house before placing a releasee in that facility.

18. **The board should coordinate development of a memorandum of understanding with other agencies involved in the licensure, certification, or inspection of halfway houses to reduce duplication of effort.** (p. 66)

Several state agencies are currently involved in the licensure, certification, or inspection of halfway houses. The overlap in the halfway house certification/licensure process not only places an administrative burden on the contracted facilities, but also causes state agencies to waste time and money duplicating each other's efforts. The statute should therefore be amended to require the board to coordinate the development of a memorandum of understanding with the Texas Rehabilitation Commission, the Texas Commission on Alcohol and Drug Abuse, the Texas Department of Health, and the Texas Adult Probation Commission to reduce duplication of effort in the licensure, certification, and inspection of halfway houses.

Compact Continuation

19. **The State of Texas should continue participation in the Interstate Probation and Parole Compact.** (p. 67)

The Interstate Probation and Parole Compact is a binding agreement among all 50 states to provide for the supervision of probationers and parolees who want to live outside the state where they were sentenced or released. The review of the compact showed that it has worked as originally intended, and therefore that Texas should continue its participation. The recommendation requires a statutory extension of the compact statute.

Non-Program Changes

20. **The relevant across-the-board recommendations of the Sunset Commission should be applied to the agency.** (p. 71)

The Sunset Commission has developed a series of recommendations that address problems commonly found in state agencies. These "across-the-board" recommendations are applied to each agency. A description of the provisions and their application to the board are found in the "Across-the-Board Recommendations" section of the report.

21. **Minor clean-up changes should be made in the agency's statute.** (p. 75)

Certain non-substantive changes should be made in the agency's statute. A description of the clean-up changes needed in the statute are found in the "Minor Modifications of Agency's Statute" section of the report.

AGENCY EVALUATION

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
2. Does the agency operate efficiently?
3. Has the agency been effective in meeting its statutory requirements?
4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
5. Is the agency carrying out only those programs authorized by the legislature?
6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?

Introduction

THE ADULT CORRECTIONS SYSTEM IN TEXAS

The corrections system in Texas is managed through three agencies having primary responsibility for adult offenders, the Texas Adult Probation Commission (TAPC), Texas Department of Corrections (TDC), and Board of Pardons and Paroles. An offender becomes involved in adult corrections through the judicial system, which has a complex structure in Texas. This is due to the large variety and number of courts in the state, including district courts, county courts, county courts-at-law, probate courts and others. Judges bear the primary burden for hearing cases and sentencing offenders because over 90 percent of all cases result in guilty pleas with sentences assessed by a judge and not a jury.

Generally, when a defendant pleads guilty or no contest to an offense or is convicted, he/she can be sentenced to a term of imprisonment (prison time for felony offenses and jail time for misdemeanors), or he/she can be placed on probation. A judge may not grant probation if a person is found guilty of capital murder, aggravated kidnapping, aggravated sexual assault, aggravated robbery, or when a deadly weapon was used in the commission of or flight from an offense. In cases where a person pleads guilty or no contest, the court may also defer adjudication and place the person on probation. Because there is no conviction in deferred adjudication, the offense does not appear on a person's record. The court can defer adjudication in every type of offense, except involuntary manslaughter, driving while intoxicated and certain drug offenses.

For those placed on probation, the imposition of the sentence is actually suspended and the person must comply with certain terms of probation or risk going back to court for a revocation. The terms of probation are set by the court and may include but are not limited to any of the following: paying a probation supervision fee, court costs, fines associated with the offense, attorney fees, and victim restitution; performing community service work hours; attending a treatment program; being placed in a special probation program or facility and placement in a contract work program. Courts can add other reasonable conditions to the terms of probation and can modify terms at any time. The period of probation can be no longer than 10 years for felony offenses and no longer than the maximum period of confinement prescribed for misdemeanor offenses.

Probationers come under the supervision of the court and consequently become the responsibility of a probation department. Due to the local structure of adult probation services in Texas, nearly every court trying criminal cases in the

state uses adult probation officers in overseeing the supervision of probationers. Currently, 110 judicial district adult probation departments have elected to participate in the state funded probation system, while seven departments have elected not to participate. These seven departments operate their own probation system and do not receive state funding assistance. The population of the non-participating counties represents less than two percent of the state's total population. Participating probation departments in compliance with TAPC guidelines receive state aid which funds probation services, residential facilities in some departments and probation officer salaries, fringe benefits, travel and other expenses. In 1985, approximately 1,800 probation officers statewide provided direct supervision to an average of 74,000 felony and 98,000 misdemeanant probationers and indirect supervision to an additional 73,500 probationers.

Probation departments may be involved with offenders before the court sentencing phase through pre-trial diversion programs and writing pre-sentence investigation reports used by courts in sentencing. However, the main involvement of the department comes after a person has been placed on probation by the court. Once an offender is received from court, the probation officer generally interviews the person to review conditions of probation that must be followed and to assess problem areas and level of supervision needed. Through the use of the case classification system, a probationer's needs and risks are assessed and a supervision plan is developed.

Probationers that successfully comply with probation conditions can be released early or upon completion of the full probation term. Violations of probation terms, however, can lead to revocation of probation. In such cases, the court holds a revocation hearing, after which probation may be revoked, modified or continued.

There are three main ways a felony offender can enter TDC: directly from court after sentencing; through probation revocation; and through parole revocation. See Exhibit I for percentage of admissions from each source. Once a person is sent to TDC, that person is under TDC's jurisdiction until his/her sentence is served out. TDC has two main responsibilities in dealing with inmates -- to confine the inmates in secure facilities during their incarceration and to provide them programs and services to assist with their special needs and overall rehabilitation. Currently, there are over 37,000 inmates housed in 27 units and one hospital of TDC.

Exhibit I

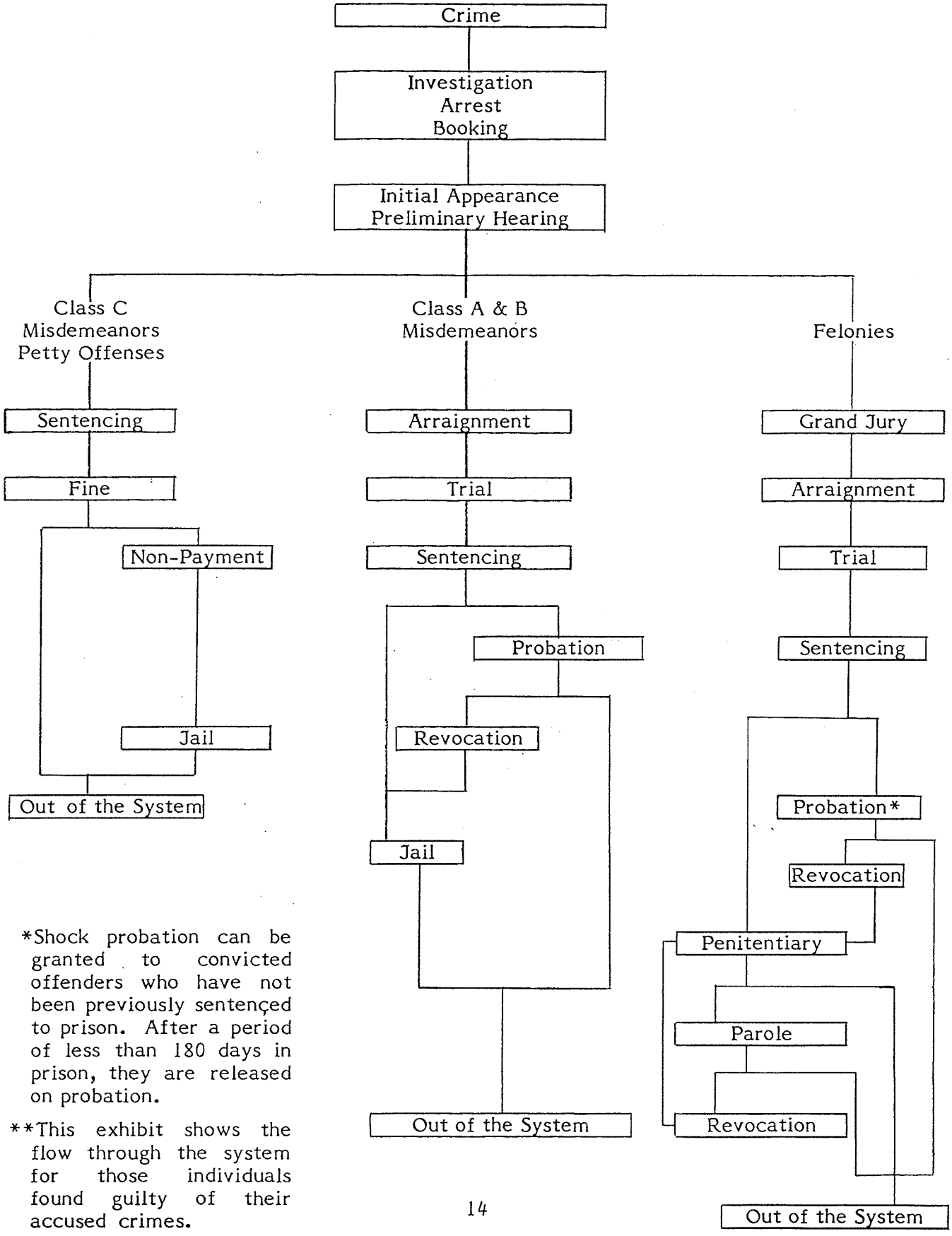
Source of TDC Admissions for Selected Months - 1985

	January 1985	August 1985	September 1985	Average
Returned Parolees	28%	29%	27%	28%
Revoked Probationers	37%	33%	37%	36%
From the Courts	35%	38%	36%	36%
	100%	100%	100%	100%

An inmate can be released from TDC in one of four ways: shock probation, release on parole, mandatory release, and release after serving his/her complete sentence. "Shock probation" can be granted by the judge within 180 days of the time of sentencing. The offender is released after a short period of incarceration to the supervision of a local probation department. Most inmates are either paroled or released to mandatory supervision. Parole eligibility generally occurs when an inmate's flat time served and awarded good time equal one-third of his or her sentence. Mandatory release occurs when time served at TDC and good conduct time awarded to the inmate equal his/her sentence. Because of granting of good conduct time to inmates by TDC, very few inmates ever serve their entire sentence incarcerated at TDC.

Parole decisions are made by the Board of Pardons and Paroles. The board, and nine parole commissioners employed by the board, form three-member panels to review all inmates for parole as they become eligible. Inmates approved for release on parole are then supervised by board staff. Currently, the board has 658 employees in parole supervision. Actual supervision is done by employees working out of 42 district offices located in eight geographical regions. Parolees remain under the board's supervision until they serve out the remainder of their sentence not served in TDC. In addition to parolees, all inmates receiving a mandatory release from TDC are also under the supervision of the board for the remainder of their sentences. At the end of fiscal year 1985, there were 17,820 parolees and 15,181 mandatory releasees under the active supervision of the board. Exhibit II which follows provides an overview of the adult criminal justice system.

Exhibit II
ADULT CORRECTIONS SYSTEM **



*Shock probation can be granted to convicted offenders who have not been previously sentenced to prison. After a period of less than 180 days in prison, they are released on probation.

**This exhibit shows the flow through the system for those individuals found guilty of their accused crimes.

AGENCY BACKGROUND

Creation and Powers

The Board of Pardons and Paroles (BPP) was created in 1936 and is currently active. The board was created by constitutional amendment to recommend paroles and acts of clemency to the governor. In 1983, another constitutional amendment removed the governor from the parole process and made BPP a statutory agency with final authority to parole inmates and to revoke parole when necessary. The board continued to have the responsibility to recommend acts of executive clemency to the governor.

The board is solely responsible for making parole decisions and for supervising those people released from prison. Through its participation in the Interstate Probation and Parole Compact, the board also supervises out-of-state releasees living in Texas and works with other states for the supervision of Texas releasees in other states. Since 1977, the board's supervisory authority has been expanded beyond parolees to also include inmates released to mandatory supervision. By law, these inmates must be discharged when the time they have served and the good-conduct time they have earned equals the length of their sentence. Mandatory releasees are under the supervision of the board for the amount of good time credited to their sentence.

Board Structure

Currently the board is composed of six full-time members appointed by the governor for staggered six-year terms. In 1975, the legislature authorized the governor to appoint six parole commissioners to assist the board in its parole decisions. The legislature changed the law in 1981 to make parole commissioners employees of the board. While the board is required to hire at least six parole commissioners, nine commissioners are currently employed. Exhibit 1 sets out the organizational structure of the agency.

Funding and Organization

Funding for the board in fiscal year 1986 is $33,158,747, coming entirely from general revenue. Administrative costs represent approximately four percent of the agency's total budget. The board has 1,040 employees authorized at the beginning of fiscal year 1986. Exhibit 2 sets out the agency's major programs and activities and their respective budgets and personnel.

Exhibit 1

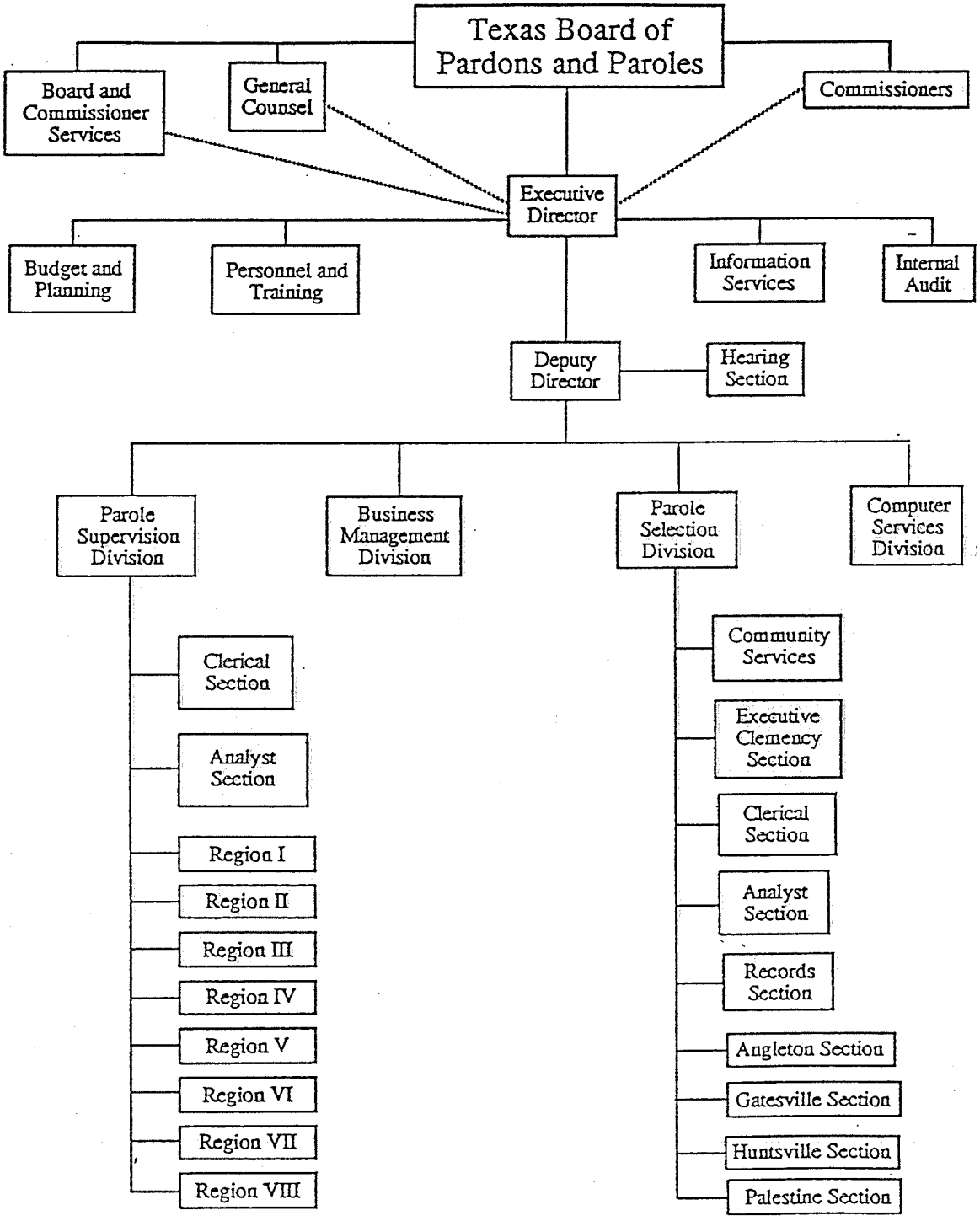

Texas Board of Pardons and Paroles
Board and Commissioner Services
General Counsel
Commissioners
Executive Director
Budget and Planning
Personnel and Training
Information Services
Internal Audit
Deputy Director
Hearing Section
Parole Supervision Division
Business Management Division
Parole Selection Division
Computer Services Division
Clerical Section
Analyst Section
Region I
Region II
Region III
Region IV
Region V
Region VI
Region VII
Region VIII
Community Services
Executive Clemency Section
Clerical Section
Analyst Section
Records Section
Angleton Section
Gatesville Section
Huntsville Section
Palestine Section
TECHNICAL SUPERVISION
LINE SUPERVISION

Exhibit 2

Agency Program or Activity	1986 Funding	Employees
Administration	$ 1,430,853	48
Support Services	$ 3,873,066*	73
Parole Selection	$ 2,905,899	197
Parole Supervision	$ 16,714,578	658
Hearings	$ 1,342,820	32
Community Services (Halfway Houses)	$ 6,745,815	23
Executive Clemency	$ 145,716	9

*This funding also provides salaries for personnel in parole selection and parole supervision.

The agency operates from a headquarters in Austin, and has eight regions which are further divided into 42 districts throughout the state. The agency also has four offices near the prison units of the Texas Department of Corrections where the parole commissioners and institutional services staff are located. Exhibit 3 shows the locations of the agency's field offices.

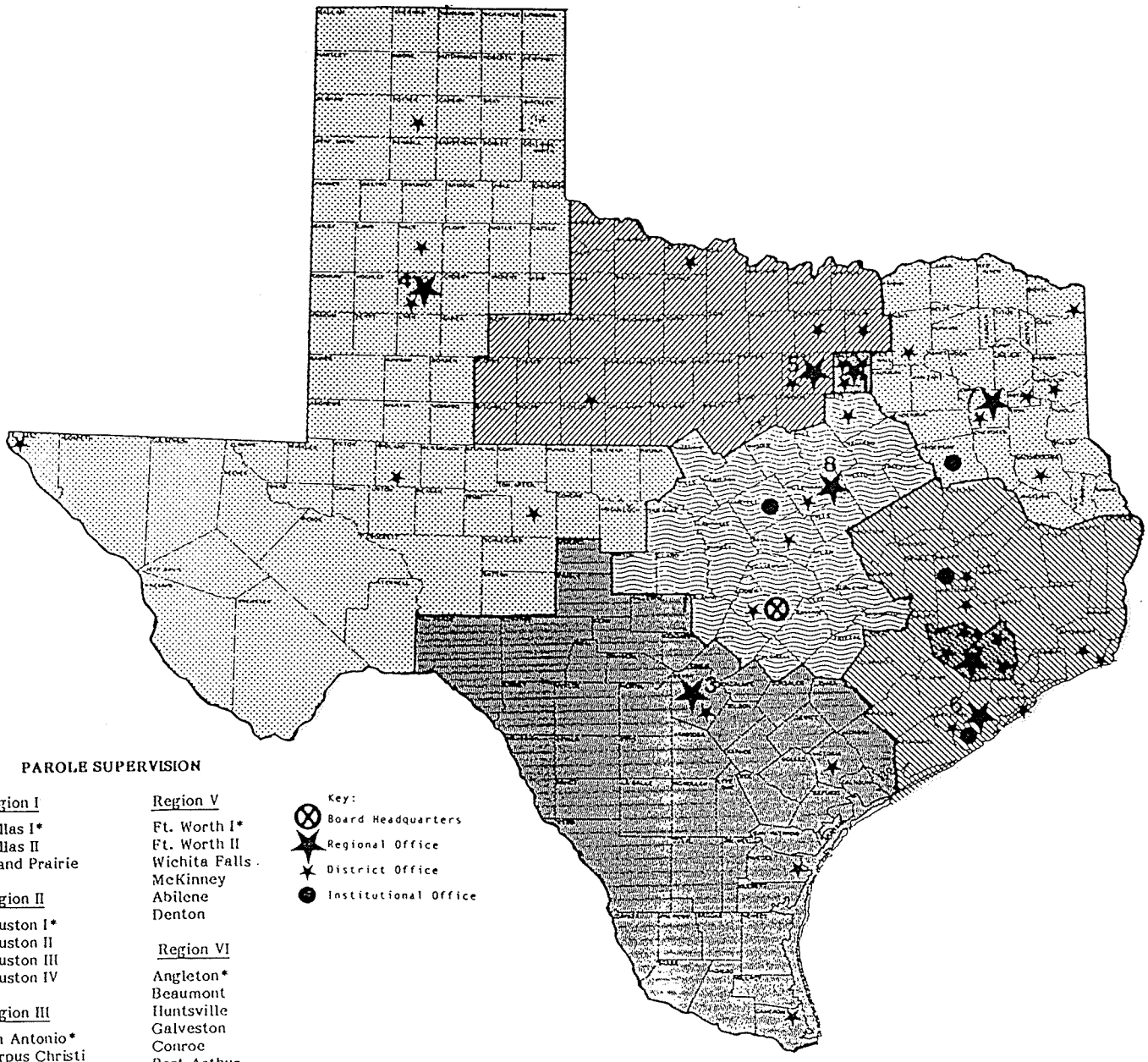
Programs and Functions

To fulfill its major responsibilities of selecting and supervising releasees, the board has established the following programs and activities -- parole selection, executive clemency, parole supervision, hearings, and community services. Additional activities such as budget and planning, internal audit, and computer services support the major programs. Descriptions of the programs and support activities are set out below.

Parole Selection. The parole selection process is supported by the agency's institutional services division. The process for selecting inmates for parole begins within approximately ten months of an inmate's minimum parole eligibility date. Inmates are generally eligible for parole when calendar time served plus good-conduct time awarded by the Texas Department of Corrections (TDC) equals one-third of their sentence or 20 years, whichever is less. Aggravated crimes and those crimes involving a deadly weapon require that the convicted felon serve calendar time of one-third of the sentence or 20 years, whichever is less, before becoming eligible for parole. Also, inmates must serve a minimum of two years for these crimes.

Exhibit 3

BOARD OF PARDONS AND PAROLES
Field Offices



PAROLE SUPERVISION

Region I
Dallas I*
Dallas II
Grand Prairie

Region II
Houston I*
Houston II
Houston III
Houston IV

Region III
San Antonio*
Corpus Christi
Harlingen
Victoria

Region IV
Lubbock*
Amarillo
Midland/Odessa
San Angelo
Plainview
El Paso
Big Spring

Region V
Ft. Worth I*
Ft. Worth II
Wichita Falls
McKinney
Abilene
Denton

Region VI
Angleton*
Beaumont
Huntsville
Galveston
Conroe
Port Arthur

Region VII
Tyler*
Marshall
Longview
Greenville
Nacogdoches
Texarkana
Paris
Mt. Pleasant

Region VIII
Waco*
Austin
Temple
Waxahachie

INSTITUTIONAL SERVICES (Parole Commissioners)

a. Huntsville
b. Angleton
c. Palestine
d. Gatesville

* = Regional Headquarters

Upon becoming eligible for parole, an inmate is interviewed by agency institutional staff. File information is verified and details are gathered concerning the crime committed, family history, mental and physical health, and the inmate's activity while in prison. Agency staff counsel with the inmates, answer questions and explain the parole process. A parole plan is prepared to indicate, if released, where he or she will live and whether a job is available.

Board members and commissioners use the information developed by institutional staff to make parole decisions. Three-member parole panels make the decisions. Panel composition is determined by the length of the inmate's sentence and is outlined below:

1) Sentences of less than 45 years
   - two parole commissioners, one board member
2) Sentences of more than 45 years
   - initial case review - three board members
   - subsequent reviews - two board members, one parole commissioner

One panel member, generally a parole commissioner, reviews the case file, interviews the inmate and votes on the case. The other panel members only review the file before voting. The vote on a case can go one of three ways:

1) parole can be approved for further investigation (FI), which is preliminary approval;
2) parole can be set-off, which means parole is not granted and further consideration is set-off to a future time, usually one year; and
3) parole can be denied with the inmate being required to serve the remainder of his or her sentence. In this case the inmate would not be reconsidered for parole because, before reconsideration would occur, the inmate would have served enough time to be released under mandatory supervision.

Inmates in federal prison or other states serving a sentence concurrent with a Texas conviction can be considered by the board for parole in absentia. If an inmate gets a favorable vote for parole, the staff notifies the local trial officials (sheriff, judge, and prosecutor) where the inmate was convicted. Trial officials can protest a parole decision as can victims of the crime. The board can reconsider positive votes for parole based on these protests. The board, as well as other panel members, can place any number of special conditions on the inmate's release. Halfway house placements, drug testing and counseling, and restitution are

examples of special conditions. Restitution to a victim is also required if it is specified in the inmate's court judgment.

Once an inmate receives parole, release generally occurs during his or her eligibility month. The releasee then reports to a designated parole officer or, in some cases, a halfway house. Some low-risk inmates up for parole for the first time can qualify for pre-parole release to a halfway house. Pre-parole can occur up to 180 days before the inmate's actual release date and serves as a transition from prison life back into society. In 1985, 155 inmates were released on pre-parole. Of those, 130 were subsequently released on regular parole. In 1985, 9,377 (or 37 percent) of 26,305 inmates considered for parole were approved and subsequently released. This figure includes 77 inmates who received parole in absentia.

In addition to inmates paroled, the board issues release certificates for all inmates released to mandatory supervision. By law, mandatory releases are not approved by the board and must occur when time served and good time awarded equal the length of an inmate's sentence. The board can attach special conditions to all mandatory releases and can revoke the release just as it does with parolees. Mandatory releasees are supervised by the agency until they discharge the amount of good time that was credited to their sentence. There were 11,895 inmates released under mandatory supervision in 1985.

The following exhibit summarizes parole selection and mandatory supervision activities for the last five years.

Exhibit 4

PAROLE AND MANDATORY SUPERVISION ACTIVITY

	1981	1982	1983	1984	1985
Number of Inmates Considered for Parole	22,797	27,472	28,789	28,159	26,305
Number Paroled	7,494	7,504	8,682	10,069	9,377
Number Paroled in Absentia	0*	0*	0*	97	77
Number of Pre-Parole Transfers	0**	0**	0**	141	157
Number of Inmates Released to Mandatory Supervision	3,327	4,522	7,659	10,053	11,895

*Parole in absentia was begun in 1984.

**The pre-parole program was established in 1983.

Executive Clemency. The governor grants executive clemency upon recommendation of the board. Any person convicted of a criminal act, except treason or impeachment, may apply to the board for executive clemency. Exhibit 5 lists the types of executive clemency that can be granted.

Exhibit 5

TYPES OF EXECUTIVE CLEMENCY

1. Full Pardon and/or Restoration of Rights of Citizenship
2. Conditional Pardon
   - Conditional on any restrictions attached to the pardon
3. Reprieve
   - Medical or Family Emergency
   - Reprieve of Execution*
   - Commutation of sentence

*The governor can grant a stay of execution without the board's recommendation for a maximum of 30 days.

Before 1977, all releasees were considered for a full pardon upon discharging their sentences. The 65th Legislature changed that procedure so that automatic consideration applies only to sentences that began before August 29, 1977. All other clemency actions must be initiated by a request from the releasee.

When the board receives a request for clemency, agency staff review that prospective applicant's file for prior federal and out-of-state convictions. All prior convictions must be pardoned before a person may apply for clemency in Texas. Applications are sent to eligible releasees requesting clemency.

Upon receiving a completed application, agency staff update and review the applicant's file for the board, checking particularly for new convictions. The parole officer involved files a report if the applicant is still under active supervision of the board. All information is passed to the board which meets weekly to vote on whether to recommend to the governor that clemency be granted. The board may conduct hearings, mostly in death penalty cases, to assist in making decisions. Once the board makes a decision, the recommendation and related material are sent to the governor's office where a final decision is made. Requests for clemency and action taken for the last five years are described in Exhibit 6.

Exhibit 6

REQUESTS FOR CLEMENCY/ACTION TAKEN

	1981	1982	1983	1984	1985
Number Considered for Executive Clemency	3,166	2,329	1,837	2,123	1,738
Number Recommended to Governor	169	200	284	546	326
Approved by Governor	157	167	242	60	227

Parole Supervision. The primary responsibility of the parole supervision program is to supervise individuals who are released from a correctional institution to serve the remainder of their sentence in a community setting. Supervision is conducted to:

1) assist the releasee in a constructive program of rehabilitation and integration into society; and
2) monitor the releasee's compliance with state and federal laws and other terms of release, thereby providing protection for citizens of the state.

To accomplish program responsibilities and objectives, the majority of the program's 658 employees are assigned to 42 district offices within eight geographical regions as illustrated previously in Exhibit 3. Regional supervisors oversee field supervisors and a staff of parole officers and case workers employed in the district offices. The breakdown of personnel into the various geographical areas allows parole officers and caseworkers to establish a supervisory relationship with each releasee. The program director and a small administrative staff are located at the central office in Austin.

The parole supervision process begins with the initial approval of an inmate for parole. Once the inmate is approved for further investigation, the inmate's file is sent to the geographical region where the inmate desires to live after release, and a parole officer is assigned to the case. Parole officers conduct an investigation of the inmate's parole plan, making sure the prospective releasee's information about where he/she will live and work is correct. The pre-release investigation for prospective mandatory releasees and for releasees supervised under the Interstate Compact is the same as that described for regular parolees.

When a Texas inmate is released on parole or to mandatory supervision, though still in the legal custody of TDC, his/her supervision becomes the responsibility of the Board of Pardons and Paroles. Every type of releasee - mandatory supervision releasees, regular parolees, those participating in the pre-parole release to halfway house program, and releasees from other states paroled

to Texas through the Interstate Compact - is under the jurisdiction of the parole supervision program. Before being released to supervision, prospective releasees must agree to abide by conditions of parole or mandatory supervision. A partial list of conditions, developed by the board and included on an inmate's release certificate, follows as Exhibit 7.

Exhibit 7

TERMS AND CONDITIONS OF RELEASE

1 Release and Reporting:

(A) Go directly to the destination approved by the Board of Pardons and Paroles.

(B) Report immediately to a designated parole officer.

(C) Submit a full and truthful report to the parole officer each month.

(D) Promptly and truthfully answer all inquiries.

2. Employment and residence:

(A) Work diligently in a lawful occupation; and support dependents, if any, to the fullest extent possible.

(B) Secure the written permission of parole officer before changing residence or place of employment.

3. Travel: Secure written permission from parole officer before leaving the state to which released or traveling beyond the boundaries of the counties adjoining the county to which released.

4. Alcohol and drugs:

(A) Shall not use alcoholic beverages or liquors to excess or in a manner injurious to the releasee.

(B) Shall not go into, remain about, or frequent business establishments whose primary function is the sale or dispensing of alcoholic beverages or liquors for on-premises consumption.

(C) Shall not illegally possess, use, or traffic in any narcotic drugs, marijuana, or other controlled substances and agree to participate in required chemical abuse treatment programs and testing.

5. Weapons: Shall not own, possess, use, sell or have under control any firearms or other prohibited weapon.

6. Associates:
   (A) Shall avoid association with persons of criminal background unless specifically approved by parole officer in writing.
   (B) Shall not enter into any agreement to act as an "informer" or special agent for any law enforcement agency.
7. Legal obligation: Shall obey all municipal, county, state, and federal laws.
8. General provisions:
   (A) Agree to abide by any special conditions of release as stipulated in writing by the Board of Pardons and Paroles or parole officer.
   (B) Agree to abide by all rules of release and all laws relating to the revocation of release.
   (C) Shall pay fines and court costs during the period of supervision, and any outstanding fines and court costs adjudged by the court of conviction, and agree to provide documentation verifying the payments.

Once inmates are released on parole or mandatory supervision, they must report immediately to their assigned parole officer. Active parole supervision is carried out by the district parole officers and parole caseworkers who work directly with the releasees in a program of personal guidance and supervision. In their first meeting with a releasee, parole officers conduct a post-release conference to review the terms of the parole contract and to establish a reporting schedule. Parole officers must also conduct a special classification interview within 30 days after the releasee reports to supervision.

Case classification is just one component of a comprehensive supervision management system used by the agency. The management system provides information to the parole officer and the agency as a whole. First, the case classification component of the system enables the parole officer to classify cases according to anticipated risk to society and the individual needs of the client. Using the risk and needs assessments, the parole officer places a releasee in one of three levels of supervision: intensive, medium or minimum. The parole officer's frequency of contact depends on the releasee's classification. Minimum parole officer contact requirements for each supervision level are as follows:

Exhibit 8

Supervision Level	Minimum Contact Requirement
Intensive Supervision	One office visit per month
	Two home visits per month
Medium Supervision	One office visit per month
	One home visit every other month
Minimum Supervision	One office visit per month (to deliver monthly report)
	One home visit every three months for the first six months (whenever necessary after that)

As another part of the case classification component of supervision, every six months after an initial assessment, parole officers conduct reassessments to evaluate the releasee's progress under supervision. Releasees will continue in the same classification level or will be moved to a more intensive or less intensive level of supervision depending on the reassessment score. A person will continue under some type of supervision until his/her sentence is completed. The lowest level of supervision is annual report status, where the releasee is removed from active parole supervision and is required only to write a report detailing his/her activities for the year to the executive director of the agency. Generally, only low-risk releasees who have been under supervision for a year can qualify for placement on annual report.

The second use of the agency's comprehensive management system is to standardize supervision. Using an instrument called Strategies for Case Supervision (SCS), parole officers conduct a standardized, semi-structured interview with the releasee to gain information in such areas as correctional history, education, mental ability, vocational skills, and values and attitude. Upon completing and scoring the SCS, the parole officer develops a goal-oriented supervision plan based on the specific needs and characteristics identified. The parole officer must be able to recognize certain behaviors and needs during the time the releasee is under supervision. The parole officer will refer the releasee to other state or private agencies to obtain any needed services such as employment counseling, drug/alcohol abuse screening and counseling, and mental health services.

Another use of the case management system is to balance parole supervision caseloads. When the parole officer conducts the classification interview, the

information obtained concerning the releasee is recorded on a one-page form and is then entered into the computer system in the agency's central office. Information quantified from the classification interview includes the releasee's anticipated risk to society, the identified needs of the releasee, and the assigned level of supervision. Agency administrators use the computerized data to examine the distribution of types of cases (intensive, medium, minimum) by region, district, and by individual parole officer. Any caseload discrepancies and imbalances can be identified and corrected.

The agency also can use this same computerized information to assess whether parole officers are effectively assisting and supervising releasees. By quantifying certain key elements of parole supervision, a parole officer's caseload can be evaluated to see whether he/she is referring releasees with serious needs to appropriate treatment programs. This data can be used to see how well needs are being met statewide, particular areas where needs are not being met, and how the level of services provided changes over time. This information provides objective input for the appraisal of the parole officer's performance.

As of November, 1985, the average parole caseload was 84 cases for each parole officer. A time study conducted by the agency in 1983-1984 established an ideal caseload of 73.5 cases per parole officer. A rider to the agency's appropriation states legislative intent that the agency maintain a ratio of 75 parolees to one parole officer. In fiscal year 1986, the legislature authorized funds for approximately 75 additional parole officer and caseworker positions. These additional personnel should temporarily reduce the caseload ratio to about the same ratio required by the appropriations rider.

As of November, 1985, there were 34,813 releasees under the active supervision of the Board of Pardons and Paroles with 6,000 releases on annual report status. Exhibit 9 shows the number of releasees under active supervision of Texas parole officers for the last five fiscal years.

Exhibit 9

RELEASEES UNDER ACTIVE SUPERVISION

Type of Releasee	1981	1982	1983	1984	1985
Parolees	10,929	12,945	14,415	17,279	17,820*
Mandatory Supervision Releasees	3,148	5,004	8,344	12,422	15,181
Parolees in Texas from other states	1,389	1,635	1,613	1,761	1,812
TOTALS	15,466	19,584	24,372	31,462	34,813

*This figure includes those inmates participating in the agency's pre-parole transfer program.

The agency's parole supervision program also oversees the coordination of the interstate compact for adult parolees. The Interstate Compact for the Supervision of Parolees and Probationers is an agreement among all 50 states. The compact provides for reciprocity in parole and probation supervision. As of November 1985, there were approximately 2,200 Texas releasees being supervised in other states and 1,730 releasees from other states receiving supervision in Texas. Releasees paroled under the compact must abide by both states' rules and laws. The compact also sets up a system of coordination between states for returning a parole violator to the state of origin.

Hearings. The board uses the revocation process to enforce the various conditions of release placed on releasees under its supervision. Before they may be released, inmates must agree to comply with the board's general rules governing release behavior and any special release conditions imposed by the parole panel that approved release. A violation of these rules or conditions may result in the revocation of release and subsequent reincarceration of the releasee. After the U.S. Supreme Court ruling in Morrissey v. Brewer, the terms of release cannot be revoked without a hearing to guarantee the releasee's rights of due process. A revocation hearing is not required, however, when a releasee has been convicted and sentenced for a new felony offense (S.B. 842, 69th Legislature). Also, no hearing is required if a releasee waives this right and admits to at least one rule violation.

The hearings process begins with a report by a parole officer that a releasee has violated one or more of the board's rules. The board, meeting in an administrative panel of three members, decides whether to issue a pre-revocation warrant to hold the releasee for a hearing. Because of a bill passed in the 69th

Legislature, the board may, instead, issue a summons requiring a releasee to appear without being held in jail. Upon arrest or receipt of a summons, the releasee is given notice of the alleged violations, the right to a revocation hearing and the right to counsel. If the releasee is indigent, counsel will be provided through a contract between the board and the Texas State Bar.

Hearings must be held within 70 days at or near the location of the arrest or service of summons. The hearings are administrative hearings, using the rules of civil procedure except that hearsay testimony is admissible as evidence. Hearing officers employed by the board conduct the hearings in two parts. The first part is to determine from the facts whether a violation did occur, based on a preponderance of the evidence. If there is no finding of fact that a rule violation occurred, the hearing officer concludes the hearing and recommends to the board that the warrant or summons be withdrawn and the releasee continued under supervision. If, on the other hand, the hearing officer finds that a rule has been violated, the hearing moves to the second part to see how well the releasee has adjusted under supervision. In the adjustment phase, the parole officer makes a recommendation whether to revoke the release or to withdraw the warrant. The hearing officer must then submit a report to the central office detailing the admission of evidence, the finding of facts and conclusions of law, and a recommendation.

At the central office, a hearing analyst reviews the case, makes a recommendation and presents the case to an administrative panel of three board members. If legal questions need attention, the general counsel will also review the case and make a recommendation to the board. In making the final decision, the board may:

1) revoke the release, but only upon the recommendation of the hearing officer;
2) refer the case back to the hearing officer for further development of factual or legal issues, with instructions to reopen the hearing; or,
3) withdraw the warrant, and either continue the releasee under supervision or impose a new condition of supervision.

If the decision is to revoke, the releasee has ten days to request reopening the hearing. Requests go through the agency's general counsel to the board and must be based on a claim that:

1) new evidence has become available since the time of the hearing;
2) the findings of fact and/or conclusions of law are in error; or,
3) the hearing officer did not follow proper procedures.

In fiscal year 1985, the board employed 17 hearing officers. They presided over 3,915 hearings, leading to 2,822 revocations. For the same year, 4,070 releasees waived their right to a hearing, resulting in revocation. Altogether, 6,892 releasees were revoked in 1985.

Exhibit 10 shows the reasons for revocation based on an analysis of 527 cases revoked in October, 1985. Approximately 25 percent of the cases were for new criminal convictions and technical violations. Another 27 percent were revoked for technical violations only, while approximately 48 percent were revoked for a combination of technical and law violations without a new conviction. Of that percentage, the agency estimates that almost 13 percent of those people revoked without a new conviction had criminal charges dropped when they agreed to revocation.

Community Services. The agency's community services program is primarily responsible for obtaining and maintaining contracts with residential treatment facilities (halfway houses) throughout the state. The program has a staff of 25, most of whom are located at the program's administrative office in Huntsville. A community resource officer, also employed by the program, works out of each of the agency's eight regional offices.

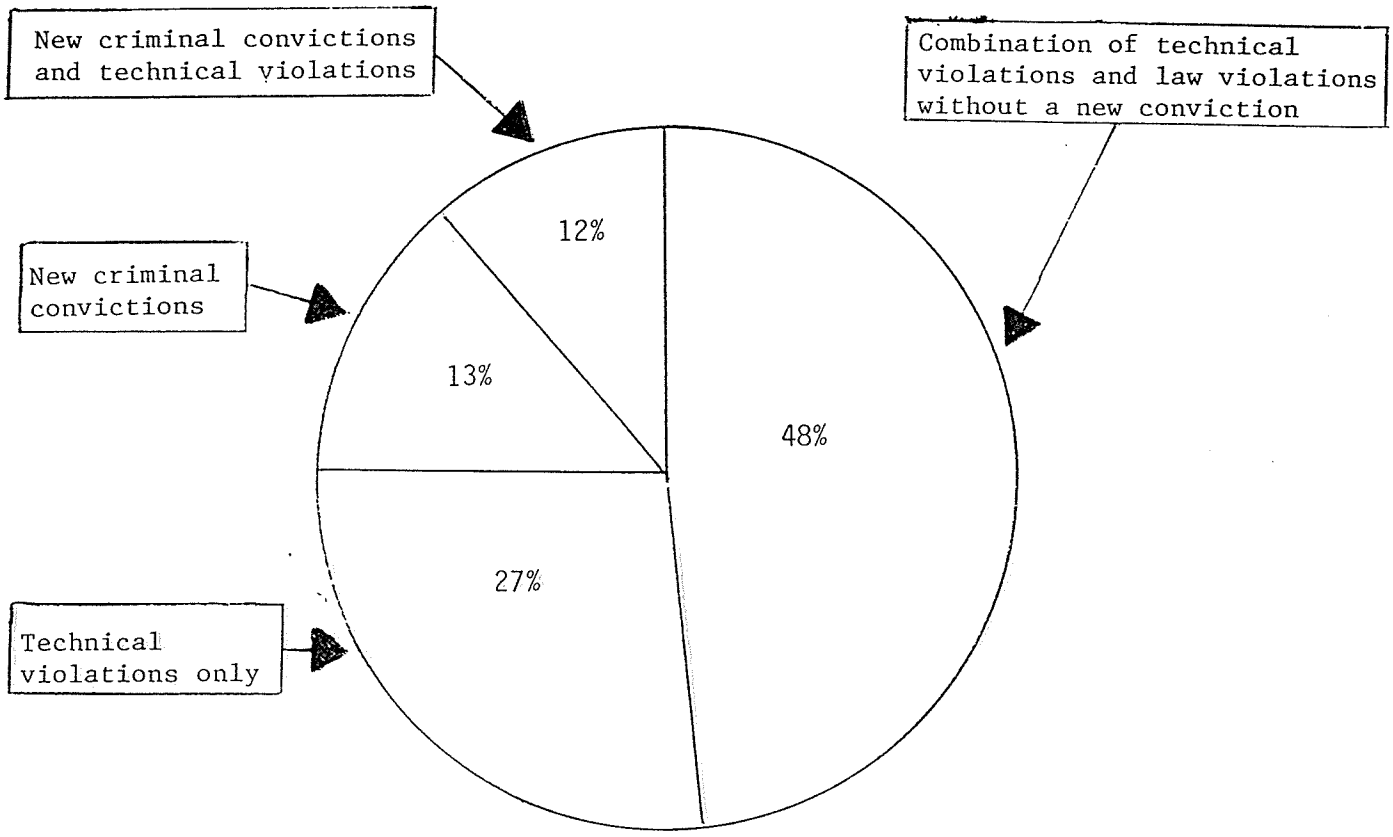
The community services program was created in 1976 through a grant from the Governor's Criminal Justice Division. A system of community-based and privately-owned halfway houses provides a structured, supervised transitional environment for the releasee, offering programs and counseling for those with special needs such as alcohol or drug abuse treatment. The houses also provide an alternative to revocation for those releases having difficulty adjusting to the free world.

The community services program is involved in a number of activities relating to halfway houses. Program staff administer halfway house contracts, certify halfway houses according to board standards, place releasees in halfway house programs, provide technical assistance to halfway houses, and monitor halfway houses on a regular basis to assure program accountability.

The halfway house contract process begins before each new fiscal year when agency program administrators request proposals for halfway house services. The agency has recently established a competitive bid process for awarding contracts. Requests for proposals (RFP's) are published in the Texas Register and distributed to most of the state's known halfway house programs. Once the RFP's are completed and returned, agency staff review applications using a standardized rating system and recommend halfway houses to the board for final contract

Exhibit 10

REASONS FOR RELEASE REVOCATIONS



approval. The board bases its decision on the need for halfway house beds in a given geographical area as well as special needs that can be met by a particular halfway house proposal.

For fiscal year 1986, the agency contracted for 723 beds with 29 halfway houses throughout the state for a total of approximately $5 million. Contracts were based on an average cost per halfway house bed of $22.83. Releasees placed in halfway houses under board contract are expected to contribute 25 percent of their gross income earned while living at the halfway house. The amount paid by the board to the halfway house is reduced by the amount actually contributed by the client.

Before a halfway house can receive a contract from the Board of Pardons and Paroles, the facility must comply with minimum program and physical plant standards adopted by the board. Field community resource officers conduct an on-site certification inspection of every facility before a contractual agreement is established. Facility certification is valid for one year.

Once a halfway house receives certification and a contract from the board, the community services program can begin processing releasees for placement in the halfway house. The board is currently making halfway house placements for the following reasons:

1) as a condition of release by the board, i.e., the inmate can be released on the condition he/she is placed in a halfway house;
2) at the request of the releasee;
3) when a releasee is having difficulty adjusting under supervision of the agency;
4) due to special needs resulting from alcohol/drug abuse or physical or mental health problems;
5) for inmates approved for pre-parole transfer by the board and TDC.

In fiscal year 1985, a total of 4,281 releasees were placed in halfway houses under contract with the board. This number includes 875 releasees having difficulty adjusting under supervision placed in halfway houses from the field. Exhibit 11 shows the number of halfway house placements over a five-year period.

Exhibit 11

NUMBER OF HALFWAY HOUSE PLACEMENTS

Type of Release	FY 81	FY 82	FY 83	FY 84	FY 85
Parole	2,313	2,999	2,506	1,917	1,764
Mandatory Supervision	386	875	1,974	2,416	2,360
Pre-parole	-0-	-0-	-0-	141	157
TOTALS	**2,699**	**3,874**	**4,480**	**4,474**	**4,281**

The pre-parole transfer program was established by the legislature in 1983 to divert suitable low-risk prisoners from TDC who would benefit from a halfway house program. Community services personnel working in the TDC prison units conduct pre-parole interviews with eligible inmates before the pre-parole release decision is made. To be eligible for pre-parole transfer, an inmate must be serving time for a non-aggravated crime and must be in the process of being considered for the initial parole review. The inmate must not have passed his/her parole eligibility date and must be within 180 days of that parole eligibility date. Board members and TDC officials decide who will be transferred to a halfway house under contract with the Board of Pardons and Paroles. By law, if the inmate serves time satisfactorily in the halfway house, the board must order his/her release to parole on the presumptive parole date.

Another activity performed by the community services program is the monitoring of halfway houses. Community resource officers visit each facility under contract with the board once a month and conduct quarterly unannounced visits to check for compliance with the terms of contract. The agency's business management division performs regular fiscal audits of halfway houses. Community resource officers also provide technical assistance to halfway houses, such as answering questions about agency procedures and requirements.

A final activity carried out by the program's community resource officers is the development of local community resources. Resource officers attempt to develop working agreements with local service agencies and meet with business representatives and other individuals in the community to improve the pool of resources available to releasees. The community resource officer assists both halfway houses and parole officers in finding needed services for releasees.

Additional Support Services. Several of the agency's other divisions provide services which support the major programs and activities. Each of the support services is summarized below.

Budget and Planning

In addition to its primary responsibility to prepare and monitor the agency's budget, budget and planning assists parole selection by researching different aspects of release behavior. Research projects have ranged from developing a system to rate the risks of inmates eligible for parole (i.e., the Pablo Scale) to studies of factors affecting recidivism and projections of TDC's population. The division also participates in special projects as required by the board.

Internal Audit

Internal audit assists parole supervision through continued development of the case classification and supervision management system described in the section of the report on parole supervision. This system has allowed the agency to better manage cases under supervision. It also provides a data base for the agency. The information is used to assess the effectiveness of parole supervision and determine the workload of supervisory staff and the need for specialized projects. Internal audit staff has also begun review the agency's other programs to monitor their effectiveness.

General Counsel

The general counsel provides legal assistance to the board, resolves legal questions arising in revocation hearings, and reviews releasees' requests to reopen hearings. The general counsel also represents the board in grievances against the agency and updates the agency's rules.

Computer Services

Computer services is responsible for supporting the agency programs' data processing and automation needs. One of the major tasks of the division has been the automation of agency files. A new computer system has recently been installed which greatly increases the agency's computer capabilities. Computer staff have also begun automating the information needed in the field and institutional offices. Further automation will help eliminate the statewide transport of hard copy files.

Business Management

As the agency's financial office, business management performs all of the agency's accounting and provides its supplies and equipment. As part of the accounting responsibility, division staff audit the halfway houses under contract with community services. The division also processes incoming supervision and restitution fees before deposit to the state treasury. Finally, the division oversees the agency's building leases including all the field offices located around the state.

Board and Community Services

Board and community services acts as a liaison between the families of inmates and releasees and the board members and commissioners. Staff answer questions for inmates and their families and set up meetings for them with board members as needed. This division also handles the victim's impact statement used in the parole selection process.

Information Services

Information services shares with the public the information collected and generated by the agency. Staff are involved in answering questions from the public and the media and issuing press releases. The division also publishes the agency's bi-monthly newsletter.

Personnel and Training

Personnel and training is responsible for all personnel matters associated with hiring, firing, grievances and worker's compensation. Staff are also responsible for maintaining the agency's EEO Affirmative Action Plan. The division's training staff also provides basic orientation to new field parole officers.

REVIEW OF OPERATIONS

The evaluation of the operations of the board is divided into general areas which deal with: 1) a review and analysis of the policy-making body to determine if it is structured so that it fairly reflects the interest served by the agency; and 2) a review and analysis of the activities of the agency to determine if there are areas where the efficiency and effectiveness can be improved both in terms of the overall administration of the agency and in the operations of specific agency programs.

Policy-making Structure

The evaluation of the policy-making structure was designed to determine if the current statutory structure contains provisions that ensure adequate executive and legislative control over the organization of the body; competency of members to perform required duties; proper balance of interests within the composition; and effective means of selection and removal of members.

The Board of Pardons and Paroles is composed of six full-time members serving overlapping six-year terms. The governor appoints the members with the advice and consent of the senate. Members must be resident citizens of the state for two years prior to appointment. The governor also appoints the chairman and vice chairman from among the board members to serve two-year terms. The review indicated that the policy-making structure was appropriately organized to carry out its responsibilities.

Overall Administration

The evaluation of the overall agency administration was designed to determine whether the management policies and procedures, and the monitoring of agency management practices were consistent with the general practices used for internal management of time, personnel and funds. The review showed the agency's overall administration to be generally effective. The board could improve its operations, however, by developing a policy which clearly separates board and staff functions. Also, the board should adopt its major policies and procedures as formal rules and should regularly update those rules. Finally, the statute should require the agency to continue its efforts to track recidivism of releasees under its supervision. The improvements to the agency's administration are discussed below.

The board should be required to adopt a policy which clearly separates board and staff functions and specifies that the executive director answer directly to the board chairman. The statute should specify that the executive director is responsible for the agency's day-to-day administration.

The board is composed of six full-time members charged with the responsibility to administer the provisions of the Adult Parole and Mandatory Supervision Law (Article 42.18). To assist in discharging its duties, the board is required to "employ an executive director who shall be responsible to the board for the conduct of the affairs of the agency."

The review indicated that some difficulties exist in the separation between the board's responsibilities and those of the executive director as head of the agency's staff. The board has from time to time involved itself in matters that are generally considered administrative in nature. Board involvement in agency administration has occurred in several areas, two of which can be used as examples. The board has established subcommittees for oversight of all the agency's major programs. While the subcommittees have, at times, served a useful purpose, they have also been used to develop proposals on issues for consideration by the full board. In many instances, this could be more appropriately done at the staff level with recommendations to the board. In addition to the use of subcommittees, the board has also used board meetings to discuss and make decisions on administrative matters. For example, most agency expenditures require board approval. Spending for items such as minor contracts, memberships in associations, and subscriptions to newspapers have been approved by the board during its monthly board meetings. By becoming too involved in administrative decisions, the board ends up in effect, running the agency by the consensus of board members rather than through the executive director.

In 1981, the 67th Legislature placed a statutory requirement on the board to hire an executive director in an attempt to remove the board from the agency's day-to-day administration. In 1982, a governor's study of parole procedures found that the board had remained involved in some aspects of the agency's day-to-day operations despite the hiring of an executive director. The Sunset review

indicated several ways to address the problems with separation of board and staff functions. These solutions are discussed as recommendations in the following material.

The lack of separation between board and staff functions is caused, in part, by the absence of any policy which clearly defines the responsibilities of the board and those of the executive director and other key agency staff. As mentioned previously, the legislature, in 1981, required the board to hire an executive director for the agency. When the legislature placed this requirement on the board, it did not specify the duties and responsibilities of the executive director other than to "be responsible to the board for the conduct of the affairs of the agency." Also, the board has not adopted a policy which clearly defines the role of the executive director.

The review of other state agencies under the sunset process has found that many boards and commissions have not adopted a policy which separates its responsibilities and those of that agency's executive director/administrator. The Sunset Commission has developed an across-the-board recommendation on this subject which is applied to all agencies as they are reviewed under the sunset process. This recommendation requires the policy body of an agency to develop and implement a policy which clearly separates board and staff functions. This recommendation should be applied to the board to ensure that it develops such a policy. The policy adopted should specifically define the duties of the executive director as the individual in charge of managing the agency's operations. The board should also clearly define its role as the policy maker for the agency. Many times a fine distinction needs to be made between administration of an agency and policy setting. The board should structure its role to remove the possibility of both running the agency and making policy.

In adopting the policy separating board and staff functions, the board should also include a provision which establishes a clear line of responsibility between the board and the executive director. One problem with a full-time board is that its members can become individually active in agency administration. Board involvement is caused, in part, by having a full-time board in the agency on a daily basis. Board members are more aware of the issues and problems in the agency's programs than they would be if the board operated on a part-time basis. Also, board members have easy access to the executive director and other key agency staff, making it difficult for the members to refrain from participation in daily activities. As a result, board members having different viewpoints on a particular

issue can give conflicting instructions to the agency director. Because the director is answerable to all the board members, he/she is then placed in the position of trying to comply with conflicting directions from different members. A clear line of responsibility, generally recognized as an important management goal, thus does not exist.

The American Corrections Association (ACA) has suggested one solution to this problem in its standards for parole authorities. The ACA has concluded that executive responsibility should rest with the board's chairman. Other board members should refrain from involvement in the agency's administration. While the ACA standards generally refer to a part-time parole board, the standard still has relevance to the full-time board used in Texas. To eliminate the agency's problems with executive responsibility, the ACA standard should be applied to the board. In this case, the board should develop a policy which specifies that the agency director answer directly to the board chairman. Other board members would continue to have a voice in the development of agency policy but would be required to go through the board chairman in dealing with the agency director. While this change would establish a clear line of authority for agency administration, no other state agencies are organized in this fashion. However, given the problems with the full-time board structure, departure from standard agency organization is justified.

In addition to requiring the board to adopt a policy separating board and staff functions, one other statutory change is needed to further ensure that separation occurs. Currently, the statute specifies that the executive director is "responsible to the board for the conduct of the affairs of the agency." This provision does not clearly define the role of the agency's executive director. To provide a clearer definition, the statute should specify that the director is responsible for day-to-day agency administration. The added provision would clarify the director's role; however, he/she would remain ultimately accountable to the board.

The board should regularly update its rules and adopt its major policies and procedures as rules.

The board is responsible for the release of inmates on parole, the supervision of all inmates released and the revocation of release when necessary. The board, as authorized by its statute, has adopted rules and other policies and procedures to guide agency staff in carrying out the board's responsibilities. The Administrative Procedure and Texas Register Act (APTRA) requires each agency to index and

make available for public inspection all rules and policy statements "adopted or used by the agency in the discharge of its functions." The Act also states generally that no agency rule, order, or decision is valid, nor may it be invoked by the agency for any purpose until it has been indexed and made available to the public.

An agency's rules should include all its major policies and procedures that have an impact on those persons dealing with the agency. Also, the agency's rules should be updated regularly to allow everyone dealing with the agency to know its policies and procedures. In the absence of complete, current rules, it is difficult for people dealing with the agency to know the agency's current procedures and requirements. In addition to providing notice of current agency policy, adoption of rules through the rule-making process provides valuable public participation in the development of agency policies.

The review of the agency's rules revealed that many of them have not been updated since 1981. Despite a constitutional amendment in 1983 removing the governor from the parole process, most references to the governor's role in parole selection have not been removed from the agency's rules. Also, the board has adopted several rule changes which have appeared in the Texas Register but are not included in the agency's rules. Examples of these changes include:

1) placing mandatory supervision releasees under the same rules and conditions as parolees;

2) removing the governor's authority in parole revocation matters; and

3) expanding the number of parolees eligible for placement on annual report status.

Finally, other changes in board policy have never been published in the Texas Register. Examples include:

1) adoption of amendments to rules regarding restitution payments;

2) adoption of an amendment to the rules of annual report requiring releasees to inform the board of any change of residence; and

3) adoption of a new policy for placing releasees on annual report.

To comply with the APTRA, the agency should update its rules regularly to correspond with policy changes made by the board. In addition, the board should formally adopt its major policies and procedures as rules. The agency has already begun efforts to update all of its rules and to determine which of its policies and procedures should be adopted as rules.

The statute should be amended to require the board to continue to study the recidivism of releasees under its supervision and to use the information to evaluate agency operations.

Recidivism is generally considered the best measure of success for release and supervision programs such as those conducted by the board. The agency has established methods to adequately study the recidivism of releasees under its jurisdiction. Recognizing its value, the agency also uses recidivism data to evaluate its programs.

The legislature requires by statute that an agency with similar programs, the Texas Youth Commission, study recidivism. The Texas Youth Commission (TYC) must keep a record of arrests and commitments of its wards after their discharge. In addition, TYC must use the information to evaluate the merit of treatment programs. The Board of Pardons and Paroles has no such statutory directive. While its current efforts to study recidivism are adequate, the agency could discontinue these efforts at any time. Given the importance of recidivism data, its collection and use should also be mandated by statute. Similar requirements are being suggested for all criminal justice agencies under sunset review.

Evaluation of Programs

For purposes of evaluation, the activities of the agency were divided into the following areas: parole selection, executive clemency, parole supervision, hearings, community services, and additional support activities. The major areas of concern within these activities are set out below.

Parole Selection.

A parole selection process should ensure that inmates released on parole are the best choices for release. Adequate information should be provided for parole decisions and decisions should be made in a timely fashion using fair and consistent selection criteria.

The review indicated that the agency's parole selection process generally meets the requirements previously mentioned. Adequate information is available to decision-makers and parole decisions are made in a timely fashion. Inmates receiving parole are generally released by their parole eligibility date. Improvements were identified which would help ensure that inmates released are the best choices and that decisions made are based on fair and consistent selection criteria.

Parole commissioners should meet specific education and experience requirements.

The parole statute currently does not have any education or experience requirements for parole commissioners. The review identified various educational backgrounds and areas of experience which are directly relevant and would benefit parole commissioners in carrying out their parole decision making responsibilities.

Education and experience are statutorily required for the agency's parole officers. Parole officers of the agency are required to have a college education and two year's experience in related fields such as social work or corrections. Similar requirements should be placed on parole commissioners. While the current job description developed by the board for parole commissioners requires that they have related degrees or experience, there is no assurance that this situation will continue. To provide this assurance, the statute should be amended to require that all parole commissioners have degrees and experience in at least one of the following areas: criminal justice, corrections, criminology, law, law enforcement, social work, sociology, psychology, psychiatry or medicine or other related fields. Parole commissioners currently employed by the board would be exempted from the requirements.

Decision makers should be required to disqualify themselves from parole decisions involving a possible conflict of interest.

Parole panel members can receive an inmate's case to consider for parole where they have had previous contact with the inmate. Such prior contact could bias the parole decision. Examples include cases where a decision maker, in his/her former employment, was the judge, prosecutor, or attorney in the inmate's case. The panel member may even have been the inmate's parole officer during a previous period of supervision.

In cases where a possible conflict exists, decision makers should be required to disqualify themselves from voting on the case. Decision makers do refrain from voting in cases where a possible conflict exists. However, the board has no official policy on conflict of interest to ensure consistency among decision makers, nor does the parole statute address this area. To ensure conflict-of-interest situations are dealt with properly, the statute should be amended to require that decision-makers disqualify themselves in cases of a possible conflict of interest. The board

should adopt a policy specifying the situations where decision makers should refrain from voting.

The board should be required to develop standard guidelines for parole decisions.

The parole law requires that a decision to parole an inmate be made only in the best interest of society. Employment or some other form of financial support must be available and parolees must be willing and able to fulfill the obligations of a law-abiding citizen. In addition to the statutory requirements, the board may adopt any other reasonable policies to guide the parole selection process.

The board has adopted rules which generally outline parole selection procedures but these rules do not contain a standard procedure for making actual parole decisions. In the absence of any standard procedure, each board member and parole commissioner, as a parole decision maker, has developed his/her own method for making parole decisions. Although decision makers have the same basic information available to them for decisions, there is a wide variation in how each decision maker uses the information. Exhibit 12 outlines the information generally considered in a parole decision.

Exhibit 12
PAROLE DECISION FACTORS

Prior Criminal History

Nature and Seriousness of the Offense

- Assaultive Crime
- Sexual Crime
- Use of a Deadly Weapon

Length of Sentence/Time Served

Institutional Behavior

- Adjustment to Incarceration
- Vocational Training
- Rehabilitation

Alcohol/Drugs

- Factor in Offense
- Habitual Use

Previous Probation/Parole

Post-Release Plans

- Place of Residence
- Potential Employment

Risk Assessment Scale*

*This agency has developed a risk-assessment scale (Pablo Scale) which includes most of the other parole decision factors used in parole decisions.

Interviews during the review indicated that some decision makers have developed a standard interview form to help them make sure that all relevant information is discussed with each inmate under consideration for parole. Other panel members write brief comments in the inmate's file to remind themselves and other panel members of important facts that should be considered in the decision. While these procedures each have merit, there is no consistency among the procedures used by the different decision makers. The lack of consistency is caused in part by the lack of adequate guidance given to decision makers for parole decisions. New board members and parole commissioners are given limited training on the procedures to follow when making parole decisions. These new panel members must mainly rely on the assistance of other decision makers to help them develop their own decision procedure. Also, decision makers do not have any quidelines establishing a standard procedure for parole decisions.

Without standard guidelines, it is difficult to compare the decisions of panel members because they are not necessarily making decisions the same way. One national corrections organization, The National Institute of Corrections (NIC) has identified a need for more structure in parole decision processes. The NIC has started a grant process to help states develop, among other things, better decision-making procedures. The board has submitted a request to the NIC for assistance in standardizing its parole decision-making procedures. If the board secures a grant from the NIC, it should develop standard parole guidelines as part of the NIC project.

Standard parole guidelines would help ensure that all decision makers follow the same procedures when making parole decisions. The use of parole guidelines would not restrict the discretion that decision makers currently have in making decisions. Panel members would still have the flexibility to consider all extenuating circumstances when making decisions. Guidelines would, however, give decision makers a consistent foundation for decisions which would address the criticism that the current system is too subjective and without adequate structure. Also, the decisions of panel members could be compared and the differences in decisions could be more easily determined and discussed by the parole decision makers as a group. To provide needed structure and consistency to the parole decision process, the board should be required by statute to develop standard parole guidelines for making parole decisions.

The board should establish a program to develop preliminary parole plans and a tentative parole month for qualified inmates.

Upon entering the Texas Department of Corrections (TDC), an inmates goes through a diagnostic process designed to provide information to the inmates and gather information on his/her physical and mental condition. Special physical and mental conditions are identified with further diagnostic work done as needed. Once diagnostic work has been completed, the information developed is used in a classification system which determines the inmate's initial prison unit assignment and level of custody. When an inmate arrives at his/her assigned unit, it is primarily the inmate's responsibility to request participation in the various educational, vocational, and counseling programs available at the unit. TDC does not routinely develop a specific plan of progress with an inmate which would address his/her needs and provide guidance for the inmate while incarcerated.

Shortly after the inmate arrives at his/her assigned prison unit, contact between an inmate and the parole board and its staff is usually made. Agency institutional staff conduct periodic orientation sessions at all the units for incoming inmates. Agency staff briefly explain the parole process and answer questions. Inmates are also told that agency institutional staff are at the units on a daily basis and are available to answer questions.

Unless an inmate initiates contact with agency staff after parole orientation, the inmate will have little involvement with the agency until he/she nears parole eligibility. The agency then begins its parole selection process. Institutional staff interview the inmate to verify file information, further explain the parole process, and develop a preliminary parole plan. At this point, the inmate is made better aware of the factors that go into a parole decision. Among these factors is a measure of the progress that the inmate has made while in prison. Progress is primarily determined by whether the inmate has attempted to address his/her problems or needs through participation in educational, vocational, and counseling programs available in the TDC units. Participation in these programs can be a factor in a favorable parole decision for an inmate. On the other hand, failure to participate in prison programs can be one of the reasons for a negative parole decision. In the cases where parole is denied, an inmate might be told that his/her future chance for parole would be improved by participation in some specified program.

The review indicated several concerns with the previously mentioned procedures. Inmates do not know from the beginning of their incarceration what factors are involved in a parole decision nor do they have a good idea of what can be done while incarcerated to improve their chances for parole. No connection is made between progress made while in prison and a favorable release decision. Also, inmates are not given a clear indication of when they might receive parole other than their minimum parole eligibility date. This situation can cause confusion and uncertainty for the inmates. One way to address these problems is to move initial parole evaluation to the beginning of an inmate's incarceration in TDC. An inmate could be told up front how the parole process works and what could be done to improve his/her chances of parole. Also a preliminary parole plan could be established with the inmate outlining the inmate's planned efforts which could lead to parole. Finally, a tentative parole month could be set which would give the inmate a set release date dependent on the inmate's progress with his/her parole plan.

Senate Bill 518, introduced during the 69th Legislature, would have among other things, established the procedures previously discussed. The bill passed the senate and the house before it was vetoed by the governor. The following exhibit outlines several of the major provisions of the bill that relate to the concerns identified.

Exhibit 13

SENATE BILL 518, 69th LEGISLATURE

1) Within 120 days of admission, the board gathers necessary information on the inmate including information from trial officials.

2) Within 120 days, the board establishes a plan of measurable institutional progress for the inmate.

3) Within 30 days of notice by the board, TDC determines whether any of the programs in the inmate's plan are not available at the inmate's unit.

4) A tentative parole month is established for the inmate.

5) The tentative parole month may not be earlier than the inmate's initial parole eligibility date.

6) The board shall release the inmate during the tentative parole month unless the release would be harmful to the public or the inmate has not progressed as indicated in the established plan.

7) The board can revise the tentative parole month at any time at its discretion.

8) The board shall determine which inmates are appropriate to participate in the program.

The provisions of S.B. 518 outlined in Exhibit 13 would move initial parole evaluation from the end of the inmate's incarceration to the beginning. Also, inmates would have a better idea of what they can do to improve their chances of parole because of the parole plan established for them by the board. Inmates would have a stronger incentive to exhibit good behavior and participate in TDC programs because their conduct would clearly bring them closer to their release date. Therefore, the board should establish a preliminary parole procedure as outlined in S.B. 518. The board would need to work closely with TDC to make sure that the programs it includes in an inmate's parole plan can reasonably be provided by TDC.

It should be noted that the board would have the discretion to decide which inmates are eligible to participate in the program. Not all inmates could or should participate in the program. For example, there are some inmates serving long sentences for crimes so serious that the chances of parole ever being granted are so small that using the parole plan system would not serve any useful purpose.

Also, the board would be able to change the tentative parole month at any time it becomes necessary. This allows the board to maintain its discretion to release inmates.

Inmates allowed to use the preliminary parole plan system will not be released any earlier than under the current system. An inmate's tentative parole month cannot be set earlier than the inmate's initial parole eligibility date. The initial eligibility date, established by TDC, is therefore an important part of the parole plan system that has been discussed. Recently, TDC changed its method of determining initial review dates. The new method provides a more realistic initial date which is necessary for the success of the preliminary parole program. TDC should continue to calculate initial review dates using the new method.

Parole Supervision.

The review identified several elements necessary for an effective parole supervision system. First, cases should be allocated fairly among parole officers and the number of cases maintained by any given officer should allow for adequate supervision of the releasee. Second, parole officers should be effective in monitoring and assisting releases, i.e., their actions should enhance a releasee's success outside of prison. Finally, services should be available as needed to assist releasees with their adjustment.

Results of the review indicated that the agency's comprehensive supervision management system makes sure all of the above elements are a part of the agency's parole supervision program. The workload equalization component of the management system ensures that cases are allocated fairly and that caseloads are maintained at the lowest possible level. Automation of data generated by parole officers allows agency management to review parole officer effectiveness in monitoring and assisting releasees. Although the availability of community services for releasees varies according to geographical location and the releasee's ability to pay, the monitoring of staff through the management system ensures that parole officers are making an adequate effort to help releasees obtain the services they need.

Preliminary research indicates that the supervision management system used for the statewide parole supervision program has a positive impact on parole outcome. The research shows that those releasees supervised under the case management component of the system, called Strategies for Case Supervision

(SCS), have a six percent lower violation rate than cases supervised without this standardized case management instrument. Exhibit 14 compares the success of releasees supervised with and without SCS.

While the review indicated that the agency has developed a comprehensive system to ensure efficiency and effectiveness of the parole supervision program, three concerns were identified. Improvements could be made related to agency administration of supervision fees and in the supervision of releasees in certain areas of the state. Recommendations addressing these problems are set out below.

The parole supervision fee payment schedule should be clarified in the agency's statute.

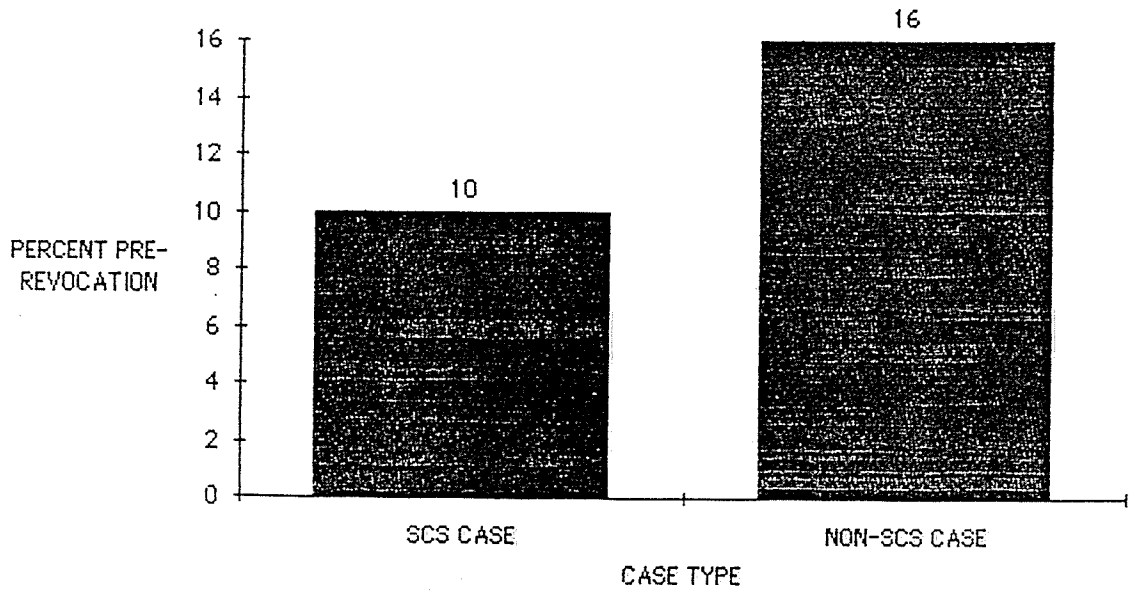
The supervision fee bill, House Bill 1593, which was passed during the last legislative session, requires a releasee under the board's supervision to pay $10 to the board for each month he/she is required to meet personally with the parole officer. The agency began collecting supervision fees in September, 1985 and has so far collected a total of $61,320. Releasees under supervision remit their fee to the agency's central office. The fees are then deposited to the credit of the general revenue fund.

Agency personnel have experienced some implementation problems with the supervision fee payment schedule due to the statutory language authorizing the fee system. The agency has interpreted statutory language to mean that there must be some type of personal, face-to-face contact with the releasee each month if the $10 supervision fee is to be collected. There is some question as to whether a supervision fee should be collected, for example, if a releasee under medium supervision is sick and cannot meet with the parole officer in a given month. The agency has also had to schedule extra contacts with releasees living in rural areas in order to meet the personal contact requirement for supervision fee collection. In these instances, the supervision fee contact requirement is most likely costing the agency more time and money than will be collected in fees.

As a general rule, agency fees for certain services are assessed so that a party can contribute a payment for the service they are receiving. In the case of supervision fees collected by the board, a parole officer spends time and effort on each releasee regardless of whether the officer has a face-to-face meeting with the client in any given month. If a client fails to shows up for a monthly meeting,

Exhibit 14

EFFECT OF SCS ON SUCCESS OF SUPERVISION*



*SCS cases assessed 3/85 - 4/85
Pre-revocation warrants issued 3/85 - 10/85

the officer will likely spend more time on the case than if the face-to-face meeting had occurred. Supervision fees collected should therefore not be tied directly to personal contact meetings.

In order to clarify agency directives while at the same time maintaining legislative intent, the current statutory language should be modified. Language should be deleted which requires a $10 supervision fee for each month that a releasee is required to have a personal visit with a parole officer. The statute should be modified to instead require a $10 fee for each month the releasee is under active supervision. This change will simplify the agency's collection procedures because all releasees under active supervision will be required to pay the monthly fee regardless of actual personal contact meetings.

The board should have the authority to collect a supervision fee from other state releasees receiving supervision in Texas.

Texas, along with every other state, is a member of the Interstate Compact for the Supervision of Parolees and Probationers. The compact provides, in part, that each state receiving a parolee from another state will accept the responsibility for that parolee's supervision. As of November 1985, there were about 2,195 Texas releasees under parole supervision in other states, while approximately 1,730 releasees who served their prison term in other states were receiving supervision in Texas.

In 1983, the legislature enacted a bill (H.B. 1593) requiring that releasees under the board's supervision pay a $10 supervision fee for each month the person is required to meet personally with his/her parole officer. The supervision fee law does not specify exactly which releasees should pay the fee. The board has thus far been collecting supervision fees only from releasees of the Texas Department of Corrections. The review did not indicate any reason why releasees from other states receiving supervision in Texas should not also contribute a fee for receiving the service. In fact, the terms of the Interstate Compact require that those releasees coming into a state for supervision "be governed by the same standards that prevail for its (the state's) own probationers and parolees."

The board should therefore be given the statutory authority to require that other state releasees receiving supervision in Texas pay the supervision fee. Based

on the current number of compact cases in Texas, the board could collect a maximum of $17,300 per month in additional supervision fees if other state releasees were required to pay a fee for their supervision.

The board should consider contracting with local probation departments for supervision of releasees when a cost savings can be achieved.

One of the main functions of the board is to supervise inmates released to the community to serve the remainder of their sentences. Currently, about 35,000 releasees are supervised by 453 parole officers and caseworkers from 42 district offices located throughout the state. Six additional parole offices have been planned and should be in operation in 1986.

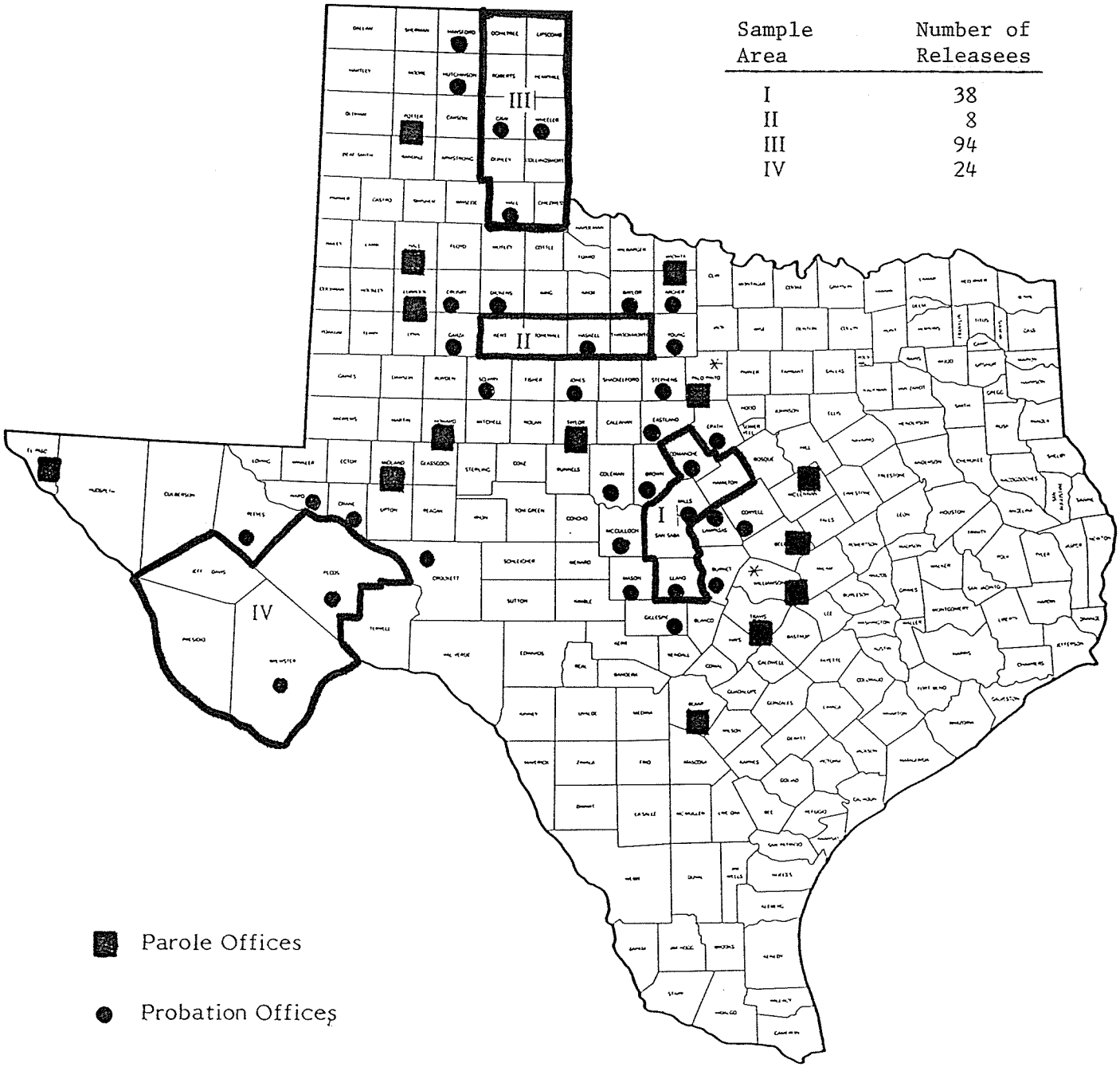
The review of the agency identified another system in the state which performs a similar supervision function. The Texas Adult Probation Commission oversees a statewide system of probation supervision. Approximately 1,800 probation officers are currently responsible for over 250,000 individuals placed on probation by the courts. Probation supervision is carried out by over 225 local probation offices in 192 counties. While the probation and parole clientele differ in some ways, probation and parole officers have similar goals and perform many of the same tasks while supervising an individual. They are both involved in helping people maintain a life free of criminal activity. To accomplish this goal, both types of supervisors must help their clients obtain needed services, such as alcohol/drug abuse counseling, employment assistance, and mental health services.

The review of the board's supervision program indicated that there may be some areas of the state where a sharing of supervision services with local probation departments could be beneficial. Because there are currently only 42 district parole offices in the state, parole officers in rural areas often have to drive long distances to see a relatively small number of clients. During the review, a sample of four rural areas of the state were selected in order to further examine the travel distances involved. The total number of releasees under the board's supervision in each area was calculated along with the proximity of the nearest probation and parole offices. The factors considered are shown in Exhibit 15. The sample results indicate that, in the areas selected, a significant number of probation offices are closer to releasees than parole offices. These results are not unexpected considering the fact that probation offices in the state outnumber parole offices by more than 180.

Exhibit 15

EXAMPLES OF PROXIMITY OF PAROLE V. PROBATION OFFICES IN SELECTED RURAL AREAS

Sample Area	Number of Releasees
I	38
II	8
III	94
IV	24



*Indicates location of proposed parole offices

Sample area IV in Exhibit 15 perhaps best illustrates the inefficiency which can result when supervising clients in rural areas where long distances are involved. Parole officers from either Midland or El Paso must travel considerable distances to supervise just 24 releasees who, in 1985, lived in Jeff Davis, Pecos, Presidio, and Brewster counties. As illustrated in the exhibit, six probation offices are closer to these areas and could be used for supervision. This type of situation does not only exist in the large counties of West Texas, but also in other rural counties where probation offices are nearer releasees than parole offices. In sample area II, for example, consisting of Kent, Stonewall, Haskell, and Throckmorton counties, parole officers from Wichita Falls or Abilene must travel to those counties to supervise just eight releasees while 10 probation offices are located closer to those counties and could be used for supervision.

The Board of Pardons and Paroles could potentially realize cost savings in such cases by contracting with local probation departments for supervision services. A contracting decision involves more than simply consideration of travel distances. Other factors could include, for example, caseload of local probation departments or cost of training local probation personnel in the board's supervision procedures. However, given the distribution of releasees and probation and parole offices, the board should give the contracting alternative careful consideration in certain areas of the state.

Currently, the board's statute authorizes it to contract with the Texas Adult Probation Commission for this purpose. The statute should be amended to authorize the board to contract instead with local probation departments, as they would be the entities actually providing the supervision services.

Hearings.

Because the board has the authority to revoke releasees and send them back to TDC, it must have a process to guarantee the rights of the people affected by those revocation decisions. In Morrissey v. Brewer, the U.S. Supreme Court has ruled that a hearing must be conducted before revocation, unless the releasee waives this right. The hearings process must comply with the terms of Morrissey guaranteeing the due process rights of releasees. Hearings should be timely, and they should be fair. Also, judgments made by decision makers should be in the best interests of both society and the releasee.

The review of these elements showed that the revocation hearings process generally satisfies most due process concerns. The board renders revocation decisions in a timely fashion. By statute, hearings must be conducted within 70

days of issuance of a revocation warrant and a decision made within 30 days thereafter. Also, the hearings process generally complies with minimum due process requirements. Releasees have the right to appear and present witnesses before an impartial arbiter; they have the right to be represented by counsel; they may confront and question adverse witnesses; and they must receive a written statement of the reasons for the revocation of release. The analysis also showed that board judgments in revocation matters generally serve the interests of society and the releasee. In 1985, the board revoked 6,892 releasees for rule violations. For the same year, the board withdrew 2,717 pre-revocation warrants when it determined that revocation was unnecessary.

However, the review also identified three problems relating to the revocation hearings process. The hearing officers, the board's impartial arbiters in revocation matters, should receive better training. Also, the entire hearings process should be reviewed to see if it complies with the requirements under Morrissey. Finally, the board should have a better means of ensuring consistency in applying sanctions against those releasees who violate the terms of their release. The recommendations concerning these problems are set out below.

The board should provide more training for its hearing officers.

Releasees accused of violating the terms of their release are, by law, entitled to a hearing before the board or its designee. The board has hired 17 hearing officers to conduct these hearings. The hearing officers conduct the revocation hearing to determine from the facts whether the releasee has violated the board's rules governing release. Upon the finding of fact that a violation occurred, they submit a report with a recommendation to the board to either revoke the release or withdraw the board's pre-revocation warrant and continue the person under supervision. In fiscal year 1985, these hearing officers conducted 3,915 revocation hearings.

Ultimately, the hearing officers are responsible for maintaining the fairness and effectiveness of the hearings process. As a result, they should be more than just impartial designees of the board. They should have the ability to make decisions on legal questions such as the admissibility of evidence and the application of law. Because many revocable offenses are violations of state or federal law, hearing officers should have some knowledge of state and federal penal codes. They should also be aware of any changes in the law resulting either from new legislation or from judicial interpretation.

The examination of the hearing process showed that hearing officers do not always receive training to adequately prepare them for the decisions required in the hearings. All hearing officers are former parole officers or unit supervisors from within the agency. While former parole officers may have knowledge of the agency's parole and revocation processes, they are not necessarily prepared to make the difficult decisions required in the hearing process. Initial training, when it is available, is usually on-the-job. Ongoing training is infrequent, and legal training is virtually non-existent.

To better enable hearing officers to conduct revocation hearings, the board should intensify its training efforts. The specialized training of new hearing officers should concentrate on legal aspects of the hearing, such as rules of evidence and applications of law. Ongoing training sessions should be regularly scheduled to keep hearing officers current with changes in law or case law and changes in board policy.

The board should request an attorney general opinion on the compliance of its hearing procedures with federal due process requirements.

Before inmates are released from prison, they must agree to abide by general rules governing release behavior and any special condition placed on their release by the board. Releasees are informed that a violation of the rules or conditions of release could result in the revocation of their release. A decision by the board to revoke release is based on one or more rule violations and results in the reincarceration of the individual in TDC.

In 1972, the U.S. Supreme Court ruling in Morrissey v. Brewer, 408 U.S. 471 (1972), had a significant impact on the way states handled the revocation of parole. The Court held that parolees are within the protection of the Fourteenth Amendment and therefore have a right to due process prior to the revocation of their parole. Morrissey v. Brewer basically addressed the concern that parolees could be reincarcerated for a suspected rule violation without a finding of probable cause. In the Morrissey opinion, the Court stated it did not want to write a specific code of revocation procedures to be followed by all states. It did, however, outline the following due process requirements which should be included in a pre-revocation proceeding:

1) written notice of the claimed violations of parole;

2) disclosure to the parolee of evidence against him;

3) opportunity to be heard in person and to present witnesses and documentary evidence;

4) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation);

5) a "neutral and detached" hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers, and

6) a written statement by the fact finders as to evidence relied on and reasons for revoking parole.

In addition to outlining procedural safeguards for due process, the Morrissey decision set forth a requirement for a two stage revocation process deemed important in the process of parole revocation. The first stage of the process described by the Court is the arrest of the parolee and preliminary hearing. After the arrest of the parolee for an alleged rule violation, the preliminary hearing primarily determines whether there is probable cause to hold the parolee for a final decision of the parole board on revocation. The second stage of the revocation process described by the court is the final revocation hearing. This hearing must be held before the final decision to revoke parole and must lead to a final evaluation of any contested relevant facts and consideration of whether the facts as determined warrant revocation.

The review of the agency's hearings procedures indicated that there is some question as to its compliance with the conditions set out in Morrissey v. Brewer. First, the Morrissey opinion clearly sets out a two part hearing process: the preliminary probable cause hearing and the final revocation hearing. The board's revocation process consisted of two separate hearings before parole revocation until 1981, when the two hearings were combined. The agency feels that even though it currently does not have two separate hearings, it has included all the due process requirements set out in Morrissey. A survey of selected states conducted during the review did not reveal any other state with a single revocation hearing similar to that in Texas.

The second concern with the revocation process relates to the due process requirements of the second and final hearing. The Morrissey opinion held that the parolee has the opportunity to be heard in person and to present witnesses and documentary evidence. There is some question as to whether the intent of

Morrissey was to allow the parolee the opportunity to be heard in person before the final revocation decision makers. In Texas, the parolee (or releasee) is not allowed an opportunity to be heard in person before the board, which makes the final revocation decision. Instead, releasees are given the opportunity to present witnesses and evidence to a hearings officer, who then makes a recommendation to the board on revocation.

Because of the concerns previously discussed, the board should seek a legal opinion on whether the hearings process established is in compliance with the basic due process requirements set forth in Morrissey v. Brewer. A formal attorney general opinion should be requested to help clarify the interpretation of the federal court case and the board's compliance with the case's requirements.

This suggestion was discussed with agency staff during the review. They indicated that the board concurred with the recommendation and would request an attorney general opinion on the matter.

The board should develop a system of alternative sanctions for violations of release conditions.

A releasee under the board's supervision is subject to disciplinary action by the board when he/she violates a condition of release. Historically, the board has used the threat of revocation of release and return to TDC as an incentive for the releasee to comply with his/her release conditions and maintain good behavior while under supervision. More recently, however, the board has been less inclined to revoke release, particularly for "technical" violations because returning releasees to prison aggravates the overcrowding problem at TDC. Basically, a technical violation is any violation of release outlined in Exhibit 7 that is not a violation of state or federal law.

In place of revocation, the board uses alternative sanctions for rule violations such as letters of reprimand, imposition of additional release conditions, reclassification to a more intensive level of supervision, and placement in a halfway house. However, sanctions used in lieu of return to TDC are inconsistently applied by agency personnel at various levels of the organization. The lack of consistency has probably contributed to the releasee discipline problems identified during the review. Parole officers and halfway house administrators expressed frustration due to the absence of effective methods to encourage good behavior by releasees.

The review revealed a report prepared by agency staff entitled "Parole Rule Violations: Time for a System of Sanctions" which addresses the sanctions problem.

In the report, an agency researcher outlined the problems with the current methods used to apply sanctions for releasee rule violations. The report concluded that the agency is not using objective and consistent criteria to associate an appropriate and effective sanction with a particular rule violation. The report outlined an example of a sanction system which associates a rule violation with a particular level of sanction. This type of system would represent a clear cause/effect relationship. The releasees would know that if they acted in a certain way, they would receive a disciplinary response. To date, the board has not taken any formal action on the staff recommendation establishing a system of sanctions.

A system of sanctions such as the one identified in the agency staff report would clarify what is now a vague and inconsistent procedure. A consistent philosophy would give guidance to agency personnel in imposing sanctions, and also let releasees know ahead of time the consequences of their behavior. Current problems with releasee discipline could be reduced. The board should therefore be required to develop and implement a system for application of sanctions for rule violations.

Community Services. The main responsibility of the agency's community services program is to establish and maintain contracts with community-based halfway houses for the housing and care of correctional system releasees under the board's supervision. A contracting system should ensure that procedures for making contractual decisions are fair and that the best applicants receive contracts. Once a contract is active, an agency should have comprehensive monitoring procedures to ensure that contract funds are used to accomplish established goals and objectives. Finally, the placement of clients into a facility should be timely and appropriate.

The review indicated that the agency's program generally contains the above elements. For fiscal year 1986, the agency initiated a new competitive bid (RFP) process to help identify facilities most capable of delivering desired services. Facilities wishing to receive funds submitted their applications to the agency, where community service program personnel ranked and evaluated proposals according to specific criteria. The review indicated problems with certain aspects of the agency's new contracting procedures; however, such problems are common with the implementation of any new process. The agency plans to revise its RFP process before the 1987 contract bids are announced to alleviate the problems with the current process.

The analysis of other program activities revealed that the agency has a compliance system to ensure that state funds distributed to halfway houses are spent for the intended services and that facilities are set up so they can be effective. First, halfway houses must comply with program and physical standards adopted by the board before they can receive a contract for funds. Once a halfway house receives a board contract, community services personnel visit the facility once a month and conduct quarterly unannounced visits to monitor compliance with contract terms. The agency also conducts regular fiscal audits of contract fund expenditures.

The review also indicated that halfway house placements are generally timely and appropriate. Although there can be a large number of inmates waiting for halfway house placement at any given time, agency personnel have generally managed to place releasees in a halfway house within two weeks of notification. Also, results of a questionnaire to halfway houses did not reveal any significant problems with the agency's performance in placing clients with special needs in the appropriate facility.

While the review indicated that the board's community services program is generally operating efficiently and effectively, several areas were identified where program improvements could be made. Recommendations to address identified problems are outlined below.

The agency's statute should be amended to require evidence of community involvement before contracting with a halfway house.

Since 1983, the board has been contracting with privately operated halfway houses for housing and care of certain inmates upon release from prison. During this time, the board has found itself involved in controversies regarding the location of a halfway house in a particular community. Generally, community groups express opposition to having ex-felons living in their neighborhood and assert that community-based correctional programs, such as halfway houses, negatively affect property values and the quality of life in their neighborhoods. This opposition has led to legal action against halfway houses, the relocation or closing of houses and the withdrawal of board contracts.

Community opposition makes it difficult to run a halfway house program, both for the agency and for the halfway houses. Such opposition is becoming an even more important problem since diversion of more inmates to halfway houses is

one way to help relieve overcrowding at TDC. Community pressures will be a factor to consider in successfully using that diversion option.

The review indicated that the agency, through its experience with halfway houses, has begun to identify actions by halfway houses that seem to help reduce community opposition. For example, neighborhood groups have consistently expressed a desire to be aware of activities surrounding the placement and operation of halfway houses in their community. One way a halfway house can meet this need is to educate the community, particularly by involving community members with the halfway house. This way the community can learn first-hand how the halfway house operates and what it is attempting to do.

Recently, the board has developed different methods for measuring a halfway house's efforts to increase or maintain community involvement and support. When the new request for proposal (RFP) contract system was implemented, the board began requesting a monthly report from halfway houses, part of which requests evidence of community support. In the report, halfway houses are asked to list participation in local speaking engagements and community work projects, the number of open houses held, and the number of community complaints received. Through the new RFP contract procedures, the board is also including demonstrated notification, involvement, and support of local officials and citizens as part of its funding decision process. Neighborhood advisory groups and governing boards made up of respected members of the community have been identified as important measures of community support.

To help reduce community opposition of halfway houses funded by the board, the statute should be changed to require even more emphasis on community involvement. Because of its importance, the board should use evidence of community involvement as an overriding consideration before entering into a contractual halfway house agreement. No halfway house should receive funds from the board unless it demonstrates evidence of community involvement. Based on its knowledge of successful halfway house programs, the board could, by rule, establish what evidence of community involvement should be required. In this way, the citizens of Texas will also have a chance for input through the Texas Register rule adoption process.

A statutory requirement for community involvement has an advantage over other measures of dealing with community opposition such as requiring public hearings. The community involvement requirement represents a way to balance the needs of the communities, the halfway houses, and the agency. Communities

want involvement in the location of halfway houses which in turn need community support to have a better atmosphere in which to operate their programs. The agency has a need to ensure that halfway houses it contracts with have good programs and do not have problems such as community opposition which can reduce their effectiveness.

The statute should be amended to remove the restriction on the pre-parole transfer program which prohibits participation by inmates previously denied parole.

The pre-parole transfer program was established by the 68th Legislature in 1983 to allow the transfer of suitable inmates to halfway houses up to 180 days before their parole eligibility date. By law, inmates currently serving time for an aggravated crime, inmates previously convicted of an aggravated crime, and inmates previously denied parole are not eligible to be considered for the pre-parole transfer program.

The review indicated that pre-parole transfer has been a beneficial way to use halfway house beds under contract with the board. Halfway house directors and agency personnel generally agree that pre-parole participants are more motivated to succeed than other halfway house residents released on parole or mandatory supervision. Because pre-parole transfer participants are still considered inmates of TDC, they can be more easily sent back to prison if they cause disciplinary problems.

Another measure of the pre-parole program's success relates to income contributions by participants of halfway houses. All halfway house residents who find jobs are required to contribute 25 percent of their gross income to the halfway house. The agency then deducts that amount from the contract award to the halfway house. According to recent agency data, pre-parole residents contributed an average of 15 percent towards paying for their halfway house stay, while parolees and mandatory releasees contributed only about eight percent of the total cost of services received. This data indicates that pre-parole clients pay for more of the cost of their stay, thereby reducing the amount of state funds the agency pays per client.

Despite the apparent effectiveness of the pre-parole program, the number of inmates placed on pre-parole status has been much less than anticipated. For fiscal years 1984 and 1985, the legislature appropriated funds for the program based on the placement of 450 inmates in pre-parole status. During fiscal year

1984, only 141 offenders were placed on pre-parole status, while 157 inmates were transferred to pre-parole status in fiscal year 1985. The agency reports that statutory restrictions significantly reduce the pool of inmates eligible for pre-parole transfer, thereby resulting in fewer pre-parole transfers.

The review identified at least one way to increase the number of inmates considered for pre-parole transfer without compromising the concern of releasing ex-felons convicted of aggravated crimes into the community. The number of inmates for consideration can be increased by allowing the board to consider inmates who have previously been denied parole. Elimination of the eligibility restriction would allow the board to consider inmates who may be appropriate pre-parole transfer candidates during a subsequent parole review, even though they were not suitable for parole during their initial review. For example, an inmate may have demonstrated a significant improvement in attitude and behavior since his/her initial parole review and therefore would make a good candidate for pre-parole transfer. Removing this restriction would provide the board with a larger group of inmates to consider for pre-parole transfer; however, only those inmates considered a good risk by the board would be allowed to participate in the program.

In order to help alleviate overcrowding at TDC and to enhance the effectiveness of the pre-parole program, the statutory language restricting pre-parole eligibility to those being initially considered for parole should be removed. A similar recommendation was made by the Commission on Sentencing Practices and Procedures in 1985 and was incorporated into legislation which was introduced but did not pass during the 69th Legislature (H.B. 703).

The board should enter into a memorandum of understanding with the Texas Department of Mental Health and Mental Retardation to increase the availability of MHMR services to releasees.

As part of its efforts to help releasees reintegrate into society, the agency attempts to locate programs and services to meet the special needs of releasees. Using statistical data from its supervision files, the agency can identify the special needs of releasees. The most critical needs include employment services, mental health and mental retardation counseling, and drug and alcohol abuse treatment. The agency uses several methods to help releasees having these needs. Staff of the agency's community services division work to find local programs to which releasees can be referred. In the parole supervision division, parole officers also

work to find local services for releasees they supervise. In larger cities, specialized caseloads allow parole officers to concentrate on the special needs of releasees.

One other agency effort in the area of services for releasees has been the attempt to work with other state agencies to provide services. For example, the board has initiated a pilot project with the Texas Employment Commission to find employment for releasees in Houston and Dallas. In its first two months, ending December 31, 1985, the employment project has resulted in job referrals for 632 participating releasees. These referrals have led to job placement for 160 releasees.

In addition to the employment efforts, the agency has begun a project with the Texas Department of Mental Health and Mental Retardation (TDMHMR) and the Texas Department of Corrections to serve the special needs of mentally retarded offenders both in prison and under supervision in the community. One of the project's goals is to identify mentally retarded offenders in TDC before they become eligible for parole. Through a standardized diagnostic and evaluation procedure, the agencies will determine the offender's special needs and develop an individual program plan. The board will include this information in the parole selection process. In the past, these inmates have had difficulty making parole because they did not have release planning which specifically addressed their special needs.

Once these mentally retarded offenders are released, parole officers can help them with many of their needs through the use of specialized caseloads. However, parole officers are not service providers. When special services are needed, the parole officer refers the releasee to a community MHMR center where the needed services are provided. These services include: job placement assistance, vocational training and education; counseling; family services; medical care; housing; and drug and alcohol counseling. Increasing the availability of these services is another goal of the board's project with TDMHMR.

Providing assistance and services to mentally retarded offenders is just one area where a joint effort is needed between the board and TDMHMR. Although eligibility for mental health services is generally based on need, problems were identified with the availability in certain areas of the state of services to releasees with mental health problems. For example, releasees have had greater success at receiving services from the community MHMR center in Ft. Worth than at centers

in Dallas or Houston. Where problems with the availability services has occurred, three possible causes were identified:

1. the local orientation of MHMR centers may result in different levels of service for releasees in different parts of the state;
2. the restrictive requirement that define the populations that local MHMR centers may serve; and,
3. the lack of funding to provide needed services.

The board and TDMHMR need to work together to determine the cause of unequal provision of services around the state. Once the exact cause has been identified, the two agencies should strive to increase the overall availability of services. To accomplish this purpose, the board should develop a memorandum of understanding (MOU) with TDMHMR on improving the availability of services to releasees with mental health and mental retardation needs. The agencies have already recognized the shared responsibility for mentally retarded offenders and the MOU would ensure that efforts in this area are continued. In addition, the MOU would lead to improved services for offenders with mental health problems. Such an agreement would encourage a comprehensive approach to solving problems which overlap both agencies' areas of responsibility.

The board should ensure that adequate information is available to a halfway house before placement of a releasee in that facility.

The Adult Parole and Mandatory Supervision law authorizes the board to certify and contract with halfway houses to supervise releasees while helping them with the often difficult transition from prison back to the community. A halfway house does more than just provide the releasee with meals and a place to sleep. It provides releasees with programs and services to help address their special needs and problems. Examples include drug, alcohol and mental health counseling, training in social skills and help with employment. To do these things, however, a halfway house must first have adequate information on the releasee to determine what programs and services are needed by that releasee. Adequate information on releasees thus directly influences the effectiveness of a halfway house's programs.

The analysis of the halfway house program revealed that the sufficiency of information supplied by board on releasees is uneven at best. Over one-half of the halfway houses responding to a survey stated that information provided by the board was inadequate. Under normal circumstances, the board provides halfway houses with a parole summary prepared as part of the parole selection process. In

addition, it may provide pertinent medical and psychiatric records by getting an inmate to consent to release this information before halfway house placement. However, because of increased good times awards by TDC, more inmates are becoming eligible for mandatory release before a parole interview is conducted and before a parole summary is prepared. In these situations the board is often unable to compile information before the release is made. If the inmate released needs placement in a halfway house, the board may send that releasee to a house even though information on the releasee is not available to the halfway house. Problems can result when a halfway house receives a releasee on which it has no information. The halfway house may not be equipped to provide the releasee with needed programs and services. In cases involving an unknown mental or medical condition, the releasee might act in a way which disrupts the halfway house's programs and adversely affects the other releasees.

To enable a halfway house to better serve releasees under its care, the board should ensure that adequate information is available to the halfway house before placing a releasee in that facility. This information should include some indication of the nature and seriousness of the offense, criminal history and any relevant medical and psychiatric records. The review identified several ways that adequate information could be provided.

First, a recommendation discussed in the parole selection section of this report would provide for better release planning made possible by establishing a preliminary parole plan for qualified inmates. This would enable the board to compile information on a releasee long before his/her parole eligibility or mandatory release date, thus ensuring that adequate information is available on those inmates.

Second, the board should continue its efforts to identify inmates who are eligible for mandatory release upon arrival at TDC's diagnostic unit. Early identification of these inmates will reduce the number of instances where an inmate needs placement in a halfway house and is released before the board can develop needed information. Finally, the board should require an inmate to sign a waiver consenting to disclosure of his/her pertinent file information before being eligible to participate in a halfway house program. The board has a waiver document which is used although not in every release. Requiring a waiver in every case would allow the board to provide all necessary information to halfway houses to meet their legitimate needs.

Most information that the board has on an inmate is obtained from TDC files. Under no circumstances should information provided to the halfway houses be open to public inspection. By law, this is confidential information which is not subject to public disclosure.

The board should coordinate the development of a memorandum of understanding with other agencies involved in the licensure, certification, or inspection of halfway houses to reduce duplication of effort.

Halfway houses must be certified by the board before they are eligible to receive contract funds. To receive certification, halfway houses must comply with minimum program and physical plant standards adopted by the board. Board certification is valid for one year.

Results of the review indicated that there is some overlap and duplication among several state agencies in the certification of halfway houses. More than half of the respondents to a halfway house questionnaire indicated that they receive funds and are licensed, certified or inspected by more than one state agency. In addition to certification by the Board of Pardons and Paroles, fourteen halfway houses responding to the questionnaire were also certified by the Texas Rehabilitation Commission, seven were licensed by the Texas Commission on Alcohol and Drug Abuse, five received inspection from the Texas Adult Probation Commission and three received inspection from the Texas Department of Health. Each state agency has its own set of certification/licensure/inspection standards with which halfway houses must comply and each has separate timetables for compliance visits.

The review indicated that the overlap in the halfway house certification/licensure process not only places an administrative burden on the contracted facilities but also causes state agencies to waste time and money duplicating each other's efforts. The legislature recently addressed a similar licensure duplication issue. A 1985 amendment to Article 4437h, V.T.C.S. required the Texas Department of Human Resources, the Texas Department of Health, the Texas Department of Mental Health and Retardation, and the Texas Commission on Alcohol and Drug Abuse to develop and execute a memorandum of understanding (MOU) to reduce duplication of functions in certifying or licensing hospitals, nursing homes, or other health care facilities.

One way to address duplication of effort is to require all state agencies involved in the certification/licensure/inspection of halfway houses to jointly develop one set of standards. Although a coordinated effort in ensuring halfway houses comply with minimum standards would increase efficiency, the review indicated that the actual compilation of standards, particularly program standards, will most likely be difficult given the different statutory requirements and needs of the agencies involved. However, the potential reduction in duplication of any certification/licensure efforts resulting from an MOU would be worth any difficulty encountered. The review identified the following agencies currently certifying or inspecting halfway houses which should participate in the development and execution of the MOU: the Texas Board of Pardons and Paroles, the Texas Rehabilitation Commission, the Texas Commission on Alcohol and Drug Abuse, the Texas Department of Health, and the Texas Adult Probation Commission.

Compact Continuation

The State of Texas should continue participation in the Interstate Probation and Parole Compact.

The Interstate Probation and Parole Compact is a binding agreement among all 50 states and some provinces regarding supervision of probationers and parolees who want to live outside the state where they were sentenced or released. The annual compact dues for Texas are $200, which helps pay for support services at the central compact office in Lexington, Kentucky. The support staff maintains a current registry of state compact contact persons and notifies states of any new developments or changes to the compact.

Each state has a compact administrator who is responsible for overseeing the compact rules. The governor appoints the administrator for Texas who in turn appoints two deputy administrators, one for probation and one for parole. The executive director of the Texas Adult Probation Commission currently serves as the deputy compact administrator for probation and a senior parole analyst with the Board of Pardons and Paroles serves as the deputy compact administrator for parole.

Texas probationers and parolees who wish to move to another state must be transferred through the interstate compact. According to the rules outlined in the compact manual, with minor exceptions, no state should refuse to receive a

probationer or parolee for supervision who meets at least one of the following criteria:

- Probationer/parolee is a resident of the state he/she wishes to transfer to;
- Probationer/parolee can obtain employment there; and
- Circumstances exist in the state which appear to be beneficial in the rehabilitation of the individual.

The original purpose of the Interstate Probation and Parole Compact, established in 1935, was to discourage the practice of "sundown probation and parole." Before the compact existed, offenders were often released under the condition that they leave the state, never to return. No thought was given to supervision. Today, this situation has changed. Probationers and parolees may move to another state, but they must agree to abide by the rules of both the sending and receiving state. The receiving state is responsible for their supervision and the sending state retains the authority to revoke any offenders for violating the terms of their probation or parole.

The review of the compact showed that it is working as originally intended. Between June 1, 1984 and June 30, 1985, almost 78,000 offenders were transferred between all the states participating in the compact. Texas received 2,616 probationers and 1,006 parolees from other states and sent 4,085 probationers and 836 parolees to other states.

Under the rules of the Interstate Probation and Parole Compact, a state may withdraw its membership after six months notice has been given to other member states. However, without a compact, there would be no data base and tracking system to locate almost 9,000 offenders transferring into and out of the state annually. Furthermore, transfers would continue but without the coordination assistance provided by the compact. Under the Texas Sunset Act, statutory authority for Texas' participation in the compact expires September 1, 1987. To continue to receive the benefits afforded through the interstate compact, Texas should continue its participation in that compact.

ACROSS-THE-BOARD RECOMMENDATIONS

From its inception, the Sunset Commission has identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

TEXAS BOARD OF PARDONS AND PAROLES

Applied	Modified	Not Applied	Across-the-Board Recommendations
			A. GENERAL
		*	1. Require public membership on boards and commissions.
X			2. Require specific provisions relating to conflicts of interest.
X			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
X			5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute.
X			7. Require the board to establish skill-oriented career ladders.
X			8. Require a system of merit pay based on documented employee performance.
X			9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
	X		10. Provide for notification and information to the public concerning board activities.
		*	11. Place agency funds in the Treasury to ensure legislative review of agency expenditures through the appropriation process.
X			12. Require files to be maintained on complaints.
X			13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		*	14. (a) Authorize agencies to set fees. (b) Authorize agencies to set fees up to a certain limit.
X			15. Require development of an E.E.O. policy.
X			16. Require the agency to provide information on standards of conduct to board members and employees.
X			17. Provide for public testimony at agency meetings.
X			18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.

*Already in statute or required.

TEXAS BOARD OF PARDONS AND PAROLES
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			B. LICENSING
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity.
		X	(b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
		X	7. Authorize agencies to use a full range of penalties.
		X	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.

*Already in statute or required.

MINOR MODIFICATIONS OF AGENCY'S STATUTE

Discussions with agency personnel concerning the agency and its related statutes indicated a need to make minor statutory changes. The changes are non-substantive in nature and are made to clarify existing language or authority, to provide consistency among various provisions, or to remove out-dated references. The following material provides a description of the needed changes and the rationale for each.

"Clean-Up" of Article 42.18

CODE OF CRIMINAL PROCEDURE

WHAT IS NEEDED	REASON
1. Remove the words "probations and" and insert "on mandatory supervision" in Section 1.	To more accurately reflect the purpose of the law. The article no longer relates to probation since the probation and parole laws were separated.
2. Change the definition of parole in Section 2(a).	To clarify that parolees are under supervision of the board for the remainder of their sentences.
3. Modify the definition of parole officer in Section 2(c).	To reflect the current duties of parole officers.
4. Remove the definition of "division" in Section 2(e).	To remove unnecessary language.
5. Add language in Section 3(d) requiring the board to make recommendations to the governor on clemency matters.	To accurately reflect the role of the board and governor in the executive clemency process. The board makes recommendations to the governor who has final authority.
6. Add language in Section 8(e) requiring the board to gather all pertinent information on inmates "as soon as practical".	To reflect current board policy; however, a one-year time limit remains in the subsection.
7. Add requirement in Section 8(h)(1) for halfway houses to provide "treatment and assist in reintegration."	To more clearly define the role of halfway houses.
8. Eliminate Sections 8(i) and (j) relating to pilot projects for inmates 55 and over.	To remove outdated language no longer necessary.
9. Eliminate the portion of Section 8(l) which discusses the use of voluntary parole boards.	To remove outdated language.
10. Remove the reference to "approval of the governor" in Section 8(m).	To remove unnecessary language because the governor has been removed from the parole process.

11. Remove language in Sections 16 and 17 referring to the board issuing discharge certificates to releasees.	To remove unnecessary language since TDC issues the discharge certificates.
12. Move the language in Section 27 to Section 18.	To combine language which relates to the power of the governor.
13. Change the language on the experience requirements for parole officers in Section 21 to include "other related fields."	To allow the board to consider for employment persons with experience in related fields such as law and criminology.
14. Delete Section 23 relating to volunteer parole boards.	To remove unnecessary language because volunteer parole boards are no longer used.
15. Combine Sections 25 and Section 26.	To eliminate duplication because the sections are redundant.
16. Move Sections 15(f), 15(g)(2), 15(h), 21, and 22 to Article 42.18 from Article 42.12 of the Code which relates to Adult Probation.	To move provisions passed during the last legislative session which relate to parole. While the bills containing these provisions were being considered by the legislature, the adult probation and parole laws were separated and the new provisions were not transferred to the new article on parole.
17. Delete Sections 12(a) and 15(g)(1) relating to parole from Article 42.12 on probation.	To remove provisions that are already included in the parole law.
18. Change the location of the law on the Interstate Probation and Parole Compact from Article 42.18 to 42.19.	To eliminate the confusion caused by having the same statutory reference (42.18) for the compact law and the parole law.