

PAROLE IN SOUTH AFRICA

by

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"One cannot learn to live in freedom without experiencing freedom, and even the most open institution provides a restricted protected environment. The offender who is to succeed in becoming a law abiding and hopefully, contributing citizen, must do so in the outside community"

The Report of the Canadian Committee on
Corrections - 1969

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It is hereby declared that the opinions expressed and the conclusions drawn are those of the author and do not necessarily reflect in any way the views of the above mentioned persons or organisations.

R.R. GRASER

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A B S T R A C T

While imprisonment developed as a more humanitarian alternative to the brutal forms of punishments which prevailed throughout history, it became increasingly evident that it had dysfunctional consequences in respect of the ability of prisoners to achieve a socially acceptable adjustment after their release from incarceration. As a result, the practice of releasing prisoners conditionally, before their sentences had expired, gradually developed. The historical roots of this practice, which became known as 'parole' - from the French concept of 'parole d'honneur', meaning word of honour - lie mainly in the practice of releasing prisoners on ticket-of-leave, developed by Maconochie at the Norfolk Island penal colony, and in the more refined conditional release system introduced into Ireland by Crofton.

From the English-speaking world, the concept of parole soon spread to other countries in the Western World, and gradually became an important penological technique.

Although provision was made for the conditional release of prisoners in the South African Prisons and Reformatories Act of 1911, the formal and systematic application of parole only really started coming into its own in the early 1950's. With the increasing emphasis on rehabilitation in the Prison Service, came the appointment of growing numbers of social workers and psychologists in prisons. This, in turn led to the development of a more structured and formal parole system. Yet, considerable discontent grew, especially among the judiciary, in respect of the application

of parole. It was the large-scale release of short-term prisoners on so-called 'parole' virtually immediately after their admission to prison, which incensed particularly the magistrates. An attitude survey regarding parole among judges, magistrates, the categories of prison personnel mainly responsible for the treatment of prisoners, and NICRO social workers revealed considerable disenchantment with the way in which parole was applied. What was particularly significant was that a large number of magistrates regarded parole as representing interference with the judicial decision. Furthermore, it emerged that the majority of persons from all categories of respondents felt that parole supervision was inadequate.

A study of the nature and extent of parole supervision as conducted by the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO), as the only specialised private prison aftercare agency, revealed that such supervision is not of a sufficiently high standard. However, it emerged from a survey of the role of NICRO in the pre-release preparation of parolees that the organisation's involvement in such preparation was only marginal. This, it is felt, together with other factors over which NICRO had little or no control, play an important part in the inadequacy of parole supervision generally.

In order to gain a comparative perspective, the Canadian parole system was also studied. It emerged that, while the complex federal-provincial relations render the Canadian parole system somewhat cumbersome, it is generally a sophisticated system,

various aspects of which are worthy of emulation. This is particularly true of the variety of flexible conditional release procedures, and of the clearly structured and well administered parole system generally. However, the most valuable lesson that can be gleaned from the Canadian parole practice probably lies in the involvement of a variety of private citizens in the parole decision-making process.

A number of recommendations are made in respect of the possible improvement of the South African parole system. These concern the promulgation of a parole act and parole regulations, the establishment of a national parole board, selection of prisoners for conditional release, adequate pre-release preparation of prospective parolees, release of prisoners on parole, supervision of parolees, parole conditions, suspension and revocation of parole, professional staff, liaison between all those involved in the parole system, the immediate release of short-term prisoners, and mandatory supervision.

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CHAPTER I

THE PURPOSE, SCOPE, AND METHOD OF THE STUDY1. Introduction

For centuries the view prevailed that such forms of human behaviour as crime are an innate aspect of an individual's personality. However, with the growth of the social sciences came the insight that human behaviour is largely learnt behaviour and, therefore, it can be manipulated and changed. As a result the concept of rehabilitation or resocialisation, developed. It became accepted that, since criminality is something which a person learns in the process of socialisation, behaviour patterns can be changed through techniques of resocialisation. One of these his socialisation procedures which developed over the years, is that of parole. This penological procedure grew because of the realisation that, firstly, prisoners require assistance when released in, order to achieve a satisfactory adjustment in the community and, secondly that the community requires protection in the form of surveillance of released prisoners. However, the introduction of parole was followed by increasing discontent among a large number of persons, particularly among those concerned with the apprehension of criminals, and with their trial and punishment - namely among the police and the judiciary.

In view of the large-scale discontent with the application of

parole in South Africa, particularly among those who decide how convicted criminals should be punished - that is, among the judiciary - it was felt that there was a need for investigating the whole matter of parole in South Africa.

With many years of experience in the field of correctional social work, both in South Africa and in Canada, the researcher feels that he possesses the knowledge and experience necessary to conduct a study on parole. He was employed for five years by the John Howard Society of Quebec (Canada) as correctional social worker, which included parole supervision. Furthermore, he was employed by the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO) for eight years - the last seven as National Director. In this capacity, the researcher became aware of the fact that the parole system did not operate satisfactorily and that many judicial officers, particularly magistrates, were discontented with the operation of the parole system. In view of this, the researcher decided to conduct a study of attitudes towards parole, as well as of the operation of the parole system generally.

2. The purpose of the study

While the impression exists that many persons, particularly magistrates, who are responsible for adjudicating in the vast majority of criminal cases, a general impression is not sufficient in order to understand the problem, and to deal with it effectively.



The purpose of the present study, therefore, is to consider the whole matter of parole generally, and to investigate its operation in South Africa specifically. The researcher's aim is to gain an understanding of parole, as a penological measure, including its origin, development and present application. As part of this broader aim, the researcher will attempt to determine how the persons most closely concerned with the matter of parole in South Africa - that is, judicial officers, prison personnel, and professional personnel of NICRO - feel about the parole system in this country. The researcher also aims at determining how that system operates in practice, with particular emphasis on parole supervision.

Once information on the nature and operation of parole, with special reference to parole in South Africa, has been gained the researcher aims to consider ways in which parole in this country can be rendered more effective.

3. The Scope of the study

Parole is a wide field on which volumes have been written. In fact, a massive study has recently been conducted by the Institute of Criminology at the University of South Africa on the topic of parole selection alone. It would, therefore, be impossible to cover all aspects of parole exhaustively in one study. The researcher does not pretend to deal with all aspects of parole in detail. He will merely trace the origin and development of parole generally; discuss the nature and

objectives of parole; outline the historical development, legal provisions, administration and application of parole in South Africa; consider the attitudes and opinions of judicial officers, prison personnel, and NICRO personnel; and provide an outline of parole in Canada, pointing out implications for South Africa.

As there is only one specialised private correctional agency - the National Institute for Crime Prevention and Rehabilitation of Offenders - that provides parole supervision in a formal and systematic way, the researcher will limit himself to studying parole supervision as conducted by that organisation. While the researcher is aware that parole supervision is also conducted by some other private organisations and persons, he is omitting them from consideration, as their parole supervision is of a limited and occasional nature.

All the branch offices of NICRO across the Republic were included in the study, and the role of the Department of Prisons in the administration of parole was also dealt with.

This study also includes an outline of parole in Canada. That country was chosen, firstly, as it is known to have a well-developed parole system and, secondly, because the researcher has first-hand knowledge of the parole policy and practice in that country, having worked in Eastern Canada as a correctional social worker for five years.

Although the researcher first intended to conduct a comparative study of parole in a number of countries, he soon realised after having gathered some information on parole from several countries, that it would be a virtually unmanageable task. Furthermore, he felt that such a broad study was not necessary for his purposes. He therefore abandoned his intention to conduct a broad international survey.

This study includes, firstly, an empirical survey of parole preparation and supervision in respect of NICRO. The population of the survey consists of all the parolees of all the population groups at all the branches of NICRO, who were under the supervision of the organisation at the time of the survey. Secondly, the study includes a parole attitude survey among all the judges, magistrates, professional prison personnel, and professional staff of NICRO.

4. The method of the study

The main method used in this study is the descriptive method, including the descriptive survey method.

4.1 Literature study

The researcher commenced by conducting a literature study in order to determine the origin and development of parole generally, to obtain information on the nature and objectives of parole, and to gather information on the historical development of parole in South Africa, the legal provisions governing parole, and on the administration of parole in

this country. The literature consulted included such diverse sources as monographs on the subject of parole, general criminology and penology texts, criminology journals, annual statistical reports, information booklets and pamphlets, acts of parliament, hansard, and newspapers.

4.2 Structured questionnaires

In order to determine the role of the prisoners' aid agency in the preparation of prisoners for release on parole as well as the nature and extent of parole supervision by the prisoners' aid agency, two questionnaires (See Annexures 2 and 3) were drawn up and sent to all the NICRO branch offices, together with instructions. Both were structured questionnaires, which were sent to NICRO in November 1979 and July 1980 respectively, and were returned to the researcher within two months of the date of mailing. A third questionnaire was sent to NICRO branches in November 1981 in order to determine the status of parolees two years after the survey had been conducted. This last survey provided a longitudinal perspective to the study.

Prior to sending the three questionnaires to NICRO, the researcher conducted a survey on attitudes to parole among judges, magistrates, prison personnel and NICRO social workers. Questionnaires were mailed to all judges, magistrates, and NICRO branches, as well as to the Commissioner of Prisons, who distributed the questionnaires to all psychologists, social workers, social work case aids, educationists, prison

board members, and commanding officers in the Prison Service. Apart from the judges, 36 % of whom returned questionnaires, the response was quite high, with 100% of the NICRO social workers, 80% of the prison personnel, and 48% of the magistrates returning completed questionnaires. Considering the fact that the population of magistrates was 800, a response of 48% can be considered as satisfactory for the purpose of determining what attitudes to parole magistrates generally hold.

4.3 Sampling

The technique of simple random sampling was used in the two surveys in respect of the role of the prisoners' aid agency in the preparation of prisoners for release on parole, and on the matter of the nature and extent of parole supervision by the prisoners' aid agency. NICRO was requested to supply the researcher with the file numbers of all the parolees under its supervision at all the centres where it has branch offices, as at 9 November 1979. A sample of 148 was selected from the 722 file numbers, with the aid of lists of random numbers. The sample thus represented 20% of the total population of parolees under the supervision of NICRO, which can be regarded as representative.

The researcher bases his assumption in respect of the adequacy of the sample on the fact that, firstly, a sample of 20% is regarded as a good sampling fraction by most sampling standards and, secondly that, with a sample of more

than one hundred cases, the findings may be regarded as conforming to the theorem of central tendency. In addition, the fact that the technique of random sampling was used, renders the sample representative of the population.

As far as the parole attitude survey is concerned, the total populations of the target groups were studied. As the numbers of completed questionnaires were exceptionally high in respect of all groups except the judges, the validity of the findings can be regarded as being high.

4.4 Interviews and observations

Much of the information in this study was derived from personal observation and from interviews. During his employment with the John Howard Society of Quebec (Canada) and NICRO, the researcher gained considerable insight into parole generally, and into problems which are often experienced in the operation of the parole system.

As far as the present study is concerned, the researcher attended a meeting of the staff of the NICRO branch in Durban, interviewed the Branch Director and had correspondence and telephone conversations with the National Direction of NICRO.

During a visit to Canada in January and February of 1980, the researcher had the opportunity to meet with a number

of persons at various centres with the view of obtaining information on parole. These included a member of the National Parole Board; senior personnel of several regional offices of the Parole Service; staff members of the Department of the Solicitor General; the Directors of two John Howard Societies (in Winnipeg and Montreal), which conducts parole supervision as part of its work; and several judges, lawyers and criminologists in different cities.

4.5 Limitations

Two major problems confronted the researcher in conducting his study on parole. The first was that there is very little literature on parole in South Africa, and the second was that the researcher was unable to obtain information from the Department of Prisons in time for inclusion in this study.

As the Department of Prisons plays an important role in the operation of the parole system, the researcher attempted to obtain information from the Department on its role in the matter of parole. However, after he failed to receive a response to a letter and several telephone calls for several months. After having completed his study, the researcher finally received a brief note together with a few departmental journals. As a result, for information on the role of the Department of Prisons relative to parole, he had to rely, inter alia on study guides of the Department of Criminology of the University of South Africa

written by a senior staff member of the Department of Prisons about five years ago. The second major source of information on the role of the Department relative to parole is proceedings of a conference held by NICRO eleven years ago, in 1971.

In view of the above, the information presented by the researcher regarding the role of the Department of Prisons in the operation of the parole system may be outdated, incomplete, or not entirely accurate.

4.6 Major concepts

In writing this report, the researcher assumes that the readers - most of whom are likely to be social scientists - will generally understand the concepts that he uses, as they are part of the terminology employed by penology and social work. Furthermore, most of the concepts used in this report have either been clearly defined or their meaning is implicit in the context of the text. Nevertheless, a few of the major concepts will be briefly clarified below.

The concepts will be divided into three categories in terms of meaning and context : those related to parole; those related to prisons and imprisonment; and those related to prison aftercare.

4.6.1 Concepts related to parole

Parole is the early release of prisoners subject to specific conditions, and under the supervision of a

specified organisation or person in the community. The concept of *conditional release* is often used synonymously with that of parole. However, while parole is a form of conditional release, there are other forms of conditional release, including the various types of temporary absence, under which a prisoner is released for a specific purpose and for a specific period of time, after which he returns to prison.

Parole system. This concept comprises the structure of parole - that is, the legislation governing the release on parole, the bodies involved in the application of parole, namely, the Department of Prisons and the prison aftercare agency (mainly NICRO), as well as their operation.

Parolee. A prisoner released on parole, to serve the remainder of his sentence in the community under supervision, is known as a parolee.

Parole officer is the person responsible for supervising the parolee in the community. In South Africa he is usually a qualified social worker. In this report the concept of *parole supervisor* is usually employed, as the concept of parole officer is not used in the relevant legislation or in official documents, and as the former concept is more descriptive of the function of the person who supervises the parolee. The meaning of the two concepts is, however, identical.

4.6.2 Concepts related to prisons and imprisonment

Corrections is a concept commonly used in America and Canada, but not as yet well known in South Africa. It is the sum total of all the activities carried out with and on behalf of convicted criminal offenders, including probation, imprisonment, parole, prison aftercare, and all the programmes geared at punishing and rehabilitating offenders. The concept of corrections is closely related to that of penology, although the latter is a wider concept.

A *correctional social worker* is a qualified social worker who, as a full-time professional pursuit, is involved in various activities geared at assisting and treating prisoners - both in prison and in the community. In the South African context this includes social workers in the employ of the Department of Prisons and those in the services of NICRO.

Penal policy represents the guiding principles of the system of legal punishment. It refers to the philosophy in respect of punishment and treatment of criminal offenders generally.

Releasing authority is the agency that decides on release of prisoners - that is, who is to be released, and when and under what conditions he is to be released. In this study the concepts of *paroling authorities* and

parole decision-makers are used synonymously with that of releasing authority.

Canalisation, in the context of this parole study, is the process by which prisoners are referred to NICRO for supervision through the intermediary agency of the Department of Health and Welfare. In accordance with the agreement of co-operation between the Department of Prisons, the Department of Health and Welfare, and NICRO, the Department of Prisons refers prisoners who are to receive aftercare services, including parole supervision, to the Department of Health and Welfare which, in turn, refers the cases to the appropriate private welfare organisation, such as NICRO, for supervision and reconstruction services.

4.6.3 Concepts related to prison aftercare

Prisoners' aid agency refers to the private welfare organisation that specialises in rendering welfare services to released prisoners, including parolees, and their families. Used synonymously with this concept, is that of *prison aftercare agency*, and the concept of *private welfare organisation* (or agency), which is a wider one, encompassing all the various private agencies which render different types of welfare services. These may, or may not, include services to released prisoners.

Rehabilitation/resocialisation/reformation. The concepts are used interchangeably. As far as offenders are concerned, they refer to all efforts aimed at assisting prisoners and released prisoners to achieve an adjustment in the community which is consistent with the laws and norms of the community. Such an adjustment should satisfy both the offender concerned, and the community in which he lives. From the practical point of view rehabilitation means gaining a stake in the community in terms of satisfactory accommodation, employment and recreation, and in terms of the establishment of personally satisfying social relationships.

4.7 Division of the report

The report is divided into eight chapters, which will be briefly outlined below.

- 4.7.1 Chapter I, *The Purpose, Scope, and Method of Study*, comprises an introduction, which briefly orients the reader to the general problem area underlying parole, and states his competence for conducting the study; an outline of the purpose of the study; a discussion of the scope of the study, in which the field of the study is delineated; and an outline of the methods and techniques employed in obtaining information for the study.
- 4.7.2 Chapter II, *The Origin and Development of Parole*, traces the early antecedents of parole; considers the relevance

of transportation of convicts for the development of parole, with particular attention being paid to the 'ticket-of-leave' system instituted in the penal colony of Norfolk Island by Captain Alexander Maconochie. Next the Irish 'release on licence' system developed by Sir Walter Crofton, and the English 'ticket-of-leave' system are discussed. This is followed by a brief survey of the development of parole in the U.S.A. Finally, the role of prisoners' aid societies in the development of parole is considered.

- 4.7.3 Chapter III, *The Nature and Objectives of Parole*. In this chapter the researcher discusses the concept of parole itself, which includes the following aspects : the background to the concept of parole; confusion of parole with probation; the concept of parole as a misnomer; the legalistic versus the sociological approach; some approaches to defining parole; parole as amelioration of punishment; and parole as part of the punitive process. The objectives of parole are also considered in this chapter.
- 4.7.4 Chapter IV, *Background to Parole in South Africa* , consists firstly, of a historical survey of the development of parole in this country, including the penal policy at the Cape of Good Hope; the penal policy in the pre-Union era; the establishment of a unified penal policy after Union, with particular emphasis on the Prisons and Reformatories Act of 1911; the establishment of prison boards of visitors; farm labour and parole; the appointment

of probation officers and their supervision of conditionally released prisoners; the new emphasis on conditional release of prisoners during the early 1950's; and the establishment of a central prison board. This is followed by a discussion of the new Prisons Act (Act 8 of 1959) and its implications for the conditional release of prisoners.

In the second section of the Chapter, the legal provisions for the early conditional release of prisoners are dealt with.

The third section comprises a discussion of the administration of parole in South Africa. First, the role of the state, particularly the Department of Prisons, is dealt with. This includes a general outline of the nature and operation of the prison system, a discussion of the role of the Department of Prisons specifically, and of other state departments generally, in the administration of parole.

Secondly, the role of the private welfare organisation, particularly NICRO, in the parole system is dealt with. This includes a brief outline of the historical background to NICRO, its objects and functions, and of its organisational structure. Its two main activities - prisoners' aid and crime prevention - as well as its role in the parole system specifically are also dealt with.

4.7.5 Chapter V, *The Application of Parole in South Africa*, deals with the selection, preparation and release of prisoners on parole generally, and with parole selection, preparation and release as applied in South Africa. This includes a discussion of the effects of imprisonment on the offender generally.

The second section concerns the role of the prisoners' aid agency in the preparation of prisoners for release on parole, and the third section deals with parole supervision generally, as well as with the nature and extent of parole supervision as carried out by the prisoners' aid agency.

4.7.6 Chapter VI, *Attitudes and Opinions of Judicial Officers, Prison Personnel, and NICRO regarding parole in South Africa* is divided into two sections. The first deals with the attitudes of these persons towards parole, and the second deals with their opinions on parole.

4.7.7 Chapter VII, *Parole in Canada* contains a general outline of parole in that country, including its historical background; the legal basis for parole; the jurisdiction of the federal and provincial authorities respectively; the National Parole Board and provincial parole authorities; types of conditional release; procedures for granting and supervising parolees; and the extent and success of parole in Canada. Finally, the relevance of the Canadian parole system for South Africa is

considered.

- 4.7.8 Chapter VIII, *Main Findings and Recommendations* is the final chapter, which comprises a summary of the main findings of the study, as well as a number of recommendations for the possible improvement of the South African parole system.

C H A P T E R I I

THE ORIGIN AND DEVELOPMENT OF PAROLE1. Introduction

When one attempts to trace the historical roots of parole, it is difficult to find a specific source. In fact, it does not have a clearly identifiable beginning or a systematic development. Parole, as we know it today, is the result of various independent penal measures and developments. Among these are the conditional pardon, the policies of the nineteenth century Spanish and German prison administrators Montesinos and Obermeier, the transportation of criminals to the English penal colonies, the Irish ticket-of-leave system, and the work of the American prison reformers during the nineteenth century.

2. Early antecedents of parole

Even prior to the advent of punitive incarceration - that is, before imprisonment emerged as a form of punishment, not just as a means of temporary confinement - there were already instances of conditional release of offenders. Thus, as Korn and McCorkle point out, there are recorded instances of conditional release of prisoners of the inquisition.¹⁾ According to Burkhart,²⁾ in seventeenth

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1. Korn R.R. and McCorkle L.W., Criminology and Penology, Henry Holt and Co. Inc., New York, 1959, p. 608
 2. Burkhart W.R., "The great parole experiment", in Miller E.E. and Montilla M.R., Corrections in the community : Success in correctional reform, Reston Publishing Company Inc., Reston, Virginia, 1977

France galley convicts were discharged under the supervision of the police. He points out that Spain, France, and Germany were already experimenting with different forms of conditional release from penal institutions, prior to the advent of formal conditional release. Furthermore, the French had a long-standing military tradition of releasing prisoners of war who had given their word not to resume conflict with their captors. In fact, as was pointed out above, the modern term 'parole' had its origin in the French tradition of releasing a person after he had given his word of honor - his parole d' honneur.

A number of the fundamental characteristics and purposes of civilian parole were already embodied in the military application of parole. Korn and McCorkle list the following :

- "(1) release from captivity;
- (2) the promise by the prisoner that he would not again resume hostilities;
- (3) the return of the released soldier to his ordinary civilian pursuits; and
- (4) the threat of reprisal in the event that he resumed offensive action."³⁾

As early as 1788 Emperor Joseph II of Austria developed a system which bears some resemblance to parole. Prisoners

3. Korn R.R. and McCorkle L.W., op. cit., p. 608

who had behaved well and showed definite signs of reform could, after having served half of their sentences, be released from custody.

Another practice that probably had some influence on the development of parole, was the English practice of indenturing youthful offenders to employers, for whom they would work and who, in return, were responsible for supervising them. However, it soon came to the attention of the authorities that some employers exploited or mistreated juvenile offenders who had been indentured to them. In order to combat this abuse, 'visiting agents' were appointed. These 'agents', who were responsible for protecting indentured juvenile offenders against cruelties, anticipated the development of parole supervision. During the period of colonisation, this practice was extended to adult offenders who could gain their freedom after having worked as indentured labourers for a specific period.

Before considering the main events and contributions of persons that led to the development of parole as a penological measure, two pioneers in penology who rarely receive credit by commentators, deserve mention. They are Spanish prison administrator, Colonel Montesinos, and the German prison administrator Georg Obermeier. While both are really known for their pioneering work in emphasising trade training and constructive prison labour, they also believed in reduction of prison sentences as reward for good

behaviour. Colonel Montesinos, for instance, when appointed as governor of the Valencia prison in 1835, instituted a system of early release, whereby a prisoner's sentence could be reduced by one-third for good behaviour. However, as this experiment only lasted briefly, and as these two prison administrators did not appear to have had a great deal of influence, they are rarely credited with having had an influence on the development of parole generally.

3. Transportation to the American colonies : conditional pardons and indentured labour

At the beginning of the eighteenth century England went through adverse economic times, and experienced large scale unemployment. At the same time there was a shortage of labour in the American colonies. In order to solve these problems the British government decided on transporting convicts to America. Such convicts, if they were fit for employment, were granted reprieves by the Privy Council; upon which they were transported to America to be indentured to contractors. In this way an offender's status was changed from one of a convict to one of an indentured servant.

It soon became apparent that some form of control was required to render this system effective, as some convicts evaded transportation, and others returned to England after having been transported. In order to overcome this problem

specific restrictive (written) conditions were attached to the pardon. If the conditions were violated, the pardon could be revoked. The conditional element and the threat of sanctions, have a definite parallel in parole conditions and possible revocation upon violation of these conditions.

An example of such conditions are the following :

"He shall neither buy nor sell without his master's license. Taverns, inns or alehouses he shall not haunt. At cards or dice tables or any other unlawful game he shall not play. Matrimony he shall not contract nor from the service of his said master day or night absent himself but in all things as an honest faithful apprentice shall and will demean and behave himself toward said master all during said term."⁴⁾

The following extract from the general parole conditions laid down by the Canadian National Parole Board illustrate the resemblance between parole and conditional pardons :

"(1) To remain in the immediate designated area and not to leave this area without obtaining permission beforehand from the representative of the National Parole Board.

4. American Correctional Association, "Corrections M.D.T. Project", pp. 11-12

- (2) To endeavour to maintain steady employment and to report at once to the parole supervisor any change or termination of employment or any other change of circumstances such as accident or illness.
- (3) To obtain approval from the representative of the National Parole Board, through the parole supervisor before :
 - (a) purchasing of motor vehicle;
 - (b) incurring debts by borrowing money or instalment buying;
 - (c) assuming additional responsibilities, such as marrying;
 - (d) owning or carrying fire-arms or other weapons...⁵⁾

4. Transportation to Australia : the 'ticket-of-leave'

With the end of the Revolutionary War came the demise of transportation of convicts to America - which refused to accept them. This posed a problem to England, which suddenly had to find a solution to dealing with the criminals it would have previously shipped to America. To make things worse, there was a sudden increase in crime during the mid-eighteenth century. The solution to this problem was found in transporting the convicts to the recently colonised Australia.

5. National Parole Board Booklet : A Guide for Parole Supervisors, Department of the Solicitor General of Canada, pp. 9-10, undated

The first group of prisoners - 552 male and 190 female convicts - arrived there in 1788 - only eighteen years after the colony had been discovered by Captain James Cook, and the first penal colony was established. It was situated near Botany Bay and was named Sydney. A second one, known as Van Diemen's Land, which is now Tasmania, was then established. But the most well-known penal colony was Norfolk Island, situated between New Caledonia and New Zealand. Conditions were so poor in this penal colony, that Carney⁶⁾ regards Dante's hell-gate inscription as appropriate for the colony :

"Through me you pass into the city of woe : Through me you pass into eternal pain : All hope abandon ye who enter here."

Unlike the criminals who were transported to America, those who were shipped to Australia did not change their status from convicts into indentured servants. However, in 1790 the governor of Australia was given the power to discharge prisoners who behaved well and had a good work record from their bond of servitude. At first the pardon was absolute, but it was soon changed to a conditional pardon, known as the 'ticket-of-leave', under which the offender was allowed to seek employment in a specified area, and to get married.

6. Carney L.P., Probation and Parole : Legal and social dimensions, McGraw-Hill Book Co., New York, 1977, p. 135

In 1811 the 'ticket-of-leave' system was changed from a rather open-ended one to a more structured one. Before becoming eligible for a pardon, convicts now first had to serve a specified period of time in prison. Another decade later, in 1821, the system was further developed, by establishing a formal scale according to which a prisoner's discharge on pardon was determined. Thus, a person serving a seven-year sentence could be discharged on ticket-of-leave after having completed four years incarceration. In the event of fourteen-year sentence the prisoner became eligible after having served six-years, and if a prisoner had a sentence of life imprisonment, he could be released on ticket-of-leave after having served eight years.

Tappan,⁷⁾ points out correctly, I believe, that this innovation was clearly the forerunner of the American system of indefinite sentences, linked to parole.

If anybody can be regarded as the father of parole, it is probably Captain Alexander Machonochie (1787-1860), colonial secretary of Van Diemen's Land. In 1838 Machonochie published "Thoughts on Convict Management", a treatise on penal administration, in which he advocated that the length of time a person serves in prison, and the conditions of his servitude should be related to his behaviour. He

7. Tappan P.W., Crime, Justice and Correction, McGraw-Hill Book Co., New York, 1960, pp. 710-711

advocated a work system whereby each prisoner would start off his sentence with a number of marks, depending on the seriousness of his offence. Through good conduct and diligent labour he could redeem these marks and earn an early release from penal servitude. This, Maconochie felt, would act as an incentive for offenders to strive for their own improvement : "When a man keeps the key of his own prison, he is soon persuaded to fit it to the lock".⁸⁾ Two years after his book appeared, Maconochie was given the opportunity to apply his programme at the Norfolk Island Penal Colony, situated north of Australia. He introduced his mark system, whereby a prisoner's sentence could be reduced through good behaviour and hard work. This system involved two basic elements; a "mark" system, which has been mentioned above, and a five-stage system which progressively led to freedom. The five stages were :

1. Rigid discipline and absolute confinement
2. Work on government chain gangs
3. Limited freedom within a designated area
4. Ticket-of-leave (i.e. conditional freedom)
5. Complete and unconditional freedom⁹⁾

Unfortunately Machonochie was unable to implement his plan fully, both, because the prevailing judicial practice

8. Barnes H.E. and Teeters N.K., New Horizons in Criminology, 3rd ed., Prentice-Hall, Inc., Englewood Cliffs, N.J., 1959, p. 418

9. Carney L.P., op. cit., p. 136

of fixed sentences prevented the necessary flexibility, and because his superiors in England were not in favour of his penal philosophy and recalled him after only a brief period at the penal colony. Nevertheless, the progressive correctional philosophy led to the development of more rational penal methods in many Western countries.

5. Release on the licence : The Irish System

In 1854, ten years after Maconochie returned to England, another important figure emerged on the penological scene. As director of the Irish prison system, Sir Walter Crofton played a decisive role in the development of parole.

Building on Maconochie's work on progressive release, Crofton developed a more sophisticated and effective system of conditional release of prisoners. He overcame what was probably the main weakness of Maconochie's system, namely, the lack of supervision for released prisoners.

As Chairman of the board of directors of the Irish prison administration, Crofton set up the "progressive stage" system for discharging prisoners. This involved i.a. the intermediate prison, which served a transitional step between the regular prison and the free world. The different types of institutions; maximum security, medium security, minimum security, as well as pre-release centres - which characterise, for example, the Canadian correctional system - are probably related to the Irish system of graduated

release. By the same token, the indeterminate sentence of the United States is also directly related to the Irish policy of employing flexible sentences and releasing prisoners when they are "ready".

The major improvement of Crofton's system over that of Maconochie was probably the fact that the former involved strict supervision of the offender in the community while on 'ticket-of-leave'. It was mainly the absence of this that was responsible for the failure of Maconochie's ticket-of-leave system in Australia. Burkhart¹⁰⁾ describes the consequences of the absence of proper supervision over prisoners released on ticket-of-leave as follows :

"Many of the men on license roamed the country unfettered and living on crime; mustering was only casually if at all enforced; supervision was non-existent"

This system, which was known as the "Intermediate System" or the "Irish System", rested on the contention that offenders could be better reformed through working in the open community under normal conditions rather than stagnating in prison. Through this system a long-term prisoner could be transferred to an intermediate prison, also known as an 'associated prison' with conditions which were more amenable to his improvement, after having served part of his sentence. From here he could be released before

10. Burkhart W.R., op. cit., p. 238

expiry of his sentence under a conditional pardon, known as a 'ticket-of-leave', if he behaved himself well, and if he had an offer of employment. During the period that he was under 'ticket-of-leave', that is, until the uncompleted part of his sentence had expired, the released prisoner was under formal supervision. In the event of misbehaviour, the 'license' of a person who has been thus released could be cancelled, and he could be returned to prison to complete his sentence in custody. These elements of the Irish 'ticket-of-leave' system clearly make it the most direct ancestor of modern parole.

The employment of parole officers probably had its origin in the fact that Crofton involved members of the community in the supervision of prisoners released on 'ticket'. The first parole officer, in the sense that parole officers are known today, was James P. Organ, who bore the title Inspector of Released Prisoners. Beginning his professional duties in 1856 he regularly visited parolees at home, and found employment for many. He eventually had a caseload of 140 men, each of whom he visited every second week. Organ, who was active in Dublin county, outlined his work as follows :

"I drew out a map of the county of Dublin, dividing it into baronies, laying down upon this map the different post towns, also the mills and factories, and farms, showing the names of the proprietors, the nature of those works,

and so on. Having done this, I set out to see such and such employer. Sometimes I was scoffed at, and on more than one occasion the hall door was closed in my face. Still I perservered, and I was very well satisfied, if, after going a distance of 40 or 50 miles, I should meet with one employer who would give one of my Smithfield (one of the intermediate prisons) men a chance to work out his character once more."¹¹⁾

6. The English 'ticket-of-leave' experience

The English experience with the 'ticket-of-leave' system also played an important part in the development of modern parole, and warrants a brief description. The English Penal Servitude Act of 1853 substituted imprisonment for transportation and specified the minimum period of time prisoners had to serve in the penal institution before they became eligible for release on 'ticket-of-leave'. Convicts with sentences between seven and ten years had to serve at least four years but not more than six years in prison before they could be considered for release on 'ticket-of-leave'. Prisoners in the next category, that is, serving sentences of between ten and fifteen years were required to serve at least six, but not more than eight years. Those with sentences of more than fifteen years had to spend at lease six years, but not more than ten years in prison. This type of flexible sentence was the forerunner to the American 'intermediate' sentence, which

11. Carney L.P., op. cit., p. 139

will be discussed below.

The following conditions appeared on the 'licenses' of English prisoners released on 'ticket-of-leave' :

- "(1) The power of revoking or altering the license of a convict will most certainly be exercised in the case of misconduct.
- (2) If, therefore, he wishes to retain the privilege, which by his good behaviour under penal discipline he has obtained, he must prove by his subsequent conduct that he is really worthy of Her Majesty's clemency.
- (3) To produce a forfeiture of the license, it is by no means necessary that the holder should be convicted of a new offence. If he associates with notoriously bad characters, leads an idle or dissolute life, or has no visible means of obtaining an honest livelihood, etc., it will be assumed that he is about to relapse into crime, and he will be at once apprehended and recommitted to prison under his original sentence."¹²⁾

In spite of the fact that it had been realised that the Australian practice of releasing prisoners on 'ticket-on-leave' without further supervision, was a serious mistake, the same mistake was repeated in England. The conditions

12. Corrections Parole M.D.T. Project, p. 15

imposed upon prisoners on ticket-of-leave were not enforced, and the outbreak of serious crimes which occurred during the 1850's was attributed to the lack of supervision of released prisoners. The public became convinced that the 'ticket-of-leave' system was a failure and a menace to public safety. This crime wave, together with several riots that occurred in English prisons during 1862 led to the establishment of a Royal Commission to study the prison conditions and to make recommendations for remedies of the problems that existed in the prisons. The Commission, which criticized the prisons for not adequately preparing their inmates for release, and for not providing supervision in the community, recommended that the services of the police be used for supervision of prisoners released on 'ticket-of-leave.'

In 1864, two years after the prison riots and the appointment of the Commission, the Prisoners Aid Societies were established. Partially supported by the government, these societies were set up to provide assistance and supervision of prisoners released on 'ticket-of-leave.'

7. The development of parole in the U.S.A.

Penological thinking in America was greatly influenced by the pioneering work of Maconochie in Australia, but, to an even greater extent by Crofton's Irish 'ticket-of-leave' system. However, the visit to the U.S. in 1839 by the Scottish philosopher, George Combs, who expounded the ideas

of a sentencing board, the indeterminate sentence, and conditional release had already prepared the ground for the application of these concepts.

After visiting Ireland in 1863, Gaylord Hubbell, warden of the Sing Sing prison in the United States, recommended that the Irish system of graded institutions and intermediate sentences be adopted in New York State. Six years later this State passed legislation in terms of which a graded institution with provision for intermediate sentences was to be established. The first superintendent of this institution, Elmira Reformatory, was Zebulon Brockway, who was instrumental in drafting the indeterminate sentence law under which the reformatory functioned. It comprised the use of the indeterminate sentence, a system of grading inmates - which later became known as 'classification', compulsory education, and selection for conditional release. Volunteer citizens, known as 'guardians' provided the supervision in the community.

Elmira Reformatory was the forerunner for similar institutions for young offenders in other States and in England and Europe.

The penal system at the Elmira Reformatory which was opened in 1876, operated as follows : Inmates were divided into three grades. At the beginning of his sentence, a prisoner was placed in the second grade. Good behaviour during the

following six months, qualified him for promotion to the first category. After a further six-month period of good conduct he was entitled to release on parole. During the period of parole, which lasted for six months, the released prisoner remained under the jurisdiction of the reformatory.

According to Barnes and Teeters the ideals that resulted in the establishment of reformatories were never realised. They see the reason for this in the security orientation which continued to form the central part of the institutional setting, and express the view that, "whether in a prison for adults, a reformatory or even a cottage institution for juveniles, the factors and trends that explain the failure of the reform movement have almost invariably stemmed from the locking psychosis and its resulting regimentation. It is this fact that made it impossible to apply in practice the ideals of 1870 - even at Elmira.¹³⁾

While, as Barnes and Teeters point out, the reformatory movement failed because the reformatory became just a "junior prison", it did make a significant contribution to the development of parole, by introducing the intermediate sentence - usually known in America as the "indeterminate sentence". In this type of sentence, the court imposes the minimum and maximum limits of detention, but an administrative board, usually known as the parole board

13. Barnes and Teeters, op. cit., pp. 428-9

(in South Africa it is the release board) determines the exact time of release. In practice, the indeterminate sentence is usually associated with parole.

As increasing emphasis was placed on the rehabilitation ideal, the trend has been for the legislature to transfer to other agencies the authority to fix definite sentences within limits set by the legislature for each offence or class of offences.

The first National Prison Congress, which was held in Cincinnati in 1870, resulted in the establishment of the National Prison Association. This Association adopted a Declaration of Principles, which emphasised a philosophy of rehabilitation, as opposed to the existing one of retribution. It also outlined a system of progressive classification of prisoners, which was based on a mark system, and a system of indeterminate sentences, according to which an offender would be sent to prison for an unstipulated period - the time of his release depending on his readiness to return to society.

The first parole legislation affecting adult prisoners in the U.S. was passed in the state of Ohio, which was the first state to introduce release on parole into all its prisons. Other states followed its example, and in 1910 the federal prison system also introduced parole into its institutions.

By the middle of this century, all the states operated a parole system in their penal institutions. However, it was the state of California which experimented most with various approaches to the conditional release of prisoners, and where the most sophisticated parole system was developed.

8. The role of prisoners' aid societies in the development of parole

With the religious philosophy of identifying crime with sin and of saving lost souls, came the view that criminals can and should be rehabilitated. Mainly as the result of the reform efforts by the Quakers, the brutal and inhuman forms of corporal and capital punishment were substituted by punitive imprisonment around the turn of the eighteenth century. It was felt that criminals should be locked up in isolation so that they can meditate upon their sins. While offenders were confined in their prison cells, the Quakers would visit them. Although the aim of these visits was mainly to effect religious conversion, they resulted in general aid to prisoners and, eventually, in the establishment of voluntary philanthropic societies, which were devoted to the aftercare of released prisoners.

Probably the earliest properly organised prisoners' aid society was the Philadelphia Society for Alleviating the Misery of Public Prisoners, which was established in 1776. It later on became the Pennsylvania Prison Society, and is still active today. Other similar societies followed, such

as the Boston Prison Society, which was established in 1826, and the New York Prison Association, founded in 1845. In Ireland, the Prisoners' Aid Society was established in 1864, and took over the supervision of prisoners released on ticket-of-leave from the civilian inspector of prisons. Within a few years such societies were also established in England and, eventually, in other parts of the world.

The central function of prisoners' aid societies consisted of assistance to prisoners after their discharge from prison. This emphasis became part of the philosophy underlying the parole process in which it was combined with the element of control that went with the system of indenturing offenders.

During the latter part of the eighteenth century and the early part of the nineteenth century, philanthropic societies became increasingly vigorous in prisoners' aid work. Sutherland and Cressey¹⁴⁾ feel that it is probably as a result of their influence that in 1845 the state of Massachusetts appointed an agent for assisting discharged prisoners. His function consisted of assisting ex-prisoners to secure employment, obtain tools and clothing and to provide fares for transport to places of employment. This practice spread to other states and it soon became obvious to these agents that they would be able to perform their work more effectively if the state retained custody over

14. Sutherland E.H. and Cressey D.R., Criminology, 10th ed., J.B. Lippincott Co., New York, 1978, p. 636

prisoners for some time after their release. The New York state agent stressed this in his reports, and suggested that, when a prisoner was released early as part of his 'good-time' allowance, he should still be under custody of the institution until the end of his sentence.

Parole supervision and aftercare in respect of parolees arose from the practice of social work, and is closely linked to the historical development of professional social work.

9. Conclusion

From the above discussion it becomes clear that the modern concept of parole had a diverse parentage. It grew from a number of different sources, including the conditional pardon system applied in the American colonies, the ticket-of-leave system introduced into the Norfolk penal colony by Maconochie, the practice of releasing prisoners on licence developed by Crofton in Ireland, the English ticket-of-leave experience, and the establishment of prisoners aid societies.

It can, however, probably be assumed that the real foundation of parole, as it is known and practiced today, lies in the work of Machonochie and, more particularly, in Crofton's Irish system.

The development of parole in the various European countries was not dealt with, as these countries based their

parole systems on the British and American experiences. Therefore, parole can be seen as the contribution of the English-speaking world to penal reform.

Max Grünhut¹⁵⁾ provides a brief exposition of the development of parole in some European countries, pointing out that some only introduced a formal parole system during the early part of this century, e. g. Czechoslovakia in 1919, Austria in 1920, Italy in 1930, and Switzerland in 1937.

15. Grünhut M., Penal Reform : A comparative study, Patterson Smith, New Jersey, 1972, pp. 314-315

CHAPTER III

THE NATURE AND OBJECTIVES OF PAROLE1. Background to the concept of parole

The concept of parole comes from the French parole d'honneur, which means 'word of honor', and which originated from the French practice of releasing prisoners of war on their word of honour, not to resume hostilities against France. Today the conditionally released prisoner is still discharged upon his undertaking to make every effort to lead a law-abiding life. However, it is more a matter of a contract between the prison authorities and the prisoner, rather than merely the word of honour extracted from the prisoner. That is, the prison authorities - or another administrative body, such as a parole board - will release a prisoner before his sentence has expired, provided he undertakes to abide by certain conditions laid down by the paroling authorities.

2. Confusion of parole with probation

As the concept of 'parole' is often either confused with that of 'probation', or used interchangeably with it, it needs to be stressed that there is a fundamental difference between the two concepts; namely, while probation is a judicial function, parole is an administrative function.

In order to distinguish between these two concepts, which although differing in a fundamental way, nevertheless have a great deal in common, a concise definition of probation will be presented :

" 'Probation' is a procedure under which a defendant, found guilty of a crime upon verdict or plea, is released by the court, without imprisonment, subject to conditions imposed by the court and subject to the supervision of the probation service."¹⁾

Parole, on the other hand, involves serving a period of imprisonment prior to conditional discharge. While there are, therefore, distinct differences between the two concepts there are, on the other hand, fundamental similarities in their application, namely that both involve conditions and supervision in the community.

3. The term 'parole' is a misnomer

As to the concept 'parole', it is ironical that, while it has been generally adopted in the English-speaking world as referring to the conditional release of prisoners, the French employ the more appropriate term 'liberation conditionnelle' - i.e. conditional liberation. Today the word is somewhat of a misnomer. While it may have accurately reflected the

1. Standard Probation Act of 1955, Section 2, U.S.A.

philosophy underlying the early release of prisoners when Dr Samuel G. Howe first used it in 1846, in its modern application the practice of parole would be more appropriately described as 'conditional release' of prisoners - as will be evident from the definitions presented below.

4. The legalistic versus the sociological approach

There exists some disagreement among penologists as to the correct definition of parole - some advancing a legalistic definition which emphasises the legal aspects and the sanctions as central components of parole; others adopt a sociological approach in which parole is regarded as a technique to effect a positive social adjustment of persons who are in conflict with the behavioural norms of society.

The legalistic approach to parole is evident in the often quoted definition advanced in the American Attorney General's Survey of Reslease Procedures²⁾, which defines parole as :

"release of an offender from a penal or correctional institution, after he has served a portion of his sentence under the continued custody of the State and under conditions that permit his reincarceration in the event of misbehaviour."

2. Attorney General's Survey of Release Procedures, Vol. IV, U.S. Government Printing Office, 1939, p. 4

With the increasing emphasis on the rehabilitation ideal, the more sociologically oriented penologists objected to the legalistic definition of parole - their objection being reflected by Giardini's contention that such a definition fails to convey "the real meaning of parole as a service, the aim of which is to bring about a social readjustment in the life of an individual in conflict with society."³⁾

5. Some approaches to defining parole

F.G. Street, former Chairman of the National Parole Board of Canada, defined parole as "..... a means by which an inmate who gives definite indications of his intention to reform, can be released from an institution to serve the balance of his sentence at large in society. Upon his release he is under supervision, subject to restrictions and conditions designed for his welfare, and for the protection of society."⁴⁾ He also sees it as "a transitional step from close confinement in an institution to absolute freedom in society and..... an extension of the training programme in the institution."⁵⁾

The United Nations defines parole as being, in part, "..... a penological measure designed to facilitate the transition of the offender from the highly controlled life of the penal institution to the freedom of community living." It emphasizes

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3. Giardini, G.I., The Parole Process, Charles C. Thomas, Springfield, III, 1959, p. 263
 4. Street, T.G., "Parole as a Social Control", Canadian Journal of Corrections, January 1965, p. 5
 5. Street, T.G., "The National Parole Board", Canadian Journal of Corrections, July, 1965

however, that, "(i)t is not intended as a gesture of leniency or forgiveness."⁶⁾

According to J.A. Edmison parole "is simply the process by which a sentence imposed by the court is completed, not inside an institution, but in the community outside under supervision. Parole is not, therefore, clemency or leniency. It is a part of the correctional and reformatory process."⁷⁾

The Canadian National Parole Board explains parole to inmates of federal penal institutions as follows in its Handbook for Inmates (p.2):

"Parole is an early release from prison to help you get a new start. It means that you can finish your sentence living and working in the community.

You must be eligible for parole, and - most important - you have to be ready for parole. You must really want to help yourself. And you must be able to live and work in the community, while avoiding those things that got you into trouble in the first place.

Parole does not mean your sentence is shortened, nor does it mean that all you have to do is keep some rules, just so you don't go back in prison.

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6. McGrath, W.T., "What is Parole?", Canadian Journal of Criminology and Corrections, Vol. 14, No. 3, 1972, p. 241
 7. Edmison, J.A., "Parole Failures and Parole Successes," reprinted from Chitty's Law Journal, June, 1966

If you are granted parole you will have to accept certain conditions. However, you will also have help and guidance from a parole officer or someone chosen by the National Parole Board."

The Home Office Booklet, Parole : Your Questions Answered - a Guide for English Prisoners, defines parole as follows :

"Parole is a scheme for the release on licence of selected prisoners before they would normally be due for discharge. It provides an opportunity for those who do not have to be detained further in the public interest to resettle as law-abiding citizens and as ordinary members of the public before completing the whole of their sentence." (p.4)

Participants in a National Workshop for Correctional and Parole Administrators, held in New Orleans (U.S.A.) in 1972, defined parole as :

- "(1) a decision - by an authority constituted according to statute to determine the portion of the sentence which the inmate can complete outside of the institution, and
- (2) a status - the serving of the remainder of the sentence in the community, according to the rules and regulations set up by the Parole Board."⁸⁾

8. Parker, W., Parole, Corrections MDT Project, American Correctional Association, College Park Md., 1972, p.3

Some penologists see parole as representing a sentencing function. Thus, Norval Morris, during a visit to South Africa in 1975, told the present writer that, in his view, prison authorities are exercising a sentencing function when they release prisoners on parole. In his view, by releasing a prisoner prior to the end of the sentence imposed by the court, the paroling authorities are, in fact, substituting the sentence of the court with another sentence.

The present writer does not agree with this interpretation of parole which, he feels, reflects a misunderstanding of the purpose of parole. He is of the opinion that parole only affects the sentence of the court to the extent that it determines where the sentence, or part thereof, will be served. Parole does not represent a review of the sentence of the court, or a reduction thereof. Instead, it involves a continuation of the legal sanction - but in the community, subject to specific restrictive conditions and under surveillance, involving specific controls and restrictions. The following statement regarding parole, made by Korn and McCorkle⁹⁾, the writer feels, confirms his views regarding the nature of parole : ".....While on parole, the released prisoner remains in the custody and under the supervision of the paroling authority.At any point during this period (of parole), parole may be revoked for a violation of parole regulations and the violator returned to the institu-

9. Korn, R.R. and McCorkle, L.W., Criminology and Penology, Holt, Rinehart and Winston, New York, 1959, p. 606

tion to serve the remainder of his sentence in confinement."

Nevertheless, it must be admitted that, if parole does not function in such a way as to meet its basic objectives, namely the rehabilitation of offenders and protection of the community - that is, if supervision and control are inadequate, then one would have to agree with Norval Morris that, in practice, it does represent an interference with the decision of the court.

6. Parole as amelioration of punishment

When defining parole, it is also necessary to indicate what parole is not. In the public mind, in the mind of prisoners, and even in the mind of officials who apply it, parole is often seen as leniency, as clemency, or as a form of amnesty - that is, a reduction of the sentence because of good behaviour in prison, and because a prisoner no longer seems to be a threat to the community. In an official policy statement the Canadian Criminology and Corrections Association stated, inter alia, the following :

"..... it must be stressed that parole should function as a step in the correctional process intended to assist the rehabilitation of the individual offender, and not as amelioration of punishment. It is distinct in essence from mandatory release into the free community, whether under supervision or not This distinction has not always been maintained in the past. Parole often functions as

something akin to appeal of sentence or amnesty. The guidelines laid down by the National Parole Board to determine exceptions to the Regulations that specify when an inmate becomes eligible for parole constitutes a good example of the confusion that has arisen."¹⁰⁾

While the Canadian National Parole Board states that parole is not a sentence-correction device - ".....the Board views parole not as a modified form of punishment but as a vital factor in the rehabilitation of the offender,"¹¹⁾

W.T. McGrath, Executive Director of the Canadian Criminology and Corrections Association, (now known as the Canadian Association for the Prevention of Crime), feels that, in practice, parole has become largely a system of amelioration of punishment. To substantiate this, he refers to the guidelines mentioned in the previous paragraph. These read as follows :

"Preservation of Equity

- meritorious service of administration, during institutional riot, etc.
- sentence being served in default of payment of fine, where non-payment results from genuine financial hardship.
- time in custody prior to sentence.

10. An official policy statement of the Canadian Criminology and Corrections Association, "The Parole System in Canada," Canadian Journal of Criminology and Corrections, Vol. 15, No. 2, April 1973, p. 145

11. McGrath, W.T., "What is Parole", Canadian Journal of Criminology and Corrections, Vol. 14, No. 3, 1972, p. 241

- changes in the law following conviction.
- minimum mandatory sentences.
- administrative inequity (e.g. two equally culpable accomplices, different judges, different dates of sentence, different sentences).
- accomplice released by exception for any reason, but especially if relevant to present case also.
- to provide identical eligibility dates for accomplices in the light of information not available to the Court.
- extenuating circumstances in the offence.

Special representations from the judiciary, crown, prosecutor, etc.

- Judge advises that, upon reflection or in the light of new information, the sentence should have been shorter.
- Appeal Court dismisses appeal stating case should have early parole consideration.
- Crown Prosecutor advises of unusual co-operation by inmate during investigation, etc.
- Judge or Crown Prosecutor recommends early consideration because a more culpable accomplice was acquitted on a legal technicality."¹²⁾

McGrath feels that the responsibility placed on the National Parole Board to review all sentences of corporal punishment is further evidence that the function of parole is seen as

12. Op. cit., pp. 241-242

amelioration of punishment.

In the light of the above, it is understandable that many Canadian judges, particularly judges from the lower Criminal Bench, have reacted with hostility to parole. Claude Armand Sheppard, Member of the Bar in Montreal, Canada, stated the following in a paper read at the Fourth Research Conference on Delinquency and Criminology in Montreal (1964) :

"Some judges have reacted with surprising violence when faced with accused who are relapsing parolees. They have used these opportunities to accuse the Parole Board of 'undoing' their sentences and of sabotaging the courts in general by releasing prisoners long before the end of their total sentence."

In fact, a Canadian judge from the British Columbia Bench retired, in his words, "to be free to speak against the growing abuses of the parole system, which, I believe, are undermining law enforcement in Canada."¹³⁾ Former Judge Maurice Mulligan felt that, "members of the National Parole Board are releasing dangerous criminals who have served only small fractions of their sentences. They are doing so without consulting the police officers who made the arrests or the judges who heard the evidence, saw the victims, and observed

13. Mulligan, M., "Too many dangerous criminals are out on Parole", Weekend Magazine, 25 November, 1972, p. 8

the behaviour of the accused during their trials."¹⁴⁾

Referring to a case of a female prisoner who was granted parole, Mr Mulligan stated :

"Perhaps this woman did merit parole. But here was a case which surely was investigated by the police before a charge was laid. There was a trial in which the evidence was presented and a verdict of guilty was reached. Yet after an astonishingly brief interview, apparently without any check with the trial judge, two members of the parole board rendered their own verdict which was directly contrary to the considered judgement of a judge and a jury."¹⁵⁾

There have also been members of the South African judiciary who have expressed criticism of the ways many prisoners are released on parole, seeing it as a practice which interferes with the judicial function.

Discussing the matter of sentencing at a criminological symposium held in Johannesburg under the auspices of NICRO and the Law Faculty of the Witwatersrand University in May 1972, Mr Justice J.H. Steyn - as he was then- of the Cape Provincial Division of the Supreme Court of South Africa, said the following of the practice by which some prisoners are released within twenty-four hours of their imprisonment :

14. op. cit., p. 8

15. op. cit., p. 12

"It seems to me that it makes a mockery of our criminal justice system to run the gamut of arrest, detention, confrontation, determination of guilt and disposition and then to release the convicted before he has served any part of the imprisonment imposed."¹⁶⁾

On the same occasion, the Mr Justice V.G. Hiemstra then of the Transvaal Provincial Division of the Supreme Court of South Africa expressed the same sentiments.¹⁷⁾ More recently, at the time of the 1974 Annual General Meeting of the Bloemfontein Branch of the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO), Mr Justice J.N.C. de Villiers, then Judge President of the Orange Free State, referred to the statistical report of the Commissioner of Prisons for the period 1st July 1972 to 30th June 1973, which reported that :

"Of the 293 121 prisoners with sentences up to and including 4 months admitted during the year under review, 124 648 were released on parole. Although these are reflected in the statistics as admissions, the great majority were thus released within 24 hours after admission."

Judge de Villiers said i.a. the following about this practice :

16. Steyn, J.H., as quoted in *The Star*, Johannesburg, 11 May 1972, under the heading : "Releases a Mockery : Judges."

17. *Op. cit.*

"Surely this is a situation which cannot be countenanced with equanimity. What respect has an offender for the majesty of the law or the authority of the court, if he is released without serving the sentence imposed on him?"

7. Parole as part of the punitive process

A point of view on the nature of parole which appears to be diametrically opposed to that which regards parole as a system of amelioration of punishment, is the view that parole is part of the punitive process. In an article under the title "Is Parole Part of the Punitive Process?", W.S.G. writes that, while most penologists regard parole as a rehabilitative process, with treatment as its fundamental purpose, a number of restrictive conditions, which govern his daily life in a fundamental way, are generally imposed on the parolee.

According to W.S.G.;

"We are inclined to consider parole from our viewpoint. We give the prisoner his so-called freedom and in return expect (that) he should conduct himself far above the conduct of the average citizen.The parolee, when released, may may have the best of intentions, but finds he is burdened with many restrictions that make no sense to him. The result of too many restrictions is that he develops the attitude (that) he has not got his freedom and that parole is purely a punitive measure. In such a case rehabilitation is a complete failure. We must take a closer look at parole if we are going

to achieve our aim."¹⁸⁾

The evidence McGrath produces is however, sufficient to substantiate his contention that, in Canada at least, parole tends to function, to some extent, in amelioration of punishment. If one considers that, in South Africa, during the statistical year ending 30 June, 1980, the great majority of the 61 663 short-term prisoners (serving sentences of up to and including four months) who were released on parole, were released within twenty-four hours after admission,¹⁹⁾ this seems true, even to a greater extent in South Africa.

There is, at the same time, some truth in the contention that parole is partly punitive in nature. The extent to which it is punitive depends largely on the nature of restrictions which are imposed and on the extent to which they are enforced, that is, on the extent to which they govern a person's behaviour. This is coupled with the attitude and disposition of the supervisor. Another important consideration is the perception the parolee has of parole, particularly of the parole conditions. If he perceives them as limiting his own decision-making power and his self-determination, then, as far as this parolee is concerned, parole is part of the punitive process. In a parolee's

18. W.S.G., "Is Parole Part of the Punitive Process?", Canadian Journal of Corrections, Vol. 7, No. 1 (January 1965), pp. 29-30

19. Annual Report of the Director-general : Justice, for the period 1 July 1979 to 30 June 1980

own words :

"I have mixed emotions. I'm happy to be out, but I have a thing about being my own man. I realise it is necessary, but I do resent a parole officer telling me what I can do and what I cannot do."²⁰⁾

Conversely, if, being on parole has little restrictive effect on the person, that is, if there is little surveillance and control, and if parole conditions are not enforced, or are vague and meaningless, the parolee may see parole merely as an early release - as "getting off" leniently. In such a case, parole acts as an amelioration of punishment.. On the other hand, if the parolee feels that the restrictions associated with parole are benevolent in nature and are in his own interest, and that the aim of parole is to assist him in overcoming the problems that led to his incarceration, and in achieving a satisfactory adjustment in the law-abiding community, then parole does not act as a punitive process nor as an amelioration of punishment but rather as a socialising vehicle.

Basically the 'amelioration of punishment - part of the punitive process' controversy in the field of parole stems from the dichotomy between control and treatment which exists

20. Erickson, R.J., Paroled but not Free : Ex-offenders look at what they need to make it outside, Behavioural Publications, New York, 1973

within parole. Both concepts, control and treatment are fundamental aspects of parole, as is implicit in the definition of the American Correctional Association : "Parole is aimed at helping the parolee and supervising his adjustment to society, while at the same time protecting society."²¹⁾

The danger exists, therefore, that one or the other aspect may be overemphasised in a parole system. If a parole authority is mainly concerned with the protection of the community, it may be inclined to overemphasise surveillance, establish rigid parole conditions and demand absolute conformity to these conditions. Under such an approach, parole can be seen as part of the punitive process. If, on the other hand, the emphasis is almost entirely on rehabilitation, and the aspect of control is under-emphasised, parole may function as an amelioration of punishment.

8. The objectives of parole

The objectives of parole encompass those of punishment generally, with, however, the main emphasis on the objective of rehabilitation. This involves all efforts at assisting the offender to achieve as satisfactory an adjustment in the community as possible, subject to his potentialities and to the circumstances and resources in the community.

21. Parker, W., Parole, Corrections Parole MDT Project, American Correctional Association, College Park Md., 1972, p. 22

Related to the objective of rehabilitation, parole represents a way of minimising the negative effect of imprisonment on a person - particularly the young first offender. Some studies of the prison community (Clemmer, Sykes, Toch, Garabedian, Cressey, etc.)²²⁾ have indicated that the experience of imprisonment - particularly protracted incarceration - may result in a certain amount of damage to the prisoner's self-concept and to the integrity of his personality in general.

Marvin Wolfgang makes the following, in the writer's opinion very appropriate point in this regard :

"Life in prison is often marked by pathos, indignity, and a sense of grotesque impermeability of the condition of captivity Gresham Sykes, in a telling portrayal of

22. Clemmer, D., "Observations on Imprisonment as a Source of Criminality," Journal of Criminal Law and Criminology, 41(1950); Garabedian, P.G., "Social Roles and Processes of socialization in the prison community," Social Problems, 11(fall 1963); Cressey, D.R., ed., The Prison : Studies in Institutional Organization and Change, Holt, Rinehart and Winston, New York, 1961; Sykes, G.M., The Society of Captives : A study of a Maximum Security Prison, Princeton University Press, Princeton, 1958; Toch, H., Men in Crisis : Human Breakdown in Prison, Aldine, Chicago, 1975; Irwin, J., and Cressey, D.R., "Thieves, Convicts and the Inmate Culture," Social Problems 10(Fall 1962); Cloward, R.A. et. al., Theoretical Studies in the Social Organization of the prison, Social Science Research Council, New York, 1960; Clemmer, D.R., The Prison Community, Holt, Rinehart and Winston, New York, 1958

prison existence, has noted that the worst part of imprisonment is the loss of autonomy and the concomitant deprivation of so many things that allow a human being to esteem himself. In an important observation Sykes notes that for men the loss in prison of the opportunity for heterosexual contacts does not produce sexual frustration in any important sense; rather it is especially painful because it removes from the prisoners' world a token of worth and self-value. A woman who tells a man, I love you, tells him that he is, in another human being's sight, appealing and attractive - worthwhile. Presumably, he will attempt to behave in ways that will elicit further approval, and presumably such ways will generally be law-abiding. It is in this manner - by depriving inmates of a positive impetus toward goodness - that imprisonment is believed to fail most."

The words of an ex-prisoner, who had served fifteen years in penal institutions in California, illustrate the negative effects which imprisonment tends to have on the prisoner as follows :

"The person who goes to prison experiences ex-communication and is branded a felon. He experiences deprivation - loss of freedom, supportive relationships, heterosexual opportunity, personal property, licenses, credentials, his rights as a citizen. He experiences depersonalisation - is classified and considered as a number, a unit, an object, a thing. He is restricted as to time, place, movement and

behaviour. He experiences, in no small part, loss of control over his existence. He experiences the treadmill of prison life - the emptiness of the days and the loneliness of the nights. He experiences continually the threat of psychic and physically harm. Finally, he experiences, the longer he stays, the threat of psychosis.

These experiences typically do not rehabilitate him - they may induce him to agree to an unwritten contract to become more manageable, more controllable, more institutionalised. It seems certain they create in many feelings of dependence, inadequacy, unworthiness, guilt, self-hatred, insecurity, frustration, alienation, fear, apathy, rage and confusion. Too often prison experiences make a person afraid to trust himself and others and create in him a distorted picture of himself and the world."²³⁾

Incarceration of the married person prevents him from fulfilling his role as husband and father, and, therefore, it has a disruptive effect not only on the prisoner himself, but also, and often more profoundly, on his wife and children.

It is against this background that the value of parole - as discussed above - must be considered.

23) Connett, A.V., "Epilogue" in Erickson, R.J. et al., Paroled but not Free : Ex-offenders look at what they need to make it outside. Behavioural Publications, New York, 1973

Another purpose of parole, which is not often mentioned, but which is an important consideration, is relieving overcrowding in prisons. This consideration plays an important role in South Africa, where masses of short-term prisoners swell the prison population-were it not possible to release large numbers of these persons on 'parole'²⁴⁾ virtually immediately after reception, the prison administration would be unable, with their present resources to cope with the situation.

As has been pointed out above, penologists have often expressed the opinion that the experience of imprisonment, particularly a long period of imprisonment, has a destructive effect on the prisoner's ability to achieve a satisfactory adjustment in society after his discharge from prison. The purpose of parole is, therefore, often seen as bridging the gap between the artificial and highly structured existence in the prison community on the one hand and the complex, demanding and competitive existence in the open community. Furthermore, by allowing a prisoner to serve part of his sentence in the community, he is enabled to benefit from community resources, such as educational, cultural, welfare and treatment facilities. Furthermore, he can resume his family and community responsibilities. A

24) The practice of releasing large numbers of short-term prisoners mainly to farmers and other employers cannot be regarded as parole in the penological sense, as it generally does not involve proper selection, adequate pre-release preparation, formal supervision by a parole officer. This matter will be dealt with in more detail in chapter V. (For numbers of short-term prisoners, see table 44 on p.294).

gainfully employed parolee also relieves the State from having to support him - as it did when he was a prisoner and from having to support his dependants. Apart from ceasing to be a liability to the tax payer, he contributes to the economy of the country.

The assistance and guidance provided by the parole supervisor and other persons and organisations involved in his resocialisation is aimed at enhancing the parolee's prospects of a satisfactory personal and social adjustment in the community.

It is hoped that the possibility of being released on parole before the expiry of his sentence will encourage a prisoner to make positive efforts at improving himself during his incarceration, that is, improving his skills through education and training, and by striving to modify his attitudes and his patterns of behaviour, which caused him to land in prison.

Another important objective of parole is that of protection of the community. This involves establishing a parole structure which would ensure adequate surveillance and control of the parolee in order, as far as possible, to prevent him from engaging in further criminality.

While the element of retribution is usually not associated with parole, it would be incorrect to assume that parole contains no punitive elements at all. The very fact that

the prisoner is released under certain conditions, and that failure to abide by these conditions can result in the application of sanctions -ranging from a reprimand to re-imprisonment - is, in itself, a punitive measure. These conditions have a dual effect; that of limiting a parolee's freedom of movement and action, and secondly, forcing him to perform certain actions - which may be contrary to his own inclinations - such as, for instance, having to find and maintain steady employment, having to live at a specific address, and having to support his dependants.

These controls, limitations, coercive elements, and sanctions that are inherent in the parole conditions and their application, can be seen to a greater or lesser extent, as acting as deterrents to both, the parolee and to potential criminals. It would, however, be very difficult to test the operation of deterrence in a reliable manner. Nevertheless, for the purposes of this study, it will be assumed that deterrence plays some role - even if a minor role - in the operation of parole.

In conclusion of this discussion on the nature and objectives of parole, it must be pointed out that different penologists do not necessarily agree on the exact nature of parole, nor do they necessarily agree on the relative weight which is to be attached to the various objectives of parole.

From a parole attitude survey which the writer conducted in

1974-75 (see Chapter VII), it emerged that persons employed in the various branches of the criminal justice system often tend to have widely varying opinions on the nature and objectives of parole. There was, for instance, a significant variation between the attitudes of social workers and those of magistrates towards the nature of parole, the objectives of parole, and the effectiveness and value of parole.

Thus, while the vast majority of the social workers attached to NICRO (78,6%) and an even higher percentage of the prison social workers (82,2%) saw the main purpose of parole as being to assist discharged prisoners in achieving a more satisfactory adjustment in the community, only about a third (35,3%) of the magistrates shared that opinion. While only 2,4% of the NICRO social workers, and none of the prison social workers saw parole as being a form of leniency and clemency, 26,9% of the magistrates saw it in that light. By the same token, only 2,2% of the prison social workers and 7,1% of the NICRO social workers saw the effect of parole as being an interference with the judicial decision; yet 51,3% of the magistrates held that opinion.

As attitudes towards parole will be discussed in more detail in Chapter VII, these few examples suffice to demonstrate the variation in conceptions of the nature and objectives of parole.

9. Conclusion

Due to the varying views that exist on the nature and function of parole, it is difficult to provide a single, comprehensive and generally acceptable definition of parole. This difficulty is compounded by the dichotomy of treatment versus control that is fundamental to parole and which leads to the possible overemphasis of either of these elements. For functional purposes it is necessary, however, to establish a broad definition of parole. This definition should be regarded as an ideal type, ("Ideal Typus" - Max Weber). In considering the effectiveness of parole in South Africa, the following broad definition will be used as the standard.

Parole aims at assisting released prisoners in achieving a socially constructive adjustment in the community; thereby satisfying the social needs of both the offender and the community.

Parole is an early release of selected inmates from a penal institution, subject to specified conditions, and under the supervision and control of a specific organisation or person. A prisoner has to be eligible to be released on parole, that is, he has to comply with certain prerequisites. These generally include having to first serve a specified portion of the sentence in a penal institution, and manifesting a potential for

and a positive inclination towards rehabilitation.

To reiterate, in broad terms parole is a step in the correctional process intended to serve the dual purpose of rehabilitating the individual prisoner and protection of the community. It is a transitional step from the closed, monolithic and restrictive prison environment to the dynamic, complex and competitive open community. Parole, therefore, should not be seen as a single event, but rather as a series of interrelated events. It is a process which consists of five broad phases, namely, preparation, release, supervision and termination.

In functional terms, parole can be seen as a scheme as well as a status. It is a scheme which involves a decision by a statutorily constituted paroling authority regarding the portion of a prisoner's sentence which is to be served in the community, and regarding the conditions and supervision under which it is to be served. As regards the prisoner, it is a status, that is, it defines particular duties and responsibilities attached to parole, and sets limits to his behaviour. Being a conditional release, parole has the ultimate sanction of re-imprisonment attached to it for the violation of one or more of the prescribed conditions.

CHAPTER IV

BACKGROUND TO PAROLE IN SOUTH AFRICA

1. Historical development of parole in South Africa
- 1.1 Early penal policy, with particular reference to conditional release
- 1.1.1 Penal policy at the Cape of Good Hope

The early history of the South African prisons must be seen in the light of the penological scene which prevailed in those European countries which, through colonisation and settlement, profoundly influenced the development of criminal justice and prisons in this country. These countries are, particularly, Holland and England and, to a lesser extent, France.

The first permanent settlement at the southern tip of Africa was established by Jan van Riebeeck - on behalf of the Dutch East India Company - at the Cape of Good Hope in 1652. With him and with subsequent Dutch settlers came Western civilisation and, in particular, contemporary Dutch penal philosophy and practice. This penal philosophy, as that which prevailed in Europe generally, was characterised by brutality and inhumanity.

The first prison in South Africa was the "Dungeon", which was part of the Castle built by the early settlers to guard

themselves against attacks by the indiginous people. This prison was initially used to confine prisoners who were awaiting execution or corporal punishment, as well as debtors and those who were awaiting trial.

Venter¹⁾, who conducted a thorough study of the development of the South African prison system, mentions some of the cruel punitive measures in use during the early days of the Cape. These included torture to extract confessions, crucifixion and mutilation of slaves, breaking on the wheel, hanging in public, drowning, and strangulation, which was used until 1819. The way in which these forms of punishment were adminstered reflect the utmost brutality.

An early issue of the South African Law Journal²⁾ cites a number of examples of brutal punishments administered during the time of the first Dutch settlers. These include the following:

On 10th October 1652, Jan Blanc for attempting desertion, was sentenced to be keelhauled and to receive 150 lashes, and to work as a slave for two years in irons.

On 22nd March 1668, Michael Kirks, sailor, for drawing his

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1. Venter H.J., Die Geskiedenis van die Suid-Afrikaanse Gevangenisstelsel, 1652-1958, H.A.U.M., Pretoria, 1959
 2. South African Law Journal, Vol. XXV, 1908, pp. 261 at seq.

knife upon and wounding his officer, was sentenced to draw lots at the place of execution for death or life and according to the result to be hanged, or to be flogged, branded and placed in irons on Robben Island for 25 years.

From these examples, and from historical records generally, it is clear that the main - if not only - objectives of punishment at the early stages of South African history were those of retribution and deterrence. Again, this reflected the approach to punishment in contemporary Holland, England and France, as in Western countries generally.

This brutal penal philosophy persisted at the Cape for more than a century. But, by the time the British occupied the Cape for the first time - in 1795 - the penal philosophy in Europe and Britain had started taking a more humanitarian turn. During the brief period (8 years) of the first British occupation, certain cruel forms of punishment - such as breaking on the wheel - were discontinued. However, public executions were only abolished at the Cape Colony in 1869.

The second British occupation of the Cape brought with it further British legal influence. Nevertheless, while the British law of evidence and its procedural law clearly made itself felt, the Roman-Dutch law was never abolished, but became the basis for the South African legal system.

1.1.2 Penal policy in the pre-Union era

With the establishment of three new provinces in the interior - the South African Republic (Transvaal), the Orange Free State Republic, and Natal - came the development of three different penal systems, apart from that at the Cape Colony.

Venter³⁾ indicates that early signs of rehabilitation ideals are reflected by Ordinance 8 of 1843 of the Cape Colony, which authorises the erection of road camps. He shows that, apart from his other duties, the superintendent of the camp was expected to mix freely with the prisoners under his control, and in conversations with prisoners, "he will not fail to inculcate incidentally such truths and maxims as are most likely to contribute in each case to generate or arouse moral feeling, and leading to a right apprehension of guilt..."⁴⁾ He was to attempt to discover the reasons behind a person's criminality, in order that he may institute reformatory measures. Members of his staff were also cautioned against any action that could cause the prisoner's relapse into crime.

In 1849, Sir Harry Smith wrote that the old system had been substituted by one, "the object and effect of which have been to reform the criminal, so that he may be returned to the society from which he emerged, without danger to that society, or without being an object of scorn and dislike to those by

3. Venter H.J., op. cit., p. 54

4. Imperial Blue Books on South Africa (Cape), part V (Convicts), p. 74, as quoted by Venter H.J., op. cit. p. 54

whom he will be surrounded."⁵⁾

In 1906, a statute was passed in the Cape Colony, which provided for the conditional release of first offenders, but no provision was made for supervision.

Towards the end of the nineteenth and in the beginning of the twentieth century, the importance of rehabilitation of criminals received increasing recognition in the Colony of Natal. However, as Venter points out, because of the emphasis on punishment as a deterrent measure, together with the lack of scientific knowledge regarding crime causation and treatment of prisoners, as well as the lack of proper facilities in existing institutions, very little came of the idea of rehabilitation.

As, in his analysis of the early prison systems in the pre-Union colonies and republics, Venter makes no mention of the question of rehabilitation in relation to the system in the Republic of the Orange Free State, it can be assumed that that concept played no role there in the early days of its prison administration. The same can be said for the South African Republic (Transvaal).

1.1.3 The post-Union era : establishment of a unified penal policy

5. Ibid, pp. 54-55

1.1.3.1 The Prisons and Reformatories Act, No. 13 of 1911

On 31st May 1910, the four British colonies, the Cape Colony, Natal, Orange Free State, and Transvaal were united to form the Union of South Africa.

In order to create a uniform penal policy, the Prisons and Reformatories Act, No. 13 of 1911 was promulgated. This Act superceded all the existing penal legislation of the former colonies and established a uniform penal system for the whole country.

The philosophy underlying the Act is clearly reflected by a statement made by Mr J. de Villiers Roos in the Union Year Book for 1910 to 1916 :

"The guiding principles of the Union penal system are to rescue the child from criminal environment and prevent it from becoming a criminal; to build up and supplement in the criminal the elements necessary to prevent a recurrence of crime; and if all else fails, by means of the indeterminate sentence to remove the habitual criminal from society and prevent his remaining a menace to it; but even then to allow him an opportunity of self-redemption. It seeks to attain these objects through the instrumentality of Government industrial schools for waif and stray children, of reformatories for children who have committed crime, and of various penal institutions for adults, and by classification and division within such institutions. The factors making for

reformation operating in the prison are religious and moral influences, schooling, drill and discipline, the training of the hand and the eye, and sound literature. A simple system of marks records the progress or retrogression of the prisoner. The Prison Visitors' Boards, on which the judicial, the medical, and the prison administrations are represented in addition to the body of citizens, determine the period when the prisoner may with safety be allowed back into the ranks of society by keeping in constant touch with him personally and by following his conduct reports. They commend him when he improves and exhort him when he lapses. The South African Prisoners' Aid Association also keeps in touch particularly with the European prisoner, preserves the bond with his family, prepares the way for his return to society, and stands by him in the difficult days after his discharge from prison when, after long restraint, he regains his liberty. To make the release not too sudden the Prison Farm has been introduced, where gradually the prisoner gets back to the conditions of outside life. Among preventive influences there is the suspended sentence, and there is also the Probation Officer, who stands by the sentenced man and helps him to redeem the promises made by him to the Courts. Again as regards the Native the Road Camp has been created, so that for venial offences against the Pass Law, the Tax Law, or the Masters and Servants Law he goes direct from Court to camp and never actually enters a goal. Gradually the features and methods of penal systems of the past are being abandoned. Single cells are coming more and more to the fore. The detention of Europeans and Natives in the same wards is now forbidden.

The guarding of European prisoners by Coloured warders has now been discontinued. The indiscriminate locking up of witnesses for months in goal lest they might disappear is no longer resorted to. The practice of restraining lunatics in prison has been resolutely discountenanced, and under Section 14 of the Prisons Act lunatics now go to proper hospitals, while the pauper sick are dealt with similarly. The tread-mills and stocks of the old system have become a thing of the past. Night schools for adults, popular science books in place of unedifying literature, and an occasional lecture on an elevating subject have now found a permanent place in the prison system.

Profitless labour such as oakum picking is now unknown, and its place has been taken by creative arts and trades⁶⁾

The Union Department of Prisons came into existence under Section 3 of Act 13 of 1911. This heralded a new era in penal treatment in South Africa. Of particular importance for the purposes of this study are the provisions for conditional release of prisoners.

Section 88 of the Act empowered the Governor General to make regulations for the conditional release of prisoners. The section reads as follows :

6) Report of the Penal and Prison Reform Commission, U.G. 47-'47, Government Printer, Pretoria, 1947, p. 92

" (b) every convict or prisoner detained in any prison or goal with regard to whom a special report is required.

Upon receipt of any such report the Minister may make such recommendations to the Governor - General in regard to any convict or prisoner he may think fit.

The Governor-General may, if the recommendation be favourable in regard to any convict or prisoner, remit the remainder of his sentence or release him on probation for such period as he may determine or order him to be sent on probation to an institution mentioned in section fifty on such conditions as to supervision or otherwise as he may determine."

Furthermore, the Governor-General may "order the release, either immediately or on probation for such period and on such conditions as to supervision or otherwise as he may determine, of any convict or prisoner who is neither an habitual criminal nor a convict or prisoner referred to in the preceding section."⁸⁾

It would appear from the provision for regulations under Section 88 that the Act envisages the supervision of conditionally released prisoners to be performed by private prisoners' aid societies : "(m) for prisoners' aid associations and societies, and for the subsidizing of their

8. Ibid, Section 49, p. 444

work and the utilizing of their services in connection with prisoners discharged on probation⁹⁾

Section 51 of the Act makes provision for the arrest and recommittal of 'probationers' who violate their conditions of release. Furthermore, it determines that habitual criminals who successfully complete their period of 'probation', shall no longer be deemed to be habitual criminals.

Three Prison Boards of Visitors were established - one for the Cape Province (excluding Griekwaland West), one for the Transvaal, and one which covered the three areas of the Orange Free State, Natal and Griekwaland West. It was the duty of these Boards to determine at what stage of their incarceration prisoners with long-term determinate sentences as well as those with indeterminate sentences may be safely allowed back into the community by release on remission of sentence - which may be on 'probation', under supervision.

From the above quoted statement made by MR De Villiers Roos, first Union Secretary of Justice in 1916, it was envisaged that the Prison Board of Visitors would represent the judiciary, the medical profession, the prison administration and ordinary citizens. It is submitted that such a multidisciplinary representation on a parole board is still regarded as desirable in modern advanced parole systems, such as the Canadian system, which will be discussed in a later chapter.

9. Ibid, Section 88 (m), p. 474

The statement also envisages selection of prisoners for conditional release by the Prison Board of Visitors - clearly a forerunner of the modern parole board - and supervision in the community.

Each Board had its own chairman, and all operated independently of each other - each making recommendations for the early release of prisoners with determinate sentences. However, only the Transvaal Board dealt with indeterminate sentences, as, initially, all habitual criminals were detained in Transvaal prisons.

Supervision of conditionally released prisoners was exercised by probation officers or by welfare officers of the Prisoners' Aid Association (since 1935 known as the Social Services Association, and since 1970 as NICRO (the National Institute for Crime Prevention and Rehabilitation of Offenders)). However, in his Annual Report for 1952¹⁰⁾, the Director of Prisons indicated that the facilities for proper supervision were greatly inadequate owing to a lack of qualified staff. The same sentiment had already been expressed by the Lansdown Commission in 1947 - as will be indicated below.

The Director of Prisons described the intention of supervising conditionally discharged prisoners as follows :

10. Annual Report of the Director of Prisons for the Calendar years 1953 and 1954, U.G. 24/1955, Government Printer, Pretoria, 1955

"The Governor General may make regulations, not inconsistent with this Act, -

(a)s to the right to petition for and the procedure for obtaining mitigation, or remission of sentences or the conditional release of convicts or prisoners, as to the grant of remission of sentence in particular classes of cases "7)

1.1.3.2 Prison Boards of Visitors

Possibly one of the most important provisions of Act 13 of 1911 - in terms of the treatment and conditional release of prisoners - was the establishment of Boards of Visitors. The purpose of these Boards (established in terms of Section 48 of the Act) was " for the more effective treatment of convicts and prisoners and to obtain advice as to the conditions (if any) to be imposed in remitting portions of sentences

Each board of visitors shall, at lease once in every year, furnish to the Minister a report in writing containing detailed particulars relative to the history, conduct, and industry of -

(a) every convict detained in any convict prison on whom a sentence of over two years was imposed;

7. The Prisons and Reformatories Act, No. 13 of 1911, Section 88

- (b) every convict or prisoner detained in any prison or goal with regard to whom a special report is required.
3. Upon receipt of any such report the Minister may make such recommendations to the Governor-General in regard to any convict or prisoner he may think fit.
4. The Governor-General may, if the recommendation be favourable in regard to any convict or prisoner, remit the remainder of his sentence or release him on probation for such period as he may determine or order him to be sent on probation to an institution mentioned in section fifty on such conditions as to supervision or otherwise as he may determine."

Furthermore, the Governor-General may "order the release, either immediately or on probation for such period and on such conditions as to supervision or otherwise as he may determine, of any convict or prisoner who is neither an habitual criminal nor a convict or prisoner referred to in the preceding section."⁸⁾

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8. Ibid, Section 49, p. 444

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that the Prison Board of Visitors would represent the judiciary, the medical profession, the prison administration and ordinary citizens. It is submitted that such a multi-disciplinary representation on a parole board is still regarded as desirable in modern advanced parole systems, such as the Canadian system, which will be discussed in a later chapter.

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Supervision of conditionally released prisoners was exercised by probation officers or by welfare officers of the Prisoners' Aid Association (since 1935 known as the Social Services Association, and since 1970 as NICRO - the National Institute for Crime Prevention and Rehabilitation of Offenders). However, in his Annual Report for 1952,¹⁰⁾ the Director of Prisons indicated that the facilities for proper supervision were greatly inadequate owing to a lack of qualified staff. The same sentiment had already been expressed by the Lansdown Commission in 1947 - as will be indicated below.

10. Annual Report of the Director of Prisons for the Calendar Years 1953 and 1954, U.G. 24/1955, Government Printer, Pretoria, 1955

The Director of Prisons described the intention of supervising conditionally discharged prisoners as follows :

".... the authorities which will supervise the prisoner on his release should provide liaison with the prisoner's family during detention, prepare the way for his release and stand by him in the difficult days after his discharge from prison when, after long restraint, he regains his liberty. Too sudden a transition from the restraint of prison to complete liberty is dangerous and the Act is designed to provide means of making this transition gradual."¹¹⁾

However, as both the Director of Prisons, and some years earlier the Lansdown Commission had pointed out, supervision of conditionally released prisoners was very inadequate, if it existed at all. The reasons for this state of affairs as provided by the Lansdown commission, are mentioned further on.

1.1.3.3 Parole and farm labour

The meaning of the concept 'parole' was not clear, as it was confused with that of 'probation' - by referring to a system of conditional release of prisoners as 'probation'. The concept was further confused by applying it to a practice that could not be regarded as parole in the correct penological sense of the word. This practice - put into effect under section 93 of the Prison and Reformatories Act of 1911 - was to release large numbers of short-term prisoners into the care of employers - mainly

11. Annual Report of the Director of Prisons for the Calendar Year of 1952, U.G. 37/1953, p. 3

farmers. The purpose of this practice, according to the Viljoen Commission¹²⁾, was two-fold - to relieve the overcrowding of prisoners and to meet the need for manual labour on the part of farmers and other employers.

This system, which was initiated in 1931, provided for the hiring out as labourers of prisoners with sentences of up to one month to farmers and other employers. The fee for this service was 6 pence per prisoner per day, which went into the coffers of the state.

This system proved so successful - in terms of reducing the prison population and meeting farmers' need for cheap labour - that it was gradually extended to prisoners with sentences of up to three months.

In 1947, the Lansdown Commission¹³⁾ recommended that this system should be substituted by one in which the prisoners, not the state, would receive the money paid by employers. As a result a new system of releasing short-term prisoners "on parole" to employers was instituted in 1947. Under this system employers had to provide accommodation and food as well as medical services to prisoners released under their care. The fee of nine pence per day was saved up

12. Commission on Inquiry into the Penal System of the Republic of South Africa, Government Printer, R.P. 78/1976, pp. 148-150

13. Penal and Reform Commission Report, U.G. 47/1947, paragraphs 560-564, and 900-901, p. 82 and p. 132

for the prisoner by the prison authorities, and the full amount paid out to him on his day of final release.

Since the Viljoen Commission states that, "(t)he system was intended to be used only when there was an acute demand for labour,"¹⁴⁾ it must be assumed that the primary objective of this kind of "parole" was to meet the need of employers for cheap labour, and that the possible benefits for the prisoners involved was a secondary consideration.

1.1.3.4 Probation officers and supervision of conditionally released prisoners

In 1913 regulations were promulgated through Government Notice No. 527 of 1913 which made provisions, i.a., for supervision of conditionally released prisoners by probation officers. These regulations represent the first formal provision for the appointment of probation officers - who were also responsible for the supervision of conditionally released prisoners. In fact, initially the primary function of probation officers was to supervise such prisoners. Certain senior members of the police force were appointed as probation officers, and were responsible for supervision of prisoners who were thus released.

Prison Regulation 5 defined the functions of probation officers as follows :

14. op. cit., p. 149

"A probation officer shall obey all directions of the Minister of Justice, and shall -

- (a) watch over the person entrusted to his supervision or care and serve as his best friend;
- (b) ensure wherever possible the carrying out by the person concerned of the conditions of his release;
- (c) visit the person entrusted to his care at least once a month, and require such person to visit him at least once a fortnight, both in so far as may be practicable, and at all times be prepared to aid him with advice and sympathy;
- (d) immediately investigate any breach of conditions;
- (e) report to the Minister of Justice any serious breach of conditions;
- (f) furnish periodical reports as may be required by the Minister of Justice;
- (g) keep such records as may be directed by the Minister of Justice;
- (h) where practicable and advisable receive wages from employers on behalf of persons placed in their care, where such has been consented to in writing by the latter, and administer the same for the benefit of such person and his family."

The Lansdown Commission, however, points out that, "For while, to some small extent, probation officers' services have been available to some courts, the supervision of released prisoners has largely fallen into disuse. now

it forms a very small part, if any, of their activities."¹⁵⁾

As far as preparation in prison of prisoners for conditional release under supervision was concerned, the Commission had the following to say :

"At the end of a term of imprisonment, as witnesses who have experienced the situation have put it, a man is put out of the gate and he finds himself dazed in a big world with no prospects, nowhere to go, and little or no money. What is there for him to do? His occupation is gone, and good friends willing to accept and assist him are not to be found. He is forced by loneliness and want to seek the companionship of others who have been in prison or who are criminally minded and ready to accept him. After a fruitless search for work he commits another offence to obtain the means to exist, and finds himself back in prison almost with a sense of resignation."¹⁶⁾

As the researcher has quoted a number of passages from the Lansdown Commission's Report, a few comments will be made regarding the Commission .

Probably one of the most important events in the development of penal policy in South Africa, was the appointment of the

15. Report of Penal and Prison Reform Commission, op. cit., par. 1 078, p. 153

16. Ibid., p. 142

Penal and Prison Reform Commission in 1945. This commission - also known as the Lansdown Commission - after the Chairman, The Hon. Mr Justice C.W.H. Lansdown - had sixteen main areas of enquiry, which included enquiring into and reporting upon :

"The transition of prisoners from institutional to social life, including release on probation; and the appointment, functions and control of probation officers."

At the outset it must be pointed out that, in the context in which it is used, the concept probation is a misnomer, as it refers to the conditional release of prisoners, after having served a portion of their sentences in a penal institution. It does not, when used in connection with prisoners, refer to the penological measure which is a sentence by a criminal court.

In fact, the Lansdown Commission was aware of the misleading usage of the concept 'probation' and, in its Report, suggested that the term "release on parole" should be used to designate conditional release of prisoners.

Unfortunately, this suggestion was not put into effect, as, thirty years later the same confusion still existed. In its Report, the Commission of Inquiry into the Penal System of the Republic of South Africa refers to the confusion between the concepts of probation and parole :

"6.3.11. The term 'probation' implies that the prisoner

concerned is put on terms as to good behaviour. He is put to the test as it were. That is, however, what is done in practice in the Republic in the case of release on parole. The two terms are, as a result, extremely confusing

6.3.13. It is strongly felt by the Commission that either the term should be abandoned altogether for purposes of imposing a condition such as is contemplated under section 67(2), or the distinction should be made clear and the confusion removed between probation and parole by an appropriate amendment to the Prisons Act, 1959, or by way of regulation."¹⁷⁾

Regarding release of prisoners on parole, under supervision, the Lansdown Commission expressed itself as follows :

"In dealing with the need for probation officers to supervise the prisoner released conditionally from custody under probation (which for purposes of clarity it has been suggested should be renamed 'release on parole') much of what has been stated¹⁸⁾ applies with equal force. But the position is even worse here. For while to some small extent probation officers' services have been available to some courts, the supervision of released prisoners had largely fallen into disuse.

17. Commission of Inquiry into the Penal System of the Republic of South Africa, R.P. 78/1976, p. 147

18. The Commission had stated that inadequate probation services were available to the courts

Initially in 1913 this was the primary function of the probation officers, but now it forms a very small part, if any, of their activities."¹⁹⁾

1.1.3.5 A new emphasis on the conditional release of prisoners

From 1950 to 1953, the United Nations conducted a comparative study of parole²⁰⁾ in twelve selected countries, including South Africa. According to the report on this survey the situation in respect of parole in South Africa at that time - that is, during the early 1950's - was as follows :

Until 1952, the regulations promulgated under the Prisons and Reformatories Act No. 13 of 1911, governed the conditional release of prisoners. As from July 1952, however, the whole system of conditional release of prisoners was revised. Accordingly, only habitual criminals who were serving an indeterminate sentence were released on parole. Other prisoners were released unconditionally.

Venter²¹⁾ points out that round about 1953, a fundamental change took place in the South African prison system. He

19. Penal and Prison Reform Commission, op. cit., Section 1 078, p. 153

20. United Nations, Parole and Aftercare, United Nations Publication, ST/SOA/SD/4, New York, 1954

21. Venter H.J., op. cit., pp. 187-190

describes it as a radical diversion away from the traditional punitive policy, towards one of rehabilitation of prisoners.

As the main reasons for this he cites the following :

- (a) The determination of the, then, Minister of Justice, Adv. C.R. Swart, to tackle the crime problem in South Africa in a constructive way.
- (b) The growing social consciousness in South Africa of the social responsibility of the community in combatting crime.
- (c) The appointment of a Penal and Prison Reform Commission in 1945, which drew attention to the question of crime, the criminal, and the prisoner.
- (d) The establishment of a degree course in criminology at the University of Pretoria in 1949, which stimulated the Department of Prisons to develop a new approach.
- (e) The overseas visit of a senior prison official to study prison policy in other countries, as well as the increasing interest in international criminological conferences.

Judging by the Annual Report of the Director of Prisons for the period 1st January 1955 to 30th June 1956 (as quoted below), the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Geneva in 1955 appears to have had an important influence in the development of the new emphasis in South African penal policy.

The most important characteristics of the new approach which developed as a result of these factors were, according to Venter, the following :

- (a) A changeover from a punitive to rehabilitational policy.
- (b) Improvements in the prison administration. This included encouraging staff members to improve their professional qualifications. An important development was the reorganisation of the prison boards, to be presided over by a permanent chairman. The aim was to achieve a uniform policy in respect of, particularly, early release.
- (c) Decentralisation and differentiation of institutions, to facilitate individualisation of treatment.
- (d) A thorough scientific observation of prisoners in the observation centre. Thereafter classification by the selection boards and referral to the appropriate institutions.
- (e) Proper organisation and differentiation of prison labour, including the trade training of prisoners according to their aptitudes, and improved remuneration for work. Efforts were also made to place prisoners in appropriate employment upon release.
- (f) Providing prisoners with a properly balanced diet.
- (g) Improvement of medical services, and striving for the general development of the prisoner by means of educational talks.

- (h) Relaxing of discipline in some instances, and giving prisoners in certain institutions greater liberties and privileges. Furthermore, facilities for healthy recreational and sports facilities were extended.
- (i) The proper training of prison personnel. In 1955 the Department of Prisons made arrangements with the University of Pretoria for training of selected senior staff members in criminology, sociology and psychology.

This new approach of the Department of Prisons is reflected in its annual report of 1956, in which the Director of Prisons makes i.a. the following statement :

"4. It is of utmost importance to remember that in the final analysis of the modern conception of prison administration it is men, not buildings or systems, who are called upon to play the most important role in the rehabilitation of offenders.Modern trends in penitentiary treatment methods have long since abandoned the old idea that the duty of prison personnel were almost purely custodial, and prison staffs have accordingly become diversified as more complicated specialised functions, such as observation, classification, education, training, psychological and social assistance in the treatment of offenders are undertaken.....

5. Generally, the modern tendency is to regard prison personnel as members of an important social service rather than as guards, and this view is freely subscribed to in the Union of South Africa."²²⁾

While the above-quoted report of the Director of Prisons deals in great detail with the new emphasis on staff development and with prison labour, the matter of parole is neglected. In the detailed, impressive, forty-eight page report, there is no mention of parole, or of conditional release, at all. The nearest reference is a small table reflecting remissions, on page 47. Although the report states that :

"2. (t)he concept of the original Prisons and Reformatories Act (No. 13 of 1911), was a complete one of prevention, reformation and rehabilitation for the potential offender...."²³⁾, it appears that, what is probably the most crucial phase in the prisoner's successful adjustment to society, namely the initial period following his release, is ignored. From the omission of a discussion on parole, and from the statement that, ".....the problem of delinquency in all its stages was one and undivided and it was evidently thought at that time that it was one which should be handled in its entirety

22. Annual Report of the Director of Prisons for the period 1st January 1955, to 30 June 1955 (U.G. No. 56, 1956)
The Government Printer, Pretoria, p. 7

23. Ibid.

by one Department,"²⁴⁾ it could be assumed that conditional release and aftercare of prisoners was not regarded as being very important by the Department of Prisons in 1956. At any rate, the report reflects no efforts by the Department in this regard. All the emphasis was on the most effective treatment of prisoners during their incarceration, especially concerning labour and trade training.

It must be kept in mind, as has been pointed out above, that the Prisons and Reformatories Act (no. 13 of 1911), under which the Department of Prisons functioned until 1959 when the new Prisons Act (Act No. 8 of 1959) came into effect, makes definite provision for the conditional release of prisoners.

1.1.3.6 Central Prison Board

In 1953 the function of the chairman of the three Prison Boards of Visitors was changed, in that a Central Prison Board was established at the Head Office of the Department in Pretoria, and a Chairman was appointed. The Principal Magistrate of Pretoria was appointed as the first permanent Chairman of this Central Prison Board, with the functions, "to co-ordinate the activities of the three Prison Boards and to preside at all board meetings with the object of achieving uniformity in board procedures and making recommendations to the Minister of Justice for remission of sentences

24. Ibid.

in cases of prisoners serving terms of imprisonment of more than two years."²⁵⁾

It is clear, then, that the motivating factor behind the centralisation of the control regarding conditional release of prisoners, was to avoid the development of diverse standards and policies in the various regions in respect of, mainly, conditional release of prisoners. From this change in procedure, it can be deduced that the existence of diverse standards and policies in the various regions did, indeed, present a problem to the Department. With the appointment of a permanent chairman of the Central Prison Board at Head Office, it was hoped that uniform board procedures and recommendations would be achieved.

1.2 The New Prisons Act, (Act 8 of 1959)

1.2.1 The need for new penal legislation

The Lansdown Commission pointed out that, although Act No. 13 of 1911 "was far-seeing in its provision", and contained within it "the germs of many of the reforms now advocated, the spirit underlying the act has not adequately been applied." As the main reasons for this, the Commission mentions "(l)ack of funds for new buildings and staff, with resultant serious overcrowding of penal institutions, (which) has led, of necessity, to stereotyped methods

25. Annual Report of the Director of Prisons for the Calendar Years, 1953 and 1954, U.G. 24/1955

and mechanical routine. Militarization and restraint, while essential to some degree, have been permitted to submerge the far-seeing objects of the measure."

The Commission also mentions that retarding effect on progress of the 1914-18 war and of the subsequent depression, and "the need to effect compromises and economies, have resulted over the years in a gradual whittling away of many of the means designed for use, to a large extent the whole underlying intention of the legislation was gradually submerged by these unavoidable difficulties." It concluded that, therefore, "(p)enal institutions have tended to become places for punishment with insufficient emphasis on the need for reformatory treatment."²⁶⁾

Act No. 8 of 1959, therefore, was promulgated in order to keep pace with new developments in penology. It embodied the United Nations' Standard Minimum Rules for the Treatment of Prisoners (Fourth United Nations Congress on Prevention of Crime and Treatment of Offenders - 1955, revised 1970).

1.2.2 The Department of Prisons; a new approach in penal treatment

In terms of Section 2 (2) of the new Act, the functions and duties of the Department of Prisons are :

26. Report of the Penal and Prison Reform Commission, op. cit., p. 92

- "(a) To ensure that any prisoner lawfully in any prison be kept therein in safe custody until lawfully discharged or removed therefrom;
- (b) As far as practicable, to apply such treatment to convicted prisoners as may lead to their reformation and rehabilitation and to train them in habits of industry and labour;
- (c) The performance of all work necessary for, arising from, or incidental to, the effective administration of prisons; and
- (d) To perform such other duties as the Minister may from time to time assign to the Department."

The Commissioner of Prisons at the time the new prison legislation was promulgated, Mr V R Verster, in his Report for the four years ended 30 June 1962²⁷⁾ pointed out that the new Act, which came into effect in September 1959, did not really herald the birth of a new line of thought, but it merely put into effect the new philosophy which had already taken root in the Department of Prisons during the preceding seven or eight years.

The Lansdown Commission had already summarised the new penal philosophy as follows :

27. Report for the Four Years ended 30 June 1962, by the Commissioner of Prisons, R.P. 24/1963, Government Printer, Pretoria, 1963

"Reformation and deterrence are the real purposes of prison life. The obloquy incurred by conviction and the deprivation of liberty constitute in the main the punishment of the offender. That punishment must not consist of anything in the way of ill-treatment or degradation during his imprisonment; and while prisons and goals must not be made places of such pleasant residence as would detract from the purpose of punishment, it is no part of prison life to degrade the prisoner or shatter his self-respect. On the contrary, by wholesome and increased activity of the mind and body and by the creation of habits of sustained industry, his self-respect must be built up or restored, and he should receive such training as will enable him upon his release, to take his place in ordered society and to earn his livelihood and maintain his dependants; a sense of personal responsibility should be included, and he should be given such occupation and interest as will prevent a morbid and subjective habit of mind."²⁸⁾

However, the promulgation of the Act facilitated the practical application of the new approach in the Department.

For many years, until 1952, the Department of Prisons was a subsidiary department under the control of the Department of Justice, with the Secretary for Justice being head of the prison administration.

28. Ibid., p. 98

In response to requests by the prison administration, the Department of Prisons became an independent department in 1937. Nevertheless, it remained subordinate to the Department of Justice. In fact, from 1940 until 1952, the Secretary of Justice was again also head of the prison service. But in 1952 the Department gained the status of a fully independent department of state, with its own Director.

The new Prisons Act, made provision for diversified treatment to meet the needs of the various categories of offenders. It provided for, i.a. institutions for adults, for juvenile and young adult prisoners, for convicted and unconvicted prisoners, and for institutions to serve as observation centres :

"For determining the age, health, mental condition, character traits, social background, previous conduct, ability to work, aptitude and training for selected prisoners with a view to their classification and training," and for institutions, "of such other types as he may from time to time deem necessary to establish in pursuance of any scheme for the reformation and rehabilitation of persons convicted of any offence and sentenced to any period of imprisonment or detention."²⁹⁾

29. Act to Consolidate and Amend the Laws Relating to Prisons (Act No. 8, 1959), Section 20(1) (a) to (f), p. 14

A significant feature of the new Prisons Act, No. 8 of 1959, in distinction with the old Act (No. 13 of 1911) is rehabilitation and conditional release of prisoners. The most important aspect of the new Act, for the purpose of our discussion, is Chapter VI, entitled "Functions and Duties of Prison Boards and Release of Prisoners." This Chapter deals with functions and duties of prison boards and with releases of prisoners and remissions of sentence. The former will be discussed under paragraph 1.2.4, and the latter under section 2, which deals with the early release of various categories of prisoners, and with the various types of early release.

1.2.3 Prescribed sentences

The institution of prescribed sentences for certain offences has directly affected the policy and operation of the Department of Prisons. It has, for instance, meant that more prisoners had to be detained for longer periods of time.

These sentences are imprisonment for corrective training, imprisonment for the prevention of crime and the indeterminate sentence.

In terms of Section 39(b) of the Prisons Act, a prisoner sentenced to a period of corrective training has to serve at least two years, but not more than four years in prison before a prison board can recommend release on probation or parole. (The difference between these two penological

techniques will be outlined under section 2.3,1 below).

Section 39(c) determines that offenders serving imprisonment for the prevention of crime, shall be detained in prison for a period of at least five years, but not exceeding eight years. After five years a prison board can recommend his conditional release to the Minister of Justice, with whom the final decision rests.

Prisoners who have been declared habitual criminals, and who are serving an indeterminate sentence, shall, in terms of Section 38 of the Act, be detained for a period of at least nine years. Section 66(1) determines that such a person can only be released from prison once "a prison Board has reported to the Commissioner -

- (a) that there is a reasonable probability that the habitual criminal will in future abstain from crime and lead a useful and industrious life;
- (b) that he is no longer capable of engaging in crime; or
- (c) that for any other reason it is desirable to release him."

Once the Commission has received such a report (containing a recommendation for a prisoners release), he submits it to the Minister of Justice, who may authorise a prisoner's release on parole, or who may refer the case to the State President, who in turn, may authorise the prisoners' release either unconditionally or on probation or on parole.

1.2.4 Prison Boards

The Prison Boards superceded the Boards of Control under Act 13 of 1911.

In terms of Section 5(1) of the new Act, the Minister of Justice was authorised to appoint one or more prison boards. In persuance of this section, five prison boards were appointed : one for the Transvaal, one for Natal, one for the Orange Free State, and two for the Cape Province. Each board consisted of an equal number of official members and commissioned officers, and as many non-official members as the Minister may deem fit to appoint. The latter were to be appointed in such a way as to represent a cross-section of the community.

The Prisons Act (No. 8 of 1959) describes the functions and duties of prison boards as follows :

- "01. A prison board shall at such times and intervals (which intervals shall not be longer than one year) as may be determined by the Commissioner or when otherwise required by the Commissioner to do so -
- (a) submit reports in the prescribed form to the Commissioner on, inter alia, the conduct, training aptitude and industry of every prisoner who is detained in any prison situated within the area for which the prison board has been appointed and -

- (i) upon whom a sentence of imprisonment for corrective training has been imposed;
 - (ii) upon whom a sentence of imprisonment for the prevention of crime has been imposed;
 - (iii) upon whom a sentence of imprisonment of two years or more has been imposed;
 - (iv) upon whom a life sentence has been imposed;
 - (v) who has been declared to be an idle person in terms of the Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);
 - (vi) who has been declared an habitual criminal;
or
 - (vii) with regard to whom a special report is required by the Commissioner
- (b) make recommendations as to -
- (i) the training and treatment to be applied to any prisoner referred to in paragraph (a);
 - (ii) the release of any prisoner referred to in paragraph (a);
 - (iii) the period and conditions for or upon which any prisoner referred to in paragraph (a) may be released on probation;
 - (iv) the period, supervision and conditions for, under or upon which any prisoner referred to in paragraph (a) may be released on parole;

- (v) the remission of portion of the sentence imposed upon any prisoner referred to in sub-paragraph (iii) of paragraph (a); and
 - (vi) any matter affecting any prisoner with regard to whom a special report is required in terms of sub-paragraph (Vii) of paragraph (a); and
- (c) perform such other functions and duties as may be prescribed by regulation."

According to the Prison Regulations,³⁰⁾

"(2) A prison board shall, as soon as possible after the reception of a sentenced prisoner interview such prisoner for the purpose of -

- (a) admonishing him to be of good behaviour;
- (b) enlightening him in regard to the implications of his sentence, programme of discipline, treatment and training, and of enlisting his co-operation in the implementation thereof;
- (c) making personal contact with him, and of submitting a recommendation to the Commissioner in regard to

30. Consolidated Prison Regulations, made in terms of Section 94 of the Prisons Act, 1959 (Act 8 of 1959), as amended, Promulgated under Government Notice R-2080 of 31 December 1965, Government Printer, Pretoria, Regulation 127(2), pp. 119-123

suitable classification, safe custody, treatment and training; and

- (d) giving advice and guidance on any personal or special matter raised by such prisoner."

Regulation 129(1) determines that prison boards shall submit a report and recommendations at least once a year in respect of all prisoners mentioned in Regulation 127(2) above. Such reports shall, in addition to information and comments on any other relevant personal factor, assess a prisoner's adjustment to institutional treatment and to his fellow prisoners; co-operation and progress in training; and his conduct and possible rehabilitation.

Subsection (2) determines that prison boards are to maintain regular contact with the categories of prisoners referred to above, and shall, "as often as necessary, submit a report and recommendations to the Commissioner in respect of such prisoner in regard to :

- (a) his reclassification or a change of training, treatment and institution; or
- (b) his release, when qualified therefore, and the form and conditions thereof; or
- (c) the period and conditions of probation, if such form of release is recommended; or
- (d) the period, supervision and conditions of parole, if such form of release is recommended."³¹⁾

31. Ibid., p. 121

2. Legal provisions for the early release of prisoners

2.1 Introduction

In the foregoing discussion of the historical development of parole in South Africa, reference has already been made to the main legal provisions for parole. However, for the sake of completeness and as there have been a number of amendments in recent years to the legislation governing parole, a systematic exposition of the whole legal framework for parole will be presented.

The Prisons Act (No. 8 of 1959) makes provision for the release of the various categories of prisoners before the expiration of their sentences. These are prisoners serving sentences of corrective training and of prevention of crime, those sentenced to two years or more, those serving life sentences, those detained in a farm colony, and prisoners having been declared habitual criminals. Furthermore, the Act provides for different types of releases. These consist of probation, parole, special releases and remission of sentence by the State President, special remission by the Minister of Prisons, and release on medical grounds.

2.2 The releasing authority

2.2.1 Release boards

Until June 1980, the prison boards were the agency which considered and made decisions regarding the training, treatment

and release of prisoners - including conditional release. With effect from 1 July 1980, the twenty-seven prison boards were replaced by nine release boards. The task of these release boards is to make recommendations with regard to both unconditional and conditional release of prisoners. Should a board decide to release a prisoner conditionally, it lays down the conditions, and the supervision under which the prisoner is to be released, as well as the period of time for which he will be under supervision.

In terms of section 5 of the Prisons Act the Minister of Prisons is to appoint one or more release boards, which shall consist of ".....so many commissioned officers as official members and so many non-official members or only of so many commissioned officers as official members or only of so many non-official members as the Minister thinks fit."³²⁾

This section gives no indication of the size of the boards and of the nature of the membership - leaving the matter entirely to the discretion of the Minister. The only matter that is stipulated is the balance between the numbers of commissioned officers, official members, and non-official members on the boards. In the view of the researcher, the Canadian approach to the composition of the releasing bodies is preferable - particularly as far as citizen involvement

32. The Prisons Act, op. cit., section 5

is concerned. It is, after all 'ordinary' citizens who have to contend with parolees in their midst - not the Department of Prisons. (The Canadian approach is outlined in chapter VIII).

Section 61A of the Act lays down the duties of release boards as follows :

"A release board shall at such times and intervals as maybe determined by the Commissioner or when otherwise required by the Commissioner -

- (a) with due regard to any remarks made by the court in question at the time of the imposition of the sentence on the prisoner concerned and of any report on that prisoner furnished to it in terms of section 61(b) by the institutional committee concerned, make recommendations as to -
 - (i) the release of that prisoner either on probation or on parole or at the expiration of his sentence;
 - (ii) the period for and the conditions on which that prisoner may be released on probation;
 - (iii) the period for, supervision under and conditions on which that prisoner may be released on parole;
 - (iv) the remission of portion of the sentence imposed upon that prisoner

if he is a prisoner referred to in section 61(b)(iii);

- (b) perform such other functions and duties as may be prescribed by regulation."³³⁾

2.2.2 Institutional committees

In areas where the Minister of Prisons has established release boards the Commissioner shall, in terms of section 5A of the Act, appoint one or more institutional committees, which shall consist of as many members of the Prison Service as the Commissioner may deem necessary.

Having due regard to the remarks made by the court in question at the time of sentencing, and at such times and intervals as may be determined by the Commissioner or release board - but at least once in six months - an institutional committee shall -

- "(a) make recommendations as to the training and treatment to be applied to any prisoner referred to in paragraph (b);
- (b) submit reports in the prescribed form to the Commissioner and the release board on, inter alia, the conduct, adaptation, training, aptitude, industry, physical and mental state of health and the possibility of relapse into crime of every prisoner who is detained in the prison in respect of which it has been established and -

33. Ibid., section 61A

- (i) upon whom a sentence of imprisonment for corrective training has been imposed;
 - (ii) upon whom a sentence of imprisonment for the prevention of crime has been imposed;
 - (iii) upon whom a sentence of imprisonment of two years or more has been imposed;
 - (iv) upon whom a life sentence has been imposed;
 - (v) who has been declared to be an idle person in terms of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);
 - (vi) who has been declared an habitual criminal; or
 - (vii) with regard to whom a special report is required by the Commissioner; and
- (c) perform such other functions and duties as the Commissioner may determine from time to time."³⁴⁾

2.2.3 Advisory release board

2.2.3.1 Introduction

All but three chapter of this thesis had been typed in their final form when, on 30 March 1982, an important amendment was effected to the Prisons Act. This amendment, the Prisons Amendment Act (Act No. 65 of 1982)³⁵⁾ established an advisory release board, the purpose of which is to advise

34. Ibid., section 61

35. The amendment was published in Government Gazette No. 8162 on 21 April 1982

the Minister as to policy in connection with the release of prisoners, remission of sentence, and recommendations of the release board in particular cases.

2.2.3.2 Reason for establishment of the advisory release board

From the parliamentary debate of 24 March 1982³⁶⁾ it would appear that the findings and recommendations of the Commission of Inquiry into the Penal System of the Republic of South Africa prompted parliament to establish such a board. The commission had expressed i.a. the following views :

"To eliminate the shortcomings in our parole system viz. lack of co-ordination between the prison boards and the judiciary, a twofold remedy should be applied :

- (a) the parole system must be centralised by the establishment of one parole board for the entire Republic to deal with the more complicated cases, to lay down a uniform policy to be followed by prison boards in the less serious cases and, in general, to give guidance to these boards;
- (b) the judiciary must have representation on the central parole board so that complete co-ordination between the prison boards and the judiciary may be effected." ³⁷⁾

36. Hansard, No. 81, 24 March 1982, par. 3597-3628

37. Report of the Commission of Inquiry into the Penal System of the Republic of South Africa, R.P. 78/1976, par. 6.4.8, p. 154

The Minister of Justice outlined the purpose of the establishment of the advisory release board as follows :³⁸⁾

"What is being envisaged is to retain these (two) release boards as entities in the Prison Service, but at the same time to give the judiciary and other institutions a say, in an advisory capacity, in the release policy by firstly, on request, giving advice in respect of remission of sentence and the release policy in connection with specific categories of prisoners and secondly, to review the recommendations of the release board when specific offences and groups of sentences are under consideration."

2.2.3.3 Legal provisions for the establishment of the advisory release board

The following sections were inserted into the Prisons Act, in order to provide for the establishment and operation of the advisory release board :

- "5B(1) There is hereby established a board to be styled the advisory release board and consisting of -
- (a) a judge of the Supreme Court of South Africa
 - (b) a magistrate of a regional division;
 - (c) an attorney-general or a deputy attorney-general;
 - (d) a member of the South African Police of or above the rank of brigadier;

38. Hansard, op. cit., par. 3598

- (e) a member of the Prison Service of or above the rank of brigadier;
 - (f) a member of the release board; and
 - (g) two other persons who are not in the full time service of the State and who in the opinion of the State President have special knowledge or experience of matters connected with the functions and duties of the advisory release board, to perform the functions and duties entrusted to or imposed upon the advisory release board by this Act.
- (2) The State President shall appoint each member of the advisory release board, and such a member shall hold office during the pleasure of the State President.
- (3)(a) The State President shall for each member of the advisory release board contemplated in subsection (1)(a) to (f) designate an alternate who has the same qualification as the member for whom he is the alternate.
- (b) Such an alternate shall in the absence of the member for whom he is the alternate from any meeting of the advisory release board, at such a meeting have all the powers and duties of that member.
- (4) The quorum for a meeting of the advisory release board shall be three members thereof who shall include the

member contemplated in subsection (1)(a) or his alternate or the member contemplated in subsection (1)(b) or his alternate.

- (5) The member of the advisory release board contemplated in subsection (1)(a) shall be the chairman of the advisory release board and the member contemplated in subsection (1)(b) shall be the vice-chairman.
- (6) A decision of the majority of the members present at a meeting of the advisory release board shall be the decision of that board, and in the event of an equality of votes on any matter the member presiding at the meeting concerned shall, in addition to his deliberative vote, have a casting vote.
- (7) A member of the advisory release board who is not in the full-time service of the State shall receive such allowances as the Minister may determine in consultation with the Minister of Finance.³⁹⁾

The functions and duties of the advisory release board are as follows :

- "61B. The advisory release board shall when required by the Minister advise the Minister as to -

39. Government Gazette No. 8162, 21 April 1982, pp. 3-5

- (a) The general policy which ought to be followed in connection with the release of prisoners;
- (b) the basis upon which remission of sentence ought to be granted to different categories of prisoners;
- (c) any recommendation made by the release board in a particular case;
- (d) any other matter referred to the advisory release board by the Minister."⁴⁰⁾

2.2.3.4 Comments regarding the establishment of the advisory release board

In view of the fact that the advisory release board was only established recently (30 March 1982), comments in this regard must necessarily be tentative. Nevertheless, some points will be raised.

In reading the parliamentary debate regarding the Prisons Amendment Bill,⁴¹⁾ one gains the impression that the establishment of the advisory release board is an expression of the recommendation made by the Commission of Inquiry into the Penal System of the Republic of South Africa in this regard. If, however, one compares the recommendations of the Viljoen Commission in regard to the establishment and composition of a central parole board with the provisions for the establishment of and the functions of the advisory release

40. Ibid., p. 7

41. Hansard, op. cit., par. 3597-3628

board, one finds a fundamental difference between the former and the latter.

The Viljoen Commission recommended that, "(s)tatutory provision must be made as soon as possible for the establishment of a centralised or national parole board to be presided over by a Judge of the Supreme Court with functions and duties as, and constituted in the manner suggested."⁴²⁾

The Commission recommended that the board should be constituted of a judge, a chief magistrate, a criminologist or penologist of standing, possibly a psychiatrist and as an ex-officio member the chairman or other designated member of the prison board under whose jurisdiction the case to be considered fell. It also regarded as desirable to appoint a high ranking police officer and a high-ranking prison officer. The functions and duties of the board, according to the Viljoen Commission, were to be the following :

".....to consider the advisability of release on parole of the prisoner and if a recommendation that he be so released is made to the State President or the Minister that recommendation should include the terms and conditions to be imposed upon him on his release and the nature of supervision to which he would be subject during his period on parole should be specified. The parole board should also specify the type and frequency of submission of the report it requires to be submitted to it by the probation officer under whose super=

42. Report of the Commission of Inquiry to the Penal System of the Republic of South Africa, op. cit., p. 155, par 6.5

vision the parolee is placed."⁴³⁾

While the recommendation of the Viljoen Commission, that the various prison boards spread across the country should be centralised has been given effect partially by substituting the twenty-eight parole boards with two release boards, these boards do not include a judge or a chief magistrate, as envisaged by the Commission. In other words, the judiciary is not involved in the day-to-day practical implementation of parole - as carried out by the release boards.

It is clear from the Prisons Amendment Act (Act No. 65 of 1982) that the functions of the advisory release board are advisory rather than executive in nature. Section 61B, quoted above states that the board shall, when required by the Minister advise the Minister on matters regarding the release of prisoners.

In his speech to parliament, the Minister made it clear, as appears from the quotation above, that the two release boards will be retained as entities in the prison service. In other words, it will be members of the Prison Service who will actually decide on who is to be released on parole and who not. It is also made clear that the judiciary and other institutions will be involved ".....in an advisory capacity... on request."⁴⁴⁾

43. Ibid., p. 155, par. 6.4.13

44. Hansard, op. cit., par. 3598. The italics are the writers

From the recommendations of the Viljoen Commission it would appear that the Commission envisaged judicial and other representation on the board which decides on which long-term prisoners are to be released on parole - not merely to advise the Minister as to policy, 'when required.'

Nevertheless, the establishment of an advisory release board received general support in parliament - also from all the members of the opposition parties. The Minister indicated⁴⁵⁾ that the Chief Justice, the various Judge-Presidents, as well as Judge of Appeal, Mr Justice Viljoen - chairman of the Commission of Inquiry into the Penal System of the Republic of South Africa - were approached for comments on the Bill regarding the establishment and functions of an advisory release board, and everybody responded favourably.

2.3 The various types of early release of prisoners

2.3.1 Probation or parole

While probation and parole were dealt with separately under the Prisons Act until 1980, section 10 of Act No. 22 of 1980 deals with the two concepts under one heading.

In terms of Section 67 of the Act, the Commissioner may :

- "1. (a) if the total period of imprisonment to be served by a prisoner under one or more sentences is less

45. Hansard, op. cit., par. 3598-3599

- than two years; or
- (b) on the authority of the State President or of the Minister granted under any provision of any law in respect of a prisoner serving any period of imprisonment, and irrespective of whether the imprisonment was imposed with or without the option of a fine, release such prisoner before the expiration of the period in question either on probation or on parole for such period and on such supervision and on such conditions as may be specified in the warrant of release.

2. If any prisoner so released either on probation or on parole completes the period thereof without breaking any conditions of the release, he shall no longer be liable to any punishment in respect of the conviction upon which he was sentenced."⁴⁶⁾

Section 68 deals with the conditions in respect of release on probation or parole :

- "1. The Commissioner may, in a case contemplated in section 67(1)(a), at any time and, in a case contemplated in section 67(1)(b), on the authority of the Minister alter or cancel any conditions specified in the warrant of release in question.

46. Ibid., section 67

2. If the Commissioner is satisfied that such prisoner has, before the expiration of the period of release either on probation or parole, failed to observe any condition of such release either on probation or on parole, he may issue a warrant for the arrest of that prisoner, which may be executed by a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and which shall serve as authority for the prisoner to be detained in a prison until lawfully discharged or released therefrom.⁴⁷⁾

As has been pointed out above, the term probation is used by the Prisons Act in a way which differs from the generally known penological concept of probation. As used in the Act, it refers to the early conditional release of prisoners rather than to the conditional suspension of a punitive sanction by the court, which is the generally known and accepted usage of the term. The similar way in which the Act previously described the two release procedures - probation and parole - has frequently lead to confusion. It is disappointing that subsequent amendments of the Act have not clarified the distinction between the two concepts - or discarded the misnomer 'probation' completely.

The Commission of Inquiry into the Penal System of the Republic of South Africa indicate that it had been unable to determine the intention of the legislature in enacting the

47. Ibid., section 68

section on probation. It could not understand why a distinction had been made between probation and parole, but states that, "(o)ne formal difference appears to be that in the event of a breach by an inmate released on probation of the condition imposed, the offender has to serve the balance of his sentence as from the day of his release, while in the case of parole the offender only serves the balance of his sentence as from the date of the breach of the condition. The materiality of the distinction eludes the Commission however." The Commission states further that, "(t)he term 'probation' implies that the prisoner concerned is put on terms as to good behaviour. He is put to the test, as it were. That is, however, what is done in practice in the Republic in the case of release on parole. The two terms are, as a result, extremely confusing."⁴⁸)

The Commission states further that it has been informed that the concept of probation was, at the time (1975), only being applied in the case of offenders who were permitted to leave the country permanently.

A further cause for confusion, according to the Commission, is that both, probation and parole, involve the placing of a prisoner under the supervision of a probation officer.

⁴⁸. Commission of Inquiry into the Penal System of the Republic of South Africa, R.P. 78/1976, par. 6.3.9 to par. 6.3.13, p. 147

As a result of the confusion between the concepts of probation and parole inherent in the Prisons Act, the Commission felt strongly that, ".....either the term (probation) should be abandoned altogether for purposes of imposing a condition such as contemplated under section 67(2), or the distinction should be made clear and the confusion removed between probation and parole by an appropriate amendment to the Prisons Act, 1959, or by way of regulation."⁴⁹⁾

It is probably the comments of the Viljoen Commission regarding the confusion between parole and probation which have led to the substitution of section 67 by section 10 of Act No. 22 of 1980 - which deals with the two concepts together. However, the amendment has unfortunately, not followed either of the two above-mentioned recommendations of the Viljoen Commission.

2.3.2 Special releases

2.3.2.1 Special releases and remission by the State President

Section 69 (1) makes the following provision :

"Notwithstanding anything to the contrary in any law contained, if at any time it appears to him to be expedient, the State President may authorise the release of any prisoner either unconditionally or on probation or on parole as he may

49. Ibid., p. 147

direct, and may grant remission of a portion of the sentence of any prisoner.

- (2) In any case where the release of any prisoner referred to in sub-section (1) is in the opinion of the Minister justified and urgent, he may authorise the immediate release of the prisoner concerned in anticipation of the State President's approval."⁵⁰⁾

2.3.2.2 Special remission of sentence by the Minister of Prisons

In terms of section 70 :

- "(1) (n)otwithstanding the provisions of this Chapter and the provisions of the regulations governing the grant of remission of sentence, the Commissioner may, when in his opinion any prisoner has rendered highly meritorious service, submit the case with a recommendation for special remission of sentence to the Minister.
- (2) The Minister may, if he deems fit, grant to such prisoner special remission of sentence not exceeding one year, either unconditionally or on such conditions as he may determine."⁵¹⁾

50. Ibid., section 69

51. Ibid., Section 70. The chapter mentioned in sub-section (1) is chapter VI of the Prisons Act, and the regulations mentioned are Prison Regulations 119 and 131

2.3.2.3 Release on medical grounds

Section 71 provides that :

"Any prisoner who is detained in any prison under sentence of court and -

- (a) who is suffering from a dangerous, infectious or contagious disease; or
- (b) whose release is expedient on the grounds of his physical condition, or, in the case of a woman, her advanced pregnancy may, on the recommendation of the medical officer, be released by the Minister either unconditionally or on probation or on parole as the Minister may direct."⁵²⁾

2.4 Early release in respect of the various categories of prisoners

2.4.1 Prisoners serving sentences of two years or more.

Section 63 of the Prisons Act, 1959, determines the following:

- "63. (1) Upon receipt of a report from a prison board regarding a prisoner serving a sentence of imprisonment of two years or more and containing a recommendation for a remission of sentence within the limits prescribed by the State Presi=

52. Ibid., Section 71

dent by regulation, the Commissioner may remit such portion of the sentence, either unconditionally or on such conditions as he, on the recommendation of the board, may determine,

- (2) (a) If the report referred to in sub-section (1) contains a recommendation by the prison board for the grant of remission in excess of the limits prescribed by the State President by regulation, or if no remission of sentence is granted by the Commissioner under sub-section (1), the Commissioner shall submit such report to the Minister with such recommendation as he may think fit.
- (b) The Minister may authorize the release of the prisoner on probation or on parole as he may direct."⁵³⁾

2.4.2 Prisoners serving sentences of corrective training or of prevention of crime .

In terms of Section 39(b) of the Prisons Act a person sentenced to corrective training must serve at least two years, but not more than four years. A sentence of prevention of crime implies imprisonment for a period of between five and eight years.

The early release of prisoners falling into these two

53. Ibid., section 63

categories is dealt with by Section 62 of the Act, which reads as follows :

"62. (1) Upon receipt of a report from a prison board regarding a prisoner who has been sentenced to imprisonment for corrective training or to imprisonment for the prevention of crime and containing a recommendation for the release of such prisoner on a date falling within the relevant period of detention prescribed by section thirty-nine, the Commissioner shall submit such report to the Minister.

(2) The Minister may authorize the release of such prisoner on the date recommended by the Prison Board or on any other date within the said period, either unconditionally or on probation or on parole as he may direct."⁵⁴⁾

2.4.3 Habitual criminals serving indeterminate sentences.

In accordance with Section 38 of the Act, any person who has been declared an habitual criminal under any law, "shall be detained in a prison during the State President's pleasure : Provided that any person who has received an indeterminate sentence in consequence of being so declared an habitual cri=

54. Ibid., section 62

minal after the commencement of this Act, shall be detained in a prison for a period of at least seven years."⁵⁵⁾

Release of such prisoners is governed by Section 66 of the Act, which reads as follows :

- "66. (1) Subject to the provisions of the proviso to section thirty-eight, no person who has been declared an habitual criminal under the provisions of any law shall be released until a prison board has reported to the Commissioner -
- (a) that there is a reasonable probability that the habitual criminal will in future abstain from crime and lead a useful and industrious life; or
 - (b) that he is no longer capable of engaging in crime, or
 - (c) that for any other reason it is desirable to release him.
- (2) Upon receipt of a report from a prison board regarding a prisoner such as is referred to in sub-section (1) and containing a recommendation for the release of such prisoner, the Commissioner shall submit such report to the Minister.

55. Ibid., section 38

- (3) The Minister may authorize the release of the prisoner either on probation or on parole on the date recommended by the release board or on such other date as he may direct."⁵⁶⁾

2.4.4 Prisoners serving sentences of life imprisonment

No minimum period is laid down by the Act in respect of persons serving sentences of life imprisonment. However, in terms of Section 61 the institutional committees "shall with due regards to any remarks made by the court in question at the time of the imposition of the sentence and at such times and intervals (which intervals shall not be longer than six months) as may be determined by the Commissioner or when otherwise required by the Commissioner or release board-

- (b) submit reports in the prescribed form to the Commissioner and the release board on, inter alia, the conduct, adaptation, training and aptitude, industry, physical and mental state of health and the possibility of relapse into crime of every prisoner who is detained in the prison in respect of which it has been established and-

- (iv) upon whom a life sentence has been imposed...."⁵⁷⁾

56. Ibid., Section 66

57. Ibid., Section 61

The report compiled by the prison board, which contains the recommendations of the board, is submitted to the Minister of Prisons, who may authorise the release of the prisoner on parole, or, alternatively, submit the report, together with his recommendations, to the State President, who may authorise the release of such a prisoner on the date recommended by the prison board, or on any other date, either unconditionally or on probation or on parole. (Section 64).

2.4.5 Prisoners detained on a farm colony

Section 65 provides for unconditional release, or release on probation, or release on parole of a Black prisoner who has been declared an idle person in terms of the Bantu (Urban Areas) Consolidation Act, (Act No. 25 of 1945).

Again, the procedure is the same as in the case of some of the previous categories, namely, the report of the prison board, containing its recommendations, is placed before the Minister, who may authorise the prisoner's release on probation, parole, or unconditionally.

3. The administration of parole

3.1 Introduction

The development of parole in South Africa did not occur in a systematic and formal way. Instead, parole grew in a rather a sporadic and even a somewhat haphazard way. This is evident from the discussion of the historical development of parole in South Africa in Chapter V. In fact, it is only since the promulgation of the Prisons Act (Act 8 of 1959), that parole was given a definite and formal basis.

Although the Prisons and Reformatories Act (Act 13 of 1911) made provision for the conditional release of prisoners, it never grew into a properly administered parole system. Thus Venter⁵⁸⁾ regarded parole as it operated in the late 1950's as not being worth the paper it was written on.

It is only during the past two decades, since the advent of the Prisons Act, that parole developed into a specific and widely applied penological measure with a formal administrative structure.

The administration of parole in South Africa occurs in

54. Venter, H.J., Die Geskiedenis van die Suid-Afrikaanse Gevangenisstelsel, 1952-1958, H.A.U.M., Pretoria, 1959, p. 209

partnership between the state and private initiative.

This partnership, which has not always been a happy one, will be discussed in the following sections in which the relative roles of statutory bodies and private organisations will be outlined.

3.2 The role of the State in the administration of parole

3.2.1 The role of the Department of Prisons

3.2.1.1 Introduction

Before dealing with the role of the Department of Prisons in the parole process, a concise outline will be provided on the nature of prison organisation and administration in South Africa. As the historical background of the Department was briefly discussed in Chapter IV, attention will only be given to the present prison organisation and administration.

3.2.1.2 The South African prison system⁵⁹⁾

The Prisons Act⁶⁰⁾ defines a prison as "any place established or deemed to have been established under this act, as a place for the reception, detention, confinement,

59. Information for this section comes mainly from Willemse, W.H., "The object, functions and organisation of the Department of Prisons," in Penology I, Guide 2, Department of Criminology, University of South Africa, Pretoria, 1977 Chapter 4, pp. 25-38

60. Section 1 of the Prisons Act (Act 8 of 1959), as amended by Section 1 of Act 75 of 1965

training or treatment of persons liable to detention in custody, and includes all land, outbuildings and premises adjacent thereto and used in connection therewith and all land, branches, outstations, camps, buildings, premises or places to which any such persons have been sent for the purpose of imprisonment, detention, labour treatment or otherwise, and all quarters of members of the Prison Service used in connection with any such prison; and for the purposes of any offence committed under this act by or in respect of prisoners further includes every place used as a police cell or lock-up."

The functions and duties of the Department of Prisons are outlined as follows in section 2(2) of the Prisons Act :

- "(a) to ensure that every prisoner lawfully detained in any prison be kept therein in safe custody until lawfully discharged or removed therefrom;
- (b) as far as practicable, to apply such treatment to convicted prisoners as may lead to their reformation and rehabilitation and to train them in habits of industry and labour;
- (c) the performance of all work necessary for, arising from, or incidental to, the effective administration of prisons; and
- (d) to perform such other duties as the Minister may from time to time assign to the Department."

As is the case of prisons in the Western World generally the primary function of the Department of Prisons is to keep convicted and imprisoned offenders in safe custody until they are lawfully released from prison. The second major function of the Department is to strive to rehabilitate its inmates, in order that they may become law-abiding citizens.

The management of the Department of Prisons is as follows :

The Minister of Prisons is the political head, and the Commissioner of Prisons is the executive head of the Department of Prisons, but the latter's powers are subject to the instructions and control of the former.

In his task of managing the Department of Prisons, the Commissioner is assisted by two chief deputy-commissioners, and four deputy-commissioners. Known as the general staff - as they hold the ranks of general, lieutenant-general and major-general (two) respectively these persons form the governing board of the Department, which is responsible for its effective management and organisation. While the Commissioner is responsible for the general management of the Department, each of the other members of the governing board is responsible for a specific facet of the Department's administration.

The Department of Prisons is divided into a number of divisions and sub-divisions, namely :

1. The Division of Institutional Services, which comprises the following four sub-divisions :
 - Specialised treatment, consisting of the services in respect of social care, educational and psychological services;
 - Prison administration consists of the Register, control and release sections, and is responsible for admission, detention, handling, care, treatment and release of prisoners;
 - Security;
 - Spiritual care
2. The Division of Trades which comprises the sub-divisions of building, workshops and agriculture
3. The Division of Ancilliary Services, including the sub-divisions of efficiency, information and personnel administration
4. The Division of Finance, comprising the sub-divisions of accounts, and supplies and transport
5. Prisons and Prison Commands. The Department operates 251 prisons across the country, which are grouped into 35 commands, for the purpose of effective management

6. Release Boards. These have the task of making recommendations with regard to release of prisoners both conditionally and unconditionally, and with regard to remission of sentence.
7. Institutional Committees. Attached to each prison which has long-term prisoners is an institutional committee, which is responsible for the training of prisoners in general, and which must submit factual reports to the Commissioner or to the release board regarding the prisoner's adaptation, training, general treatment, and crime history. It is on the grounds of these reports that the release board makes its recommendations in respect of conditional release of prisoners. (The nature and function of release boards and of institutional committees were outlined under Chapter VI.)

3.2.1.3 The admission, detention, care and treatment of prisoners in the South African prison system⁶¹⁾

3.2.1.3.1 The admission and detention of prisoners

The Department of Prisons is responsible for the detention of the various categories of convicted prisoners, and for

61. Information for this section comes mainly from Roux, J.P., "Prison administration in South Africa," Penology I, Guide 2, Department of Criminology, University of South Africa, 1977, Chapter 9, pp. 89-124

the temporary detention of unconvicted prisoners, that is, those detained pending trial, witnesses referred for detention by the courts, and alleged mentally defective persons who are temporarily detained if no appropriate facilities are available.

3.2.1.3.2 Classification of convicted prisoners

Roux points out that, in South Africa, a distinction is made between the mere separation of prisoners and the classification of convicted prisoners. There is a separation of the sexes; the White and non-White sections of the population; prisoners awaiting trial and convicted prisoners, and between prisoners condemned to death and other prisoners. Furthermore, the Prisons Act and Regulations also provide for the separate detention of several different categories of prisoners, including juvenile prisoners, mentally defective persons who are temporarily detained, detained witnesses, persons sentenced to periodical imprisonment, and non-White prisoners of the various population groups.

Convicted prisoners are also classified in terms of security requirements and the suitability of treatment and training. This involves individual classification in terms of previous record, aptitude, previous training and qualification, and other personal factors. Furthermore, there is a group classification according to the length of sentence, crime, criminal record, aptitude, qualifica=

tions, age and other personal factors.

Classification is a flexible process, and a prisoner's classification can be changed in accordance with changes in his circumstances and his behaviour.

3.2.1.3.3 Care and treatment of prisoners

The treatment of prisoners involves proper accommodation, that is, adequate space, personal hygiene, adequate food and clothing, and provision for exercise; medical care including medical, optometric, dental and psychiatric services; prison labour, including work and vocational training; and discipline and control.

Treatment involves mainly the social work, psychological, religious and educational services rendered in prison.

Roux⁶²⁾ describes social work in prison as follows :

"Social Work in prison is a continuous process from the day of admission to the day of release. In order to fulfil this task, the Department employs 50⁶³⁾ qualified

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62. Roux, J.P., "The rehabilitation role of the South African Prison Service," in Midgley, J., Steyn, J.H., and Graser, R., Crime and Punishment in South Africa, McGraw-Hill Book Co., Johannesburg, 1975, p. 258
63. The Report of the Commissioner of Prisons for the period 1 July 1978 to 30 June 1979 (R.P. 36/1980) indicates that on 30 June 1970, the Department had 136 posts for social workers and 117 posts for auxiliary workers. However, there is no indication how many of the posts were filled at the time

social workers.. They are assisted by a number of auxilliary workers specially selected for this purpose from members who have undergone intensive training in casework, groupwork and counselling.....

Social work in prison is conducted by way of case and groupwork methods, where prisoners are involved individually and in groups. In addition, reconstruction services are rendered to the prisoner's family in co-operation with the Department of Social Welfare and Pensions and other private welfare organisations. Co-operation with these organisations also serves as an aid in placing of released prisoners in suitable employment and the provision of accommodation. Lastly, preparation for release forms a very important part of the social worker's task."

The psychological services of the Department are concerned with both, the psychological testing and diagnosis of prisoners, and with psychological treatment of prisoners. This involves various forms of behaviour therapy.

According to the above-mentioned report of the Commissioner of Prisons, on 30 June 1979 the Department had 12 posts for clinical psychologists and 15 posts for assistant psychologists, who had conducted a total of 10 922 interviews for the purposes of investigations, treatment, evaluation and testing.

In cases where prisoners manifest serious psychiatric problems, especially those suffering from psychoses and neurological abnormalities, are referred to the nearest state psychiatric hospital for treatment.

The Educational Services Division is concerned with the education of prisoners. In addition, the division assists with the orientation of new prisoners; particularly in respect of long-term prisoners during observation, but also during imprisonment, and shortly before release. Furthermore, this section also operates a library service in every institution.

During the year ending 30 June 1979, 720 prisoners completed literacy courses at the 48 institutions where these courses were offered. Furthermore, 448 took trade tests, of whom 287 were successful.

As to spiritual care, prisoners are allowed to be ministered to by ordained ministers and voluntary religious workers from their own religious organisations. 1 489 full-time and part-time spiritual workers render services to prisoners. There are however, thirteen regional chaplains attached to different prison commands, who function under the control of the Chaplain-General.

3.2.1.4 The role of the Department of Prisons in respect of the operation of the parole system

The legal basis for parole in South Africa was outlined in Chapter V. It was indicated there that the parole system functions under the Prisons Act (Act 8 of 1959 as amended). In terms of that Act, the Commissioner of Prisons submits a report to the Minister of Prisons, containing his recommendations in respect of the release on parole of a particular prisoner. The Minister decides on whether or not to authorise such release.

As the legal provisions with regard to release on parole have been fully outlined in the above mentioned chapter they will not be mentioned again. It suffices to point out that, in terms of the relevant legislation, release on parole is the function of the Department of Prisons. The procedure varies in regard to different sentences, but it is persons connected to the Department - the Minister, the Commissioner, and members of the release boards - who are concerned with the decision to release prisoners on parole.

Even when a prisoner has been released on parole, and is no longer in prison, ultimately he remains the responsibility of the Department of Prisons. The agency, such as NICRO, under whose supervision he has been placed is obliged to submit regular reports to the Department on the parolee's progress in the community. As has been pointed out in Chapter V, if the Commissioner of Prisons is

satisfied that a parolee has failed to observe any condition of his release on parole, he has the authority to issue a warrant for his arrest and to cause him to be re-imprisoned, and to serve the remainder of his sentence in prison. This emphasizes the fact that the Department of Prisons retains control over a prisoner who has been conditionally released.

In practice, the most important function of the Department of Prisons is probably the preparation of prisoners for release on parole. (This aspect was fully discussed in Chapter VI).

In terms of paragraphs 9 to 17 of the Agreement on Co-operation between the Department of Social Welfare and Pensions,⁶⁴⁾ the Department of Prisons and the National Institute for Crime Prevention and the Rehabilitation of Offenders (NICRO), Relating to casework services in respect of unsentenced and sentenced White⁶⁵⁾ offenders and released prisoners, the relative roles of the Department of Prisons and of NICRO are as follows :

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64. Now the Department of Health and Welfare. The agreement was reached in 1975
65. An identical agreement was reached with both the Indian Division and the Coloured Division of the Department of Internal Affairs, regarding Indian and Coloured prisoners. However, NICRO has no formal agreement with the Department of Co-operation and Development regarding services to Black prisoners

- "9. The Department of Prisons is responsible for the pre-release preparation of prisoners. However, where cases have been referred to NICRO for aftercare services this function will, as far as possible, be undertaken in consultation with the NICRO social worker.
10. Whenever practicable the Department of Prisons will transfer prisoners who have been referred to NICRO for aftercare services to a prison nearest to their home two months before their discharge. The NICRO social worker will be informed so that interviews with the prisoners can be arranged with a view to their re-integration into the community after their discharge.

Parole

11. The Department of Prisons will screen prisoners to be paroled. Where necessary, in cases referred to NICRO for aftercare services, the NICRO social worker will be requested to submit a report on the circumstances of the family. Relevant information will be made available by the Department of Prisons and a return date for the report will be given.
12. The NICRO social worker will undertake the social casework and where necessary assist with securing

employment and accommodation and will furnish a report in which appropriate conditions of parole may be recommended.

13. The Department of Prisons will indicate the name of the supervising organisation on the parole certificate.
14. As far as practically possible, a social worker of NICRO should be present when the Chairman of the Prison Board explains the conditions of parole to the prisoner.
15. The Department of Prisons will inform the NICRO social worker of the date on which it is proposed to release the prisoner on parole, and will also furnish a copy of the conditions of parole and give a return date for the first progress report on the parolee.
16. Regular progress reports will be submitted on the parolee by the NICRO social worker. These reports must give a true picture of parolee's adjustment in the community.
17. Should a parolee's behaviour and adjustment deteriorate to such an extent that he becomes a danger to himself and society, the Prison Board (now Release

Board) concerned should be informed immediately and a recommendation made concerning the possible revocation of parole. In a crisis situation such a recommendation can be made by telephone to the Department of Prisons."

The extent to which the parole system functions as envisaged in the above agreement is dealt with in Chapter VI, particularly in sections 2 and 4.

3.2.1.5 The role of other state departments in the operation of the parole system

The situation of other state departments in respect of the parole system is not quite clear. The researcher has been advised by the National Director of NICRO that, as at May 1982, the agreement that had been reached between NICRO and the relevant state departments in 1975 and in 1977 respectively was still in force - in an unaltered form. As far as the Department of Health and Welfare was concerned the agreement was drawn up within the framework of the provisions of Consolidated Circular No. 25 of 1966. However, that Circular was superseded by Circular No. 86 of 1979. Yet, no new agreement was reached between NICRO and the relevant state departments, in order to adjust to the new provisions regarding the co-operation between the Department of Health and Welfare and welfare organisations in the area of social work services. It would appear, therefore, that the agreement between the

Department of Health and Welfare, the Department of Prisons, and NICRO may no longer be valid. Yet ironically, the identical agreement between the Departments of Indian Affairs and Coloured Affairs, the Department of Prisons, and NICRO is probably still valid, as it was not framed in terms of the provisions of any other document.

The issue which is effected most fundamentally by the new circular as far as the agreement involving the Department of Health and Welfare is concerned - is that of canalisation. Under the agreements involving both, the Department of Health and Welfare and the Department of Indian Affairs, requests by the Department of Prisons for social work services (including such services in respect of parolees) are canalised through the Departments of Health and Welfare and Indian Affairs respectively.

Both agreements of co-operation reflect the situation as follows :

"Canalisation

20. Social workers of the Department of Prisons should direct requests for the rendering of social work services to the probation officer except where from pre-sentence reports it is evident that a specific organization has been designated to render the service in which case the organisation should be requested

direct to render the necessary service and to submit reports to the Department of Prisons - such reports are therefore not canalised. Should it emerge from such reports that the Department of * has an interest in the case, for example where children or a spouse is in an institution, a copy of the report will be made available to the probation officer by the Department of Prisons.

21. Where a specific organisation has not yet been designed to render services, the probation officer should be requested to arrange for the rendering of social work services, reconstruction, parole and aftercare services.

22. The probation officer will refer the case to a welfare organisation. In the event of there being no private welfare organisation available, such services should be undertaken by the probation officer himself. External social workers should be requested to submit reports to the Department of Prisons direct. If the Department of * has an interest in a report, the welfare organisation will be requested to furnish this Department with a copy of the report.

*The relevant state department, whether Health and Welfare, or Coloured Division of the Department of Internal Affairs

23. When cases are referred to welfare organisations, a copy of the letter of referral should be directed to the Department of Prisons and all further dealings should take place between the organisation and the Department of Prisons."

Yet, Circular No. 86 of 1979 of the Department of Health and Welfare does away with such canalisation. It is therefore, not clear what the actual situation regarding the role of state departments other than the Department of Prisons is at present (in May 1982) in respect of the operation of the parole system.

Finally, it must be pointed out that, while the former circular of the Department of Health and Welfare (Consolidated Circular No. 25 of 1966), regarding co-operation between itself and welfare organisations in the matter of social work services provides a clear and detailed outline of the respective roles and functions of the Department and welfare organisations respectively, the new circular (No. 86 of 1979) provides no such specific and detailed outline. In fact, it contains less than half the volume of information of the previous circular, and is rather vague about the whole matter.

3.3 The role of the private welfare organisation in the parole system

3.3.1 Introduction

Voluntary welfare organisations have traditionally played an important role in the welfare field in South Africa generally, and in the field of prisoners' aid specifically. In fact, it is through the pioneering efforts of voluntary welfare organisations that virtually all the private as well as public welfare services came into being.

The Prisoners' Aid Association, (now known as NICRO) for example, was instrumental either directly or indirectly inter alia in the establishment of labour bureaux, treatment facilities for alcoholics, the development of a probation service and the appointment of prisoners' friends. More recently NICRO, mainly through the personal efforts of its then National Chairman, the Hon. Mr Justice J.H. Steyn, was instrumental in the establishment of the Institute of Criminology at the University of Cape Town.

As far as welfare services to prisoners and their families are concerned, there is only one private welfare organisation that has specialised in these services, which is the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO). While other, usually sectarian, welfare organisations provide prison after-care services to the occasional client, who is a client by virtue of his membership of a particular religious or national group,

NICRO is the only welfare organisation that exists specifically to provide prison aftercare and family reconstruction services to prisoners irrespective of race or creed. In view of this only NICRO will be discussed in detail in the following section.

3.3.2 NICRO and its role in the parole system

3.3.2.1 The establishment of the voluntary prisoners' aid society⁶⁶⁾

In 1910, motivated by an awareness for the need of a private welfare organisation to assist released prisoners and their dependents, the then Secretary for Justice, Mr J. de Villiers Roos founded the South African Prisoners Aid Association. He was supported in that venture by such prominent citizens as the Hon. Mr Justice Searle, Chief Justice of South Africa; the Hon. J.T. Molteno, Speaker of the House of Assembly; General J.C. Smuts; Mr W.S. Bateman, Director of Prisons; Mrs Louis Botha, wife of the then Prime Minister, and the Bishops of Cape Town, Kimberley and Kuruman.

The aims of the newly founded Prisoners' Aid Association were to bridge the gap between the prisoner and the outside world through voluntary prison visiting; to provide mate=

66. Information on the historical background to the development of NICRO comes from Th. Toussaint van Hove, Rehabilitation of Adult White Offenders, Ph.D. thesis, University of Stellenbosch, 1962, and from various NICRO information pamphlets

rial aid to ex-prisoners in the form of food, accommodation, clothing, tools and fares for transport; and to give prisoners the moral support necessary to face social and personal difficulties in the community. Within seven years of its establishment, the Prisoners' Aid Association had established branches at nine major centres namely in Bloemfontein, Cape Town, Durban, East London, Johannesburg, Kimberley, Pietermaritzburg, Port Elizabeth and Pretoria. Each branch had an organised programme for prison visiting and assistance to released prisoners and their families.

In the 1930's a new organisation, the Probation Association of South Africa, came into existence. However, as there was considerable overlapping of the major objectives of both organisations - namely those of rehabilitation of offenders and crime prevention - they amalgamated in 1935, to form the Social Services Association of South Africa. Although the organisation had a new name, it continued to perform the same prisoner's aid and aftercare work as the Prisoners' Aid Association.

After functioning as the Social Services Association for thirty-five years, the organisation changed its name once again. In 1970 it became the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO). While the organisation continued to offer prisoners' aid and aftercare services, it placed increased emphasis on crime

prevention activities. It was felt that, in order to make a more meaningful impact on the crime problem, the organisation would have to adopt a more dynamic approach - prisoners' aid work was not sufficient, more had to be done in the area of prevention. The change of name was meant to reflect this new emphasis more accurately than the rather meaningless name of Social Services Association, which described the function of all welfare organisations generally - that is, offering a social service.

3.3.2.2 The objects and functions of NICRO

In terms of paragraph 2 of the Constitution of NICRO the objects of the organisation are as follows :

- "(a) to promote and secure the welfare, rehabilitation and aftercare of adult offenders and their dependents in South Africa;
- (b) to promote crime preventative activities and more particularly, but without limiting the generality of this object, to undertake and stimulate research in the causes of and social defences against crime, to determine conditions which are criminogenic and to take all possible steps to secure the elimination or amelioration of such conditions, to determine and promote the most effective methods of the treatment of offenders, to stimulate and secure public participation in the prevention of crime and to disseminate

information relative to the incidence of crime and the prevention thereof :

- (c) to encourage and to strive for co-ordination and co-operation among welfare organisations and State departments, so as to bring about an inter-disciplinary team approach to matters pertaining to crime, crime prevention, and the rehabilitation and after-care of offenders;
- (d) to promote and secure the welfare of adult arrested persons awaiting trial and their dependants in the Republic of South Africa."

The functions of NICRO are outlined in paragraph 4 as being :

- "(a) to interview and assist young adult and adult persons before and after their appearance in Court;
- (b) to submit to the Presiding Officer evidence on the social, economic and personal history of convicted persons over the age of 18 years in order to aid him in determining an appropriate sentence;
- (c) to interview offenders during incarceration in order to plan for their eventual satisfactory reintegration into the open community;



- (d) to form a link between the prisoner and the community and to maintain contact with offenders after discharge so as to assist them in their reintegration into the community, and to promote and maintain good relations between prisoners and their families, and all persons who are or may be involved in their rehabilitation;
- (e) to supervise offenders whom the Court has instructed to submit to NICRO for guidance and treatment as a condition of a postponed or suspended sentence;
- (f) to supervise offenders who have been placed on parole and those who have been released from prison under any non-institutional plan;
- (g) to take any measure calculated to prevent recidivism;
- (h) to render welfare services to dependants of offenders;
- (i) to establish homes and/or institutions and the machinery for the proper supervision, conduct and management thereof, for the better carrying out of any of the aims and objects contained in this constitution;
- (j) to encourage and to strive for co-ordination and co-operation among welfare organisations and State

departments, so as to bring about an inter-disciplinary team approach to matters pertaining to crime, crime prevention, and the rehabilitation and after-care of offenders;

- (k) to provide practical training in the activities of NICRO for students of universities and other education institutions;
- (l) to educate the public, and to stress its collective responsibility in matters relating to the causes and prevention of crime, the rehabilitation and aftercare of discharged prisoners and the most effective methods of treatment of offenders; and
- (m) to carry out all measures necessary to give effect to the above objects."

From sub-paragraph 4(f), it is evident that NICRO has made specific provision in its Constitution for parole supervision. Sub-paragraphs 4(g) and 4(j) also cover various services to parolees (as to unconditionally released prisoners) and their families.

3.3.2.3 The organisation of NICRO

NICRO comprises :

- (a) A National Council, which consists of all the members

of NICRO Executive and of the chairmen of all duly constituted branches. The Executive of the National Council consists of a President, who is at present a judge of the Appeal Court; a National Chairman who usually is, as at present, a judge of the Supreme Court; and five Deputy National Chairmen, who are elected on a regional basis, to represent the Western Cape, the Eastern Cape, the Northern Cape, Natal, the Transvaal, and the Orange Free State; a Member for Finance; four members (and their alternatives), elected by the delegates of the branches in the various centres; and two members (and their alternatives) elected by National Council at its Biennial General Meeting.

National Council meets biennially at the various centres where branches are located. Relevant state departments, including the Departments of Prisons, Health and Welfare, Co-operation and Development, Department of Internal Affairs, Coloured and Indian sections, and Justice, as well as other interested welfare organisations are invited to attend a session at which NICRO reports on its activities, and at which problems of mutual concern are discussed.

At other sessions internal matters and matters of agency policy are dealt with.

In the intervening period, NICRO Executive manages the affairs of the Institute - its decisions being subject to ratification of National Council. The Executive meets annually, and reports to National Council at its biennial meeting.

- (b) A Patron-in-Chief, who at present is the State President of South Africa, and a Patron, who at present is the Chief Justice. The Constitution does not define the powers and functions of these offices, but in practice they are symbolic rather than practical in nature.
- (c) A President, who is the figure-head of NICRO, but who is occasionally called upon to officiate at important functions, and to assist with important approaches to, for instance, Ministers of Parliament. As the first two Presidents, the Hon. Mr Justice J.H. Steyn and the Hon. Mr Justice P.J. Wessels, were previously National Chairmen of NICRO they maintained an active interest in the work of the Institute.
- (d) A National Chairman, who holds the most senior executive office in NICRO. As Chairman of National Council and National Council Executive, he is, in practice, the most powerful person in the organisation. Traditionally, the National Chairman who, since 1966 has always been a judge of the Supreme Court, has

wielded considerable influence and has played a leading role in matters of policy, in contacts with senior government officials, and in generating funds for the Institute.

- (e) A Board of Sponsors, which consists mainly of leaders in the fields of business and industry, in the legal fraternity and in the academic field. The Constitution does not define the nature and functions of this Board, but in practice it does not play an active role in the control and administration of NICRO. Members may, however, be approached for advice and guidance on such matters as fund-raising. In general, the Board of sponsors reflects high level support of NICRO in the community.
- (f) Branches and Branch Management Committees. The National Council of Nicro has the power to establish branches at any centre where the need for its services exist. The branch is issued with a letter of delegation by National Council which authorises it to carry out the objects of the Institute in that area. Each branch is controlled by a Branch Management Committee, which is elected from among the members of the branch at the annual general meeting. While these committees are responsible for the management of the branches, including the appointment of staff, any matter of NICRO policy

that is to be raised with a state department, must be raised through National Council.

At the time of writing, NICRO had twelve branches across the country, at the following centres :

Bloemfontein, Cape Town, Durban, East London, Springs (the East Rand Branch), Johannesburg, Kimberley, Pietermaritzburg, Port Elizabeth (with a sub-office at Kwazakele), Pretoria (with sub-offices at Mamelodi and at Atteridgeville), Soweto and Tygerberg.

- (g) Area committees. Branches which render services to clients in specific areas may establish auxilliary committees, consisting of residents of such areas. Such auxilliary committees, which elect their office bearers from among their members, function under the auspices and guidance of the Branch Management Committee concerned.

A number of such committees have been formed in areas with population concentrations of the various ethnic groups. Thus there are committees in various centres serving the Indian, Coloured and Black populations respectively. Members of these committees are full members of NICRO, and they are eligible for election to the Branch Management

Committee. The aim of such committees is to involve citizens of the specific area in the work of assisting released prisoners and their dependents, and to generate an interest in the work of NICRO among the population of the area generally.

Furthermore, the area committees advise the Branch Management Committees on matters relating to the welfare and rehabilitation of prisoners, ex-prisoners and their families of groups in respect of which they operate.

The area committees usually meet on a monthly basis and also hold an annual general meeting in order to report to the public. National meetings of one or more groups of area committees are held at the discretion of National Council office.

3.3.2.4 The nature of NICRO'S activities generally⁶⁷⁾

3.3.2.4.1 Introduction

As the name of the organisation indicates, NICRO operates on two broad fronts; crime prevention and rehabilitation

67. Information on the services and activities of NICRO comes mainly from annual reports of NICRO. However, the researcher also has first-hand knowledge on NICRO, gained during his employment as National Director, (1970 to 1977) of the Institute

of offenders. In practice its major activities are centred around prisoners' aid and aftercare, including family reconstruction services in respect of families of prisoners. While, in a general sense, rehabilitation is crime prevention - in the sense that a person who has been rehabilitated is unlikely to engage in criminality again - specific efforts at crime prevention constitute the secondary aspect of the day-to-day work of NICRO.

3.3.2.4.2 Prisoners' aid and aftercare

The services of NICRO range from assistance to arrested persons, to aid to discharged prisoners. While the services rendered at the various branches vary according to local circumstances and resources, with limited services being provided at a small branch such as Kimberley and a wide range of services being provided at the larger branches such as Cape Town, the following are types of services generally rendered by NICRO :

- Although services to trial-awaiting prisoners are a statutory function, falling within the ambit of the Department of Health and Welfare, and of the state departments responsible for the welfare of the various population groups, NICRO still provides some services to arrested persons, being held pending their trial, as well as to their families.

When a person known to NICRO is arrested, or when the organisation is requested by relatives or others to assist in such a case NICRO may assist in arranging for legal defence, may give evidence in mitigation of sentence, or may assist with material aid to dependants of the arrested person. The Institute may also assist in the supervision of offenders who have received a suspended sentence with conditions involving supervision, where such offenders are referred to it.

- An important aspect of the work of NICRO consists of providing aid to families of offenders. This may involve material assistance, referral to appropriate resources in the community, and counselling generally.
- With its increasing emphasis on a thorough diagnostic study of long-term prisoners (with sentences of two years and more) in its observation centres, the Department of Prisons has made increasing use of the services of NICRO in obtaining psycho-social case histories in respect of prisoners in the observation centre.
- Probably the major aspect of the day-to-day work of NICRO consists of parole supervision and aftercare services to unconditionally discharged prisoners. A limited amount of pre-release preparation, mainly in respect of prisoners to be discharged on parole, is done in co-operation with the social workers of the Department of Prisons.

Aftercare includes a wide range of services, such as assisting in obtaining accommodation and employment material aid, family therapy and counselling generally. Parole supervision will be discussed in more detail further on in this section.

- NICRO operates aftercare hostels for discharged prisoners at various centres. These include residential facilities for Coloured, White, and Black discharged prisoners. Between eight and ten ex-offenders can usually be accommodated at these hostels, where room and board as well as social work counselling are rendered to the residents. Basically these hostels represent a stepping stone between the prison and the community.
- In conjunction with the Department of Justice and with the State departments employing probation officers, NICRO has established the Community Service Orders project in Cape Town. This involves sentencing certain offenders to perform a specific service to the community under supervision, as an alternative to imprisonment. NICRO assist in the administration of this system.
- At different centres various special facilities and services have evolved. These include a night shelter for vagrants and recreation centre at the Cape Town branch of NICRO, a bus service for relatives of prisoners from Cape Town to outlying prisons, and also in the Johannesburg area.

3.3.2.4.3 Crime prevention

Since 1970, when the organisation decided to re-align its goals and activities, NICRO has placed increasing emphasis on crime prevention. This includes a variety of activities, such as appointing community workers to operate in several criminogenic areas including the Coloured residential area of Eldorado Park near Johannesburg, and the Black residential area of Umlazi near Durban; conducting a survey in a residential area Westgate in Pietermaritzburg which was particularly victimised by criminals and motivating the citizens to take steps to minimise the crime risk.

During the past decade, since 1971, NICRO has conducted a number of research projects relative to crime and social disorganisation. These include the extensive study on crime on the Cape Flats and the survey on vagrancy in Cape Town - which has led to the establishment of night shelter for vagrants.

Crime prevention campaigns have been launched in several cities. This includes such projects as the establishment of a crime prevention panel consisting of local citizens in Port Elizabeth, establishing a youth club in a Black residential area near Durban, and establishing co-operative occupational groups in areas with a high rate of unemployment such as carpentry and leatherwork for unemployed males at Eldorado Park, and a sewing and

knitting group for women in the same area.

NICRO has published such crime prevention literature as a crime prevention booklet for citizens, and various pamphlets on the nature and extent of crime. In addition, citizen groups are regularly addressed on aspects of crime and crime prevention. Furthermore, publicity campaigns, relative to crime prevention, are conducted through the media.

Finally, in 1972 NICRO established the first criminology journal in South Africa, which acted as a forum for discussion of criminological issues until 1976, when the journal was expanded to become the South African Journal of Criminal Law and Criminology. Although a publishing house took over the journal, NICRO continues to maintain an active interest in it.

3.3.2.5 The role of NICRO in the parole system

The role of NICRO in the parole system is outlined as follows in a memorandum entitled, "Memorandum to Social Workers in the Service of NICRO on the Role of NICRO relative to that of the Department of Prisons in the Rehabilitation of Adult Offenders," (February 1972), which the NICRO Head Office sent to its Branches⁶⁸⁾ :

68. It will be noted from the discussion of the role of the prisoners' aid agency in the preparation of prisoners for release on parole, in section 2 of Chapter VI, that, in practice, the parole process often does not function as outlined in the memorandum, particularly as far as early advice of the release date and the involvement of NICRO in setting parole conditions are concerned

"7. Parole

The parole release date is provided (to NICRO by the Department of Prisons) \pm 6 months prior to release, with the view of making final pre-release preparations - arranging for work and accommodation, preparing the family, etc. In consultation with the 'external' social worker (i.e. the agency responsible for eventual parole supervision) parole conditions are laid down and presented to the Prison Board (now Release Board). As NICRO is aware of the external circumstances into which a prisoner will be released, it is in a good position to know what conditions are necessary to give 'teeth' to parole - i.e. to make it an effective measure in the rehabilitation of the offender and the protection of the community. The Institute's social worker may, therefore, recommend certain specific practical conditions (through the prison social worker) for the Board's consideration. It should be emphasised that parole conditions should, in order to be effective, always be individualised - i.e. geared to the person's needs and his particular circumstances. The parole conditions will appear on the "P.D. 172" (now G. 374A) forms, of which a copy will be sent to the local Welfare office, and one to NICRO. In cases where NICRO assumes supervision of a parolee, this will be indicated on his "P.D." form.

It is important that proper parole supervision be carried out - i.e. regular interviews, home visits, and visits at work (where advisable and practicable.) Periodic progress reports must be sent to the relevant Prison Board (now Release Board) (through the Department of Social Welfare.)⁶⁹⁾ While these reports should be concise, they should not be skimpy, as they must give a good picture of the parolee's varying adjustment throughout his parole period. The frequency of the parolee's reporting will depend on the nature of his problems and on his general adjustment. At first (say for about two months) he will report once a week, then once every two weeks, then once a month. Both the social worker and the parolee must always keep in mind that parole is not unconditional release, but an opportunity to serve the remainder of the sentence in the community; under supervision.

Permission for change of address or change of employment is given in consultation with the prison social worker - who will obtain consent of the Prison Board.

69. Dealings between NICRO and the Department of Prisons regarding parole are no longer canalised through the Department of Health and Welfare, but occur directly between the two parties.

When a social worker recommends that a certain person's parole be suspended he/she must be convinced that this would be in the best interest of the parolee as well as the community."

CHAPTER V

THE APPLICATION OF PAROLE IN SOUTH AFRICA1. The selection, preparation and release of prisoners on parole1.1 Selection of prisoners1.1.1 Introduction

Parole generally implies that only a selected number of prisoners are conditionally released from prison before their sentences expire. In other words, release on parole is not automatic, but is subject to a selection procedure. This procedure involves two basic considerations : the first being that of eligibility and the second that of suitability.

The matter of eligibility is usually laid down by statute, and applies equally to all prisoners. It is a general standard governing categories of prisoners, as opposed to individual offenders. It determines which categories of prisoners may be released on parole and which may not be thus released, and it lays down the minimum period of time that has to be served of a prison sentence before prisoners can be considered for release on parole.

Once it has been established that a prisoner is not automatically disqualified from release on parole by virtue of the type of offence in respect of which he is serving

a prison sentence, and that he has served the minimum period of time of his sentence, which has been laid down by statute or by regulation, then the matter of suitability is considered.

The suitability of a person for release on parole is determined by certain criteria - both objective and subjective. The criteria of suitability for release on parole which are generally applied by the Canadian paroling authorities are probably fairly representative of the criteria applied by most paroling authorities in Western Countries. These are as follows :

- "(a) the nature and gravity of the offence, and whether he (the prisoner) is a repeater;
- (b) past and present behaviour;
- (c) the personality of the inmate;
- (d) the possibility that on release the parolee would return to crime and the possible effect on society if he did so;
- (e) the efforts made by the inmate during his imprisonment to improve himself through education and vocational training, and how well they demonstrate his desire to become a good citizen;
- (f) whether there is anyone in the community who can and would help the inmate on parole;
- (g) the inmate's plans and whether they are realistic enough to aid in his ultimate rehabilitation;

- (h) what employment the inmate has arranged, or may be able to arrange; steady employment must be maintained if at all possible as one of the most important factors in his rehabilitation;
- (i) how well the inmate understands his problems; whether he is aware what got him into trouble initially and how he can overcome his defect, and, how well he understands his strengths and weaknesses."¹⁾

The decision of whether or not a prisoner is suitable for release on parole is necessarily an arbitrary one. Human behaviour is so complex and changeful that it is incapable of being predicted with a high degree of accuracy. In addition, there are many unknown variables in the social environment to which the prisoner will return, and which therefore, have an unpredictable effect on the behaviour of the parolee. Furthermore, few prison systems - and this certainly applies to the South African prison system with its large population - have sufficient and adequately trained personnel to be able to study all, or even most prisoners in sufficient depth in order to allow for highly reliable predictions.

In practice, the most important criterion in parole selection is probably whether or not the prisoner poses a threat to the community. The decision whether or not to release a

1. The National Parole Board, An outline of Canada's parole system for judges, magistrates and the police, undated, pp. 6 and 7

prisoner on parole is, therefore, based mainly on the negative criterion of a person's potential for failure rather than on his potential for success. Being sensitive to public opinion, most paroling authorities aim at keeping the parole failure rate as low as possible. Selection for parole should, in the opinion of Korn and McCorkle,²⁾ be seen as an attempt to minimise parole failure rather than as an attempt to maximise parole success.

Just as sentencing by the criminal court, selection by the paroling authorities is a predictive device - it makes predictions regarding the parolee's behaviour in the community after his release on parole; and regarding his potential for a successful adjustment in the community generally.

1.1.2 Parole selection in South Africa

In co-operation with the Department of Prisons, J. van der Westhuizen³⁾ conducted an extensive study of prison board predictions in South Africa. As this is the only study of selection as carried out by the paroling authorities in the South African prisons, the researcher is forced to rely almost entirely upon van der Westhuizen's findings regarding parole selection⁴⁾ - which were confined to White long-term

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2. Korn, R.R., and McCorkle, Criminology and Penology, Henry Holt & Co., New York, 1959, p. 614
 3. Van der Westhuizen J., "Voorspelling van Parool[sukses en - mislukking in Suid-Afrika," Institute of Criminology, U.N.I.S.A. , 1982
 4. Ibid.

prisoners and which, therefore, apply only to a relatively small percentage of all parolees.

The first principle in parole selection in South Africa is that no person who presents a serious threat to the State and to the security of the country is eligible for release on parole. Secondly, no prisoner is considered for release on parole if he presents a direct threat to his fellow citizens' life, body, honour, security or possessions.

Van der Westhuizen points out that selection for parole of individual prisoners who qualify therefore in terms of the above principles, involves a careful study in respect of each case - commencing at the time when the offender is received in prison. It is assumed that this occurs only in respect of all long-term White prisoners - i.e. those serving sentences of two years and longer - and in respect of a limited number of prisoners of the other population groups.

The prison authorities make their decisions regarding parole selection on the basis of panel interviews with the prisoners concerned; mutual consultation among prison personnel; reports received in respect of a prisoner's family background, crime history, behaviour, employment, adaptation and inclination previous to and during his incarceration; and projections regarding motivation for employment and social adjustment generally.

Selection for parole is performed by the release boards, whose composition and functions were outlined in the previous chapter. If he deems it necessary, the Minister of Prisons may consult the advisory release board - also described in the previous chapter - regarding policy and matters related to the conditional release of prisoners.

Categories of prisoners who are not eligible for release on parole are persons convicted of offences against the security of the State; illegal immigrants; foreign migratory labourers who abscond from the mines; and dealers in illegal habit forming and dangerous substances. Apart from these categories, the Commissioner of Prisons has authority to refuse or grant parole in other cases.

In the above-mentioned survey, van der Westhuizen identified a number of criteria that are generally applied by prison boards in parole release. The following factors were regarded by members of prison boards as being conducive to parole success : a stable character, a feeling of remorse about the crime, religiousness, trade training, being industrious and hard-working, having a sense of responsibility, being a first offender, close family ties, and having a phlegmatic and well balanced nature.

Factors that are thought by prison board members to have a negative effect on parole success include the following : dull intelligence, deviousness and aggressiveness, stubborn=

ness, psychopathy, excessive tatooning, laziness, excessive sexual inclination, a broken home, criminality of members of the family, having been convicted of crimes of aggression, or of abuse of drugs or alcohol, and recidivism.

J.P. Roux,⁵⁾ formerly Deputy Commissioner of Prisons, indicates that the following principles underly selection of parole :

1. the reaction of a prisoner to treatment that is applied;
2. the needs and particular characteristics of each offender;
3. excessively lengthy imprisonment can sometimes do more harm than good, therefore those upon whom the element of punishment has been adequately impressed are selected;
4. weighing up of all the negative and positive factors, which relies on reports by the institutional committee; remarks by the judicial officer who passed sentence; remarks by the prosecutor or the police; and an analysis of the numerous reports and observations by the parole board members themselves, social workers, psychologists, spiritual

5. Roux, J.P., "Release of Prisoners", in University of South Africa, Penology III, Guide 3, University of South Africa, Pretoria, 1977, pp. 51-52. Considering the position of the author the statement can probably be regarded as reflecting official policy on the matter of parole selection.

workers, educationists, training and custodial staff, and everybody who has made a contribution to the rehabilitation programme;

5. the availability and desirability of supervision after release; and
6. the nature of the work the parolee is due to perform after release as well as the attitude of his prospective employer.

If one considers the major criteria which are applied in parole selection it appears that the process aims at identifying prisoners who present the least risks of recidivating, and releasing them on parole. Those who present major problems, especially behaviour problems, personality defects and emotional or psychological problems, and lack adequate social equipment and training are regarded as "bad risks" and are therefore usually not released on parole. In addition, if a person lacks the necessary support in the community - accommodation, employment, supportive family ties, etc., his chances of parole success are also regarded as being less than those of persons who are assured of these support structures. Thus the chances of the former of being selected for parole are negatively affected.

This approach actually limits the effectiveness of parole, as those who are not released on parole often need parole more than those with positive personal attributes and support

structures in the community, in order to achieve a satisfactory adjustment in the community. It is an illogical approach as eventually they are released unconditionally - without the support and controlling parole structure. Such an approach is also dysfunctional for society, as it does not have the protection against the more problematic and dangerous offenders which can be afforded by the parole structure. Conversely, many persons who are released on parole do not really require the supportive structure of parole, nor does society, for its own protection, require the surveillance and control afforded by parole. It is probably often a person's strength of character his lack of a criminal inclination and the support which he receives from his family and from the community generally which prevents him from engaging in further criminality, and which is responsible for his positive adjustment in the community, rather than parole.

Such a rather illogical parole policy can be the result of fear of public opinion on the part of the paroling authorities, an admission that, in their present state of development, the social and medical sciences are still incapable of treating and/or controlling the more problematic offenders, or it can be a poor reflection on insight or adequate concern on the part of parole decision makers.

1.2 Preparation for and release of prisoners on parole

1.2.1 Considerations regarding the importance of pre-release preparation of prospective parolees

1.2.1.1 The effects of imprisonment on the offender generally

In order to achieve a deeper understanding of the problems faced by prisoners after their release and to appreciate the importance of proper pre-release preparation, it is necessary to briefly consider the nature of imprisonment and its implications for inmates.

More than a century ago, when Charles Dickens visited the Eastern Penitentiary at Philadelphia, he wrote in his American Notes : "I hold this slow and daily tampering with the mysteries of the brain to be unmeasurably worse than any torture of the body, and because its ghastly signs and tokens are not so palpable to the eye and sense as scars upon the flesh, because its wounds are not upon the surface and it extorts few cries therefore I the more denounce it as a secret punishment which slumbering humanity should rouse itself to abolish."⁶⁾

Social scientists today are as disturbed by the adverse psychological effects of imprisonment as Dickens was. In

6. Quoted by John Kidman in The Canadian Prison - the story of a tragedy, 1947, pp. 74-75

addition they have also become aware of the debilitating social effects of imprisonment on persons. While there are no more chain gangs, no more floggings, and no physical tortures, and although in general, material conditions have become more humane, the "pains of imprisonment", to use Sykes' expression, are still very acute. Sykes points out that, in the Western World, material possessions are a fundamental part of the individual's self-conception, and that, depriving him of these means to attack him "at the deepest layers of personality". He states that, "a standard of living constructed in terms of so many calories per day, so many hours of recreation, so many cubic yards of space per individual, and so on, misses the central point when we are discussing the individual's feeling of deprivation.... A standard of living can be hopelessly inadequate, from the individual's viewpoint, because it bores him to death or fails to provide those subtle symbolic overtones which we invest in the world of possessions. And this is the core of the prisoner's problem in the area of goods and services. He wants; or needs, if you will; not just the so-called necessities of life but also the amenities : cigarettes and liquor as well as calories, interesting foods as well as sheer bulk, individual clothing as well as adequate clothing individual furnishings for his living quarters as well as shelter, privacy as well as space."⁷⁾

7. Sykes, G.M., The Society of Captives : A study of a maximum security prison, Atheneum, New York, 1966, p. 68

From his study of 'total institutions' - including mental institutions, T.B. sanatoria, orphanages, monasteries, homes for the disabled and aged, army barracks, prisoner-of-war camps, and prisons, Goffman⁸⁾ concludes that these institutions are all characterised by the existence of a barrier to social intercourse with the 'outside world.'

This barrier is physical (high walls, barbed wire, iron bars, locked doors, etc.), social (restrictions on free social intercourse with members of the open community) and psychological (the sense of isolation and alienation resulting from incarceration). Goffman feels that it leads to a process of 'mortification'; that is, an attack on the integrity of the individual's personality - which starts upon the individual's admission to prison. At that time he is stripped of the equipment and services by which he maintains his personal appearance, thus suffering personal defacement.

Goffman indicates that "the individual ordinarily expects to exert some control over the guise in which he appears before others. For this he needs cosmetic and clothing supplies, tools for applying, arranging and repairing them, and an excessible, secure place to store these supplies and tools - in short, for the management of his personal front, the

8. Goffman, E., Asylums, Doubleday & Co., New York, 1961, and "On the characteristics of total institutions," in Cressey, D.R., The Prison, studies in institutional organisation and change, Holt, Rinehart and Winston Inc., New York, 1961

individual possess an identity kit.⁸⁾ This he loses when he enters the prison. Upon admission he is stripped of virtually all personal possession, which are substituted by only the barest essentials for prison living.

When the heavy metal doors have closed behind him, a virtually insurmountable barrier between the new inmate and the wide world has been erected. This is symbolized by the massive grey walls, as well as by other restrictions to social intercourse with members of the 'free world.' His letters are censored, his limited visits strictly supervised, and his every movement watched by the custodian's suspicious eyes : all this signifying rejection and degradation. Members of the open community, such as the inmate's wife and children, relatives and friends, see him in grey prison clothing behind bars, and being watched over by armed guards. This can hardly elevate him in the eyes of those who see him under such conditions, which in turn, is part of the personal defacement - a blow to his own self-image.

Furthermore, what Goffman refers to as 'role dispossession' occurs. When he is incarcerated, the individual loses most of the roles he had played in the open community. He can no longer actively fulfil the role of husband, breadwinner, father, or the general role of citizen, since he loses his civil rights, such as voting, by imprisonment.

9. Goffman, op. cit., p. 27

The convicted criminal does not only become a social outcast from the free community, the process of degradation continues during imprisonment - whether overtly or whether in subtle ways. Once the facts about his personality, past behaviour and social status in the open community have been collected and recorded - such a self-revelation in itself often being a threatening experience - the new inmate has to adapt to a rigidly controlled and monotonous daily routine that, by virtue of its artificiality is alien to himself. He has no privacy and is never completely alone, being within sight or hearing of prison personnel and fellow-inmates at virtually all times.

There is little scope in prison for self expression and decision-making by the prisoner. By being subjected to a large number of rules and commands, the individual suffers from a loss of autonomy, and may feel helpless, weak, dependent and impotent. As Sykes puts it : ".....men under guard stand in constant danger of losing their identification with the normal definition of an adult and the imprisoned criminal finds his picture of himself as a self-determining individual being destroyed by the regime of the custodians."¹⁰⁾

The prisoner has very little choice as to accommodation and cellmates, recreation, occupation and social interaction.

10. Sykes, G., op. cit., pp. 75-76

There is very little meaningful segregation - prisoners of various ages, and ethnic and religious groups are placed together. Periodic searches of cells, workshops and inmates themselves when they are moving from one area to another, although probably necessary for reasons of 'security,' also reflect the custodians' attitude of suspicion towards prisoners, and add to the latter's feeling of debasement. Furthermore, there are many situations of inmate-staff interaction in which the inmate has to humble himself in order to get what he wants. A servile attitude often helps the inmate to obtain a change of cells or of work, to get a transfer to another prison, or to obtain an early release on parole.

Another factor which is threatening to the integrity of the individual's personality is the absence of opportunities for heterosexual relations - both social and physical. The prisoner's image of himself as a man may be seriously damaged after a lengthy period of enforced celibacy. This obviously, does not apply to individuals who are homosexuals by choice. However, some inmates engage in homosexual conduct as a temporary means of relieving their sexual frustrations. Others, especially younger, emotionally insecure individuals may be coerced into homosexual relations, thereby receiving a shattering blow to their self-image. In general, the prison environment is conducive to the development of sexual frustration which, in turn, often leads to sexual aberrations.

While it is difficult to study this subject scientifically, the researcher feels that it can be safely assumed that prolonged deprivation of heterosexual intercourse results in considerable homosexual perversion. Sykes has found that, "much of the homosexual behaviour in prison is not part of a life pattern existing before and after confinement; rather, it is a response to the peculiar rigors of imprisonment."¹¹⁾

Finally, it must be kept in mind that imprisonment does not only affect the offender himself, but it also affects his wife, children, parents and others in the community who play an important role in his life.

Imprisonment of the husband and father is usually a traumatic experience for the wife and children. Not only are they confronted with the many practical problems of earning a living and child-rearing but they experience the stigma and degradation resulting from the husband's and father's imprisonment. The ostracism and social isolation which the family may experience can result in emotional and psychological problems for the wife and children. The loss of the breadwinner may force the prisoner's wife to seek employment which, in turn, may lead to neglect of the children. Where the mother is incapable of caring for the children on her own, they may have to be placed in foster-care, or worse,

11. Ibid., p. 72

into a children's institution. The negative effects of such broken homes are well known to social workers and psychologists.

But it is probably the children who suffer most from an extended separation from their father. Even if the family was not a very stable one prior to his imprisonment, the father plays an important role in the raising of children.

Ironically, if the husband and father returns after a lengthy absence, it may result in adjustment problems on the part of the parents as well as the children. His return places new adjustment demands on all concerned. It is seldom a matter of 'they lived happily ever after.'

From what has been stated above, it is clear that imprisonment generally has far-reaching detrimental effects on the offender as well as those close to him in society-particularly his wife and children. Therefore, not only the prisoner himself, but also his family and others close to him will usually require purposeful and adequate preparation for his return to the community.

1.2.1.2 The process of prisonization

The researcher will attempt to show that the social structure of the traditional prison operates in such a way as to influence the inmates in adapting to its own demands, which are at variance with the demands of the open

community. In the process, it influences the prisoners' attitudes, values, and behavioural patterns.

In order to avoid disintegration of the self, which could result from what Goffman calls the "process of mortification"¹²⁾ or from what Sykes refers to as the "pains of imprisonment"¹³⁾ students of the prison such as Sykes, have found that inmates establish certain patterns of interaction which help to maintain their personal integrity, this leads to a type of acculturation, known as prisonization.

The Morrises define prisonization as "the continuous and systematic destruction of the psyche in consequence of the experience of imprisonment, and the adoption of new attitudes and ways of behaving....."¹⁴⁾ They point out, however, that in many cases social learning in the areas of autonomy identity, responsibility and sexuality has been distorted or incomplete even before the individual entered prison. Yet, they add, further damage by the prison experience can be such on an already inadequate or pathological personality that rehabilitation after imprisonment is greatly impeded.

Prisonization, then, can be seen as a form of pathological adjustment in which the inmate adopts new attitudes and modes

12. I. Goffman, op. cit., p. 23

13. G.H. Sykes, op.cit., p. 63

14. Terence and Pauline Morris, "The experience," The British Journal of Criminology, Vol. 2, April 1962 p. 347

of behaviour characteristic of the prison milieu. The pioneer of sociological studies of the prison community, Donald Clemmer, equates prisonization with assimilation, describing it as ".....the taking on in greater or lesser degree of the folkways, mores, customs and general culture of the penitentiary."¹⁵⁾ He feels that every person who is incarcerated undergoes a certain degree of prisonization. The first major integrative step concerns the inmate's status. In Clemmer's words :

"He becomes at once an anonymous figure in a subordinate group. A number replaces a name. He wears the clothing of the other members of the subordinate group He soon learns the ranks, titles and authority of various officials. And whether he uses the prison slang and argot or not, he comes to know its meanings. Even though a new man may hold himself aloof from other inmates and remain a solitary figure, he finds himself within a few months referring to or thinking of keepers as 'screws', the physician as the 'croaker' and using the local nicknames to designate persons. He follows the examples already set in wearing his cap. He learns to eat in haste and in obtaining food he imitates the tricks of those near him."¹⁶⁾

15. Clemmer, D., The Prison Community, Holt, Rinehart and Winston, New York, 1966, p. 299

16. Ibid., p. 299

In terms of Sutherland's theory of differential association¹⁷⁾ new inmates become prisonized by association with inmates who have more institutional experience. According to Clemmer, they 'slip into existing patterns.' Becoming acquainted with existing inmate norms and codes, most persons learn to distrust and hate prison guards, and, by implication, formal authority generally. While not every prisoner undergoes a general change of attitudes and values, everybody is subject to, what Clemmer terms 'the universal factors of prisonization', and many adapt to it to a greater or lesser extent. Even if only relatively superficially and temporarily, this adaptation leaves a certain mark on the individual, and affects his capacity to achieve a satisfactory adjustment in the open community.

Garabedian¹⁸⁾ points out that the nature and extent of prisonization depends on various factors, an important one of which being the phase of a prisoner's institutional career - early, middle, or late - and that the inmate norms and socio-cultural elements in prison exert a differential impact on various inmates. Nevertheless, a certain degree of socialization in prisoner values and modes of behaviour does generally occur.

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17. Vold, G.B., Theoretical Criminology, Oxford University Press, Oxford, 1979, pp. 235-238
 18. Garabedian, P.G., "Social roles and processes of socialization in the prison community," Social Problems, No. 11 (Fall, 1961), pp. 142-152

1.2.2 Pre-release preparation generally

From the above discussion of the effects of imprisonment on the offender and his family generally, and of the process of prisonization specifically, it is evident that it is essential, in order to minimise the negative effects of imprisonment on the offender, to prepare him properly for his release into the open community. While this applies to unconditionally as well as conditionally discharged prisoners, the emphasis in the following discussion will be on pre-release preparation in respect of prisoners who are to be released on parole.

Considering the nature of imprisonment, and the fundamental difference between the prison community (to which the offender has generally adjusted himself) and the open community (to which the offender will eventually return) it is obvious that a smooth and effective transition from the former to the latter pre-supposes adequate pre-release preparation. This is underlined by a statement made by a former senior South African prison administrator, then Brigadier (Dr) J.P. Roux¹⁹⁾ who said i.a. the following :

"The prison is traditionally and from a functional point of view so regulated that it of necessity causes a very

19. Roux, J.P., "The treatment of offenders," Crime, Punishment and Correction, Vol. 4, No. 2, June 1975, pp. 69-70

routined existence, in which there is little opportunity for the individual to accept responsibility for his daily comings and goings. Many offenders' crimes arise from the inability or unwillingness to accept responsibility for their doings with the result that the prison set-up suits them and therefore strengthens the pattern of I-need-not-accept-responsibility-for-my-behaviour. In the last instance imprisonment causes the deprivation of normal interpersonal and social relationships. Once again, to a great extent there is exposition to negative and very often destructive interpersonal contact. There is no question of really intimate family and other social relationships. The person is cut off from the positive effect of healthy family relationships and family ties. For a number of years the wife, who is not suited for this role, has to take the place of family head. When the offender is released, the adaptation must be made anew by the members of the family for the acceptance of their lesser roles. At the same time new work relationships have to be built (with a stigma clinging to the person) and new social contacts must be established. The person literally has to resocialize himself from the beginning."

Roux also pointed out that the prison is "the least suitable place where personality development and, therefore, behaviour changes could be engendered and personality development be stimulated to optimum development" and that "(t)he time has arrivedto seriously consider keeping the

offender in the community for as long as possible and to send him to prison only as a last resort."

Keeping in mind these statements, made by a person who was once Head of Psychological Services of the Department of Prisons and later on Deputy Commissioner of Prisons, one is aware of the importance of parole as a correctional measure, and again, of the need to prepare the prisoner for life in the open community.

When being released on parole, the prisoner moves from a regimented existence and a state of dependency (as outlined by Roux above) to one where life presents numerous demands and requires an ability to assume responsibilities and to function independently. This transition requires a change in attitudes and a realistic outlook regarding the numerous problems that will be encountered upon release. In order to achieve this, there is a need for a programme of re-orientation and preparation. The most important aim of such a programme would be to teach the prisoner how to solve his own problems - rather than attempting to solve them for him.

It has been the researcher's experience as a correctional social worker that after having been incarcerated for some time, especially if incarcerated for a lengthy period of time, prisoners often tend to develop misconceptions about the world outside. They may either have the unrealistic

notion that after their release from prison everything will go well or, conversely, they may be unduly negative about post-release problems, and hostile towards society generally. In order to correct these misconceptions and faulty expectations that prospective parolees may have built up during the period of their isolation from society, they require assistance from someone who is well informed regarding the conditions that will face parolees when they return to society.

In general terms pre-release preparation for release on parole involves i.a. explaining clearly to the prisoner exactly what parole involves, that is, the limitations, controls, supervision and surveillance which it entails; the obligations and responsibilities incumbent upon the parolee; and the nature of assistance and guidance he can expect. As will be seen from the discussion of the role of the prisoners' aid agency in the preparation of prisoners for release on parole in Section 2 of this chapter, many prisoners have an unrealistic conception and unrealistic expectations of parole.

Pre-release preparation involves assisting the prisoner to approach his future realistically in terms of his own capabilities, limitations and the resources available to him in the community. Furthermore, before being released on parole, it is important that the prisoner is assisted in achieving an understanding of himself and of his own

behaviour. If he can be aided in developing an insight into the factors in his developmental history as well as the elements of the social structure under which he lived that may have played a role in leading to his deviant behaviour, his chances of avoiding further clashes with the law would probably be improved.

In preparing a prisoner for release on parole, it is important that the significant persons in the community to which he will be released also be prepared for his return. If he is married, it will involve mainly his wife and his children. Should he plan to live with his parents upon release, it will involve them and possibly his siblings. Such persons will have to be visited and counselled regarding the adjustment problems that may arise from the husband's/father's/son's/sibling's return to the community.

In many cases, serious social problems existed before the offender's imprisonment - and such problems are often compounded by his incarceration. In such cases a proper programme of pre-release preparation in respect of both the offender and his family is even more important.

1.2.3 Pre-release preparation and release of parolees in South Africa

1.2.3.1 Pre-release preparation²⁰⁾

The Department of Prisons is responsible for all aspects relating to the treatment of prisoners, which includes pre-release preparation for parole. Such preparation, as far as long-term prisoners are concerned, that is, those serving sentences of two years and longer, commences with their reception in the observation centre, where a detailed assessment is made of the offender. This includes psychological tests as well as an assessment by a social worker, an educationist and a minister of religion.

It must be pointed out, however, that the observation procedure and, indeed, the whole parole process does not operate as comprehensively and as effectively in respect of non-White prisoners as it does in respect of White prisoners. This was already indicated by the Commission of Inquiry into the Penal System of the Republic of South Africa.²¹⁾

Pre-release preparation for parole is intensified during

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20. Information in this regard comes mainly from a paper entitled "The referral system and the role of the private organisation," read by Kol. J.L. de Jager of the Department of Prisons at the time of the Congress on Rehabilitation and Crime Prevention held by the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO) in Cape Town on 12 August 1971, and from the section by J.P. Roux on "Release of Prisoners" in the UNISA study guide, Penology III, Guide 3, UNISA, 1977
21. Commission of Inquiry into the Penal System of the Republic of South Africa, RP 78/1976

the final phase of the offender's sentence. This phase commences about six months prior to the prisoner's release on parole. Involved in this process are particularly the relevant institutional committee, the prison social worker, psychologist, educationist, and spiritual worker.

Pre-release preparation, then, is a team effort, involving all the staff members concerned with the prisoner's rehabilitation. The aftercare organisation is, ideally, informed of the prospective parolee's forthcoming release date about six months in advance of that date, in order that the organisation may intensify its efforts at preparing the prisoner's family for his return, and that it may establish contact with the prisoner himself. However, as will be seen in the following section of this chapter, the aftercare organisation is frequently not informed of the prisoner's parole release date in good time, if it is informed of it at all. It will also be shown that, according to a survey on this matter the aftercare agency is only involved in the pre-release preparation of parolees to a very limited extent.

Among the most important aspects of pre-release preparation are counseling of the prospective parolee by the prison social worker, arranging for accommodation and employment, liaising with the aftercare agency, churches and other persons concerned with his aftercare. In addition necessary documents are obtained, and the prisoner is provided with

clothing and tools necessary to practice his trade. Arranging for the necessary documentation is of particular importance in respect of Black prisoners, where certain legal restrictions apply in terms of residence and employment.

The social worker from the prison aftercare agency provides reconstruction services to the families of prospective parolees and prepares them for their forthcoming return. In addition, the external social worker also assists, where necessary, with arranging for accommodation and employment for prospective parolees. As pointed out above, ideally he/she interviews such prisoners in prison prior to their release on parole. In the case of a prospective parolee who is held in a prison away from his home or from his destination upon release, he is, as far as practicable, transferred to the prison closest to his destination, in order to enable the social worker from the aftercare agency to see him prior to release. In many cases, however, practical considerations prevent such transfers.

1.2.3.2 Parole conditions

Roux²²⁾ mentions the following general parole conditions, which are adapted to the needs of each individual offender :

- (i) residing at a specified address and with a specific person;

22. Roux, J.P., op. cit., pp. 54-55

- (ii) engaging in specific employment, and that change of work may only occur with the consent of the Commissioner;
- (iii) avoiding association with persons of weak character;
- (iv) refraining from visiting undesirable places;
- (v) regular contact with parole supervisor;
- (vi) avoiding the commission of any crime;
- (vii) restriction on movement outside a specific geographical area;
- (viii) supporting family;
- (ix) abiding by all legal commands of the employer, and performing of his work according to the best of his ability;
- (x) re-imprisonment in the event of violation of parole conditions, and serving the unexpired portion of the sentence in prison; and
- (xi) submitting to specific forms of treatment, applicable to particular cases, for instance for alcoholism.

According to the policy of the Department of Prisons, outlined by Col. J.L. de Jager in his paper presented at the above-mentioned congress, parole conditions are drawn up in consultation with the external social worker concerned - i.e. the social worker from the aftercare agency. However, from the above-mentioned survey regarding NICRO's involvement in the pre-release preparation of prisoners, it appears that the aftercare agency is rarely consulted regarding parole conditions.

1.2.3.3 Release procedures

When a prisoner is released, care is taken that he is adequately and neatly clothed. If the clothing with which he entered the prison is inadequate, and his family is unable or unwilling to provide him with clothes, or if he does not have sufficient money to buy them, the Department of Prisons will provide him with proper clothing. If he has been trained in a particular trade, he is provided with the necessary tools and work clothing. Upon release, the money he has accumulated during his imprisonment is paid out to him, and an effort is made to place him into the kind of employment for which he is qualified, and to select employers carefully, in order to avoid exploitation of the prisoner.

Efforts are also made to arrange for accommodation for the prisoner prior to his discharge. This is often done in conjunction with organisations and persons in the community, and in some cases the facilities of aftercare hostels operated by private organisations, such as NICRO, are used. Prison personnel - that is, commanding officers, social workers, and members of institutional committees - liaise with such resources in the community as the Department of Manpower Development, the Department of Co-operation and Development, NICRO and other organisations, in regard to securing employment for prisoners.

All the necessary documents are provided to prisoners upon their release including the discharge document, a declaration of exemption from income tax, educational or vocational certificates obtained during imprisonment, documents necessary for obtaining employment, and in the case of Black prisoners, identification and residential documents. It is not indicated on any of the documents that the person was in prison except, of course, on the release document and on the income tax exemption declaration.

Prior to release, prisoners receive a thorough medical examination.

Upon their discharge, prisoners are provided with train tickets to their destinations. They are also given food for the road, or, if necessary, money to buy food.

As far as short-term prisoners (serving sentences of six months and less) who are released on parole to employers are concerned, the following situation obtains :

The Commissioner of Prisons has the authority to release such persons on 'parole' virtually immediately upon their admission to prison. The conditions on which such persons are released to employers - mainly farmers - were discussed in the previous chapter, in which it was also pointed out that this kind of release cannot be regarded as parole in the accepted penological sense. Basically the conditions

involve the payment of a certain wage, provision of adequate accommodation and food, provision of medical services, and refraining from maltreating prisoners. Such parolees have to give written consent to be released to the care of an employer, have to undertake to perform the work to the best of their ability, and to follow all legal and reasonable commands of the employer. If the 'parolee' is unwilling or incapable of abiding by his conditions he is returned to prison in order to serve the remainder of his sentence there.

Finally, a prisoner can be released on day parole as a measure to facilitate the transition from prison to the community. If released on day parole, a prisoner works in the community during the day, but spends nights, weekends and holidays in a special section in prison. However, he can be granted permission to spend time in the community other than for the purpose of employment. This measure is often applied to persons who have spent a long time in prison and who need assistance with establishing themselves financially; persons who have no resources in the community; prisoners who still receive regular treatment by members of the prison treatment team; and those who are experiencing adjustment problems or who may experience such problems.

2. The role of the prisoners' aid agency in the preparation of prisoners for release on parole

2.1 Introduction

A number of private welfare agencies deal with discharged prisoners on an incidental basis, as a subsidiary aspect of their primary functions, such as family welfare, child welfare, or general welfare services to particular ethnic or religious groups. There is, however, only one specialised prisoners' aid agency, namely the National Institute for Crime Prevention and Rehabilitation of Offenders (generally known as NICRO).

As NICRO is the only country-wide private aftercare agency which specialises in prisoners' aid and aftercare in respect of all offenders regardless of race and religion, the researcher confined his study of the role of private initiative in the pre-release preparation of prospective parolees to that agency.

2.2 Contact by NICRO with the prisoner, his family, relatives and friends in respect of pre-release preparation for parole

The following table reflects the involvement by NICRO in the pre-release preparation of parolees in the sample.

TABLE 1

	YES	NO	
NICRO was involved in the pre-release preparation of the parolee	15,4%	84,6%	100%
NICRO interviewed the prospective parolee in prison prior to release	11,6%	88,4%	100%
NICRO prepared the prospective parolee's family for his/her release on parole	24,0%	76,0%	100%
A member of the family came to the office of NICRO in order to discuss his/her forthcoming release on parole	17,2%	82,8%	100%
NICRO had contact with relatives/friends other persons in the community in connection with the prospective parolee's release on parole	21,0%	79,0%	100%
The family was visited for the purpose of parole preparation	15,3%	84,7%	100%

From the above table it is evident that the involvement of the private prison aftercare agency in the pre-release preparation of parolees is very limited. In only 15,4% of the cases NICRO was involved in the pre-release preparation of parolees. In view of the fact that the agreement between NICRO and the Departments of Prisons, and Health and Welfare makes provision for NICRO social workers to visit prisoners shortly before their release in order to assist with pre-release preparation, it is disconcerting to note that in only 11,6% of

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1. An agreement for co-operation between the Department of Health and Welfare, the Department of Prisons, and NICRO was drawn up in 1975

the cases in the representative sample of parolees, such persons were actually interviewed in prison prior to release. This must be seen in the light of the finding that, in only 13,5% of the parolees in the sample, NICRO was advised of the parolees forthcoming release on parole, and in 28,8% of the cases less than two months before that date. In 49% of the cases NICRO was not advised of the release date at all, and in 8,7% of the cases, it was not known whether or not NICRO had been advised.²⁾

The low percentage of cases in respect of which NICRO visited the family of prospective parolees for the purpose of parole preparation (15,3%), and where the families of parolees were actually prepared for their (the parolees') release on parole (24%), must also be seen in the light of the inadequate liaison between the Department of Prisons and NICRO regarding the release date of prospective parolees. The same applies to contact by NICRO with relatives, friends and other persons in the community in connection with the prospective parolees' release on parole - which occurred in only 17,2% of the cases.

2. The figures regarding advice of NICRO of the release date of parolees are discussed in more detail under the heading, "Liaison between NICRO and the Department of Prisons." The percentage mentioned here appear in table 4, under the heading "Direct Liaison"

2.3 Employment arrangements in respect of parolees

The extent to which the parolee received assistance with obtaining employment is reflected in the following table.

TABLE 2

(a) <u>Employment was secured for the prospective parolee prior to his/her release by :</u>	
The Department of Prisons	16,0%
NICRO	5,5%
The family/relatives/friends	8,6%
The parolee himself	12,9%
	<u>43%</u>
(b) <u>Employment was secured for the parolee after his/her release by :</u>	
NICRO	21,5%
The parolee himself	35,5%
TOTAL	100,0%

It emerges from the above table that, in less than half of cases (43%) employment was secured for the parolee before his release from prison - in 16% of the cases by the Department of Prisons, in 5,5% by NICRO, in 8,6% by members of the family, relatives, or friends and in 12,9% by the parolee himself. In fact, in nearly half of the cases (48,4%) of the cases the parolee found his own employment - in 12,9% of the cases before release, and in 35,5% after release from prison.

In the majority of the cases (57%), the parolee left prison without definite arrangements for employment. In just over one-third of the cases (35,5%), the parolee found his employment after release, and in 21,5% NICRO obtained employment for parolees after their release from prison.

It must be kept in mind that, if NICRO is informed of the prisoner's release on parole less than two months before his release date, it is difficult to secure employment for before he leaves prison - and impossible if NICRO does not receive prior notification of impending release on parole at all.

Nevertheless, as NICRO prepared the families of prospective parolees in 24% of the cases, it is assumed that the organisation was aware of the forthcoming release of those parolees, and could have secured employment in more than 5,5% of the cases!

On the other hand, the limited involvement of NICRO in the pre-release preparation of prospective parolees, and the inadequate liaison between NICRO and the Department of Prisons must play an important role in the low percentage of cases (5,5%) in respect of which NICRO obtained employment prior to release on parole.

Another way of interpreting the statistics regarding finding

employment for the parolee - both before and after release - is that, the higher the percentage of cases in respect of which members of the parolees' families, relatives, or friends, or the parolee himself obtain employment for him, the greater the likelihood that he has support and resources in the community - which would augur well for a positive adjustment in the community by the parolee.

It is difficult, therefore, to determine whether the findings regarding the securing of employment for and by the parolee reflect poor pre-release preparation or inadequate aftercare services on the one hand, or independence on the part of the parolee or the existence of community resources for him on the other hand.

2.4 Accommodation arrangements in respect of parolees

To what extent parolees found their own accommodation or were assisted by NICRO, the Department of Prisons, or family, relatives or friends is reflected by the table below.

TABLE 3

(a) <u>Accommodation arrangements were made for the prospective parolee prior to his/her release by :</u>	
The Department of Prisons	9,2%
NICRO	4,9%
The family/relatives/friends	51,5%
The parolee himself	13,5%
	} 65%
(b) <u>Accommodation was secured for the parolee after his/her release by :</u>	
NICRO	6,1%
The parolee himself	14,8%
TOTAL	100%

In 65% of the cases members of the parolee's family, his friends, or the parolee himself arranged for accommodation prior to his release. In 14,8% of the cases, the parolee found accommodation on his own after his release. Therefore only one in five parolees (20,2%) required formal assistance - that is, from the Department of Prisons or the supervising agency - with obtaining accommodation.

In 9,2% of the cases the Department of Prisons assisted the prisoner in finding accommodation prior to his release on parole. The fact that NICRO arranged for the prospective parolees' accommodation before his release in only 4,9% of the cases could probably be seen as an indication of limited involvement of NICRO in the pre-release preparation

of the prospective parolee. Had NICRO been involved in the pre-release programme on a more regular and more meaningful basis, one could assume that it would have secured accommodation for the parolee prior to his release in some of the 6,1% of the cases where it arranged for accommodation after his release, and perhaps also in some of the 14,8% of the cases where the parolee found his own accommodation after his release from prison.

On the other hand, the fact that the parolees required assistance with finding accommodation in only 20% of the cases, could be seen in a positive light. Namely it could be seen as an indication that the majority of prisoners (80%) have resources and support systems in the community.

2.5 Liaison between the Department of Prisons and NICRO in respect of release of prisoners on parole

The researcher investigated direct liaison between the Department of Prisons and NICRO, as well as indirect liaison - in the form of canalisation of information through a third party, namely the state department responsible for the welfare of the four major population groups. The following table reflects the extent of liaison.

TABLE 4

<u>DIRECT LIAISON</u>	
<u>NICRO was advised of the prospective parolee's forthcoming release on parole</u>	
Two months or longer before his actual date of release	13,5%
Less than two months before his actual date of release	28,8%
Not at all	49,0%
No response	<u>8,7%</u>
TOTAL	100%
NICRO had <u>contact</u> with the prison social worker or other members of the prison staff regarding the preparation of the prospective parolee for release on parole	
	32,1%
NICRO had <u>no contact</u> with the prison social worker or other members of the prison staff regarding the preparation of the prospective parolee for release on parole	
	<u>67,9%</u>
TOTAL	100%
<u>CANALISATION OF INFORMATION</u>	
<u>NICRO was advised by the Department of Social Welfare and Pensions⁺/Coloured Affairs/Indian Affairs/Co-operation and Development of the prospective parolee's forthcoming release on parole</u>	
Two months or longer before his actual date of release	1,2%
Less than two months before his actual date of release	9,2%
After the parolee had already been released	24,5%
Not at all	61,3%
No response	<u>3,8%</u>
	100%

⁺The designations of these government departments, except the Department of Co-operation and Development, have changed since this study was conducted, as indicated above

From Table 4 it becomes apparent that, only in a relatively small number of cases (13,5%) NICRO was given adequate advance notice of a prisoner's forthcoming release on parole to enable the organisation to carry out an effective pre-release programme - in respect of both, the prisoner and his family. NICRO requires two months or longer prior to a prisoner's release in order to effect proper pre-release preparation.

NICRO was advised of prisoners' forthcoming release on parole less than two months before the actual release date in 28,8% of the cases, and not at all in 49%. In other words, in nearly half of the cases NICRO was not able to perform any pre-release preparation at all. In fact, as it was pointed out under the discussion of preparation for parole, NICRO was actually only involved in the pre-release preparation of parolees in 15,3% of the cases. It is not clear why, although NICRO had been advised of the release date in 42,3% of the cases (28,8% less than two months before that date, and 13,5% two months or longer prior to the date), it did not conduct pre-release preparation. From discussions with NICRO social workers it would appear that the reasons for this lie, i.a., in the fact that a number of prisoners are incarcerated in institutions which are situated in areas other than those where the family resides and where the NICRO branch is located. Furthermore, it is not always easy for NICRO social workers to visit prisoners, as firstly, social workers require

permits in order to be granted access to prison and, secondly, suitable times and opportunities for such visits have to be arranged. It must be assumed, however, that, in spite of these possible reasons for the low number of prison visits, NICRO could and should probably have been involved in the pre-release preparation of more prospective parolees than in 15,3% of the cases.

In respect of 8,7% of the cases the respondents gave no indication as to whether there was direct liaison between NICRO and the Department of Prisons.

In about one-third (32,1%) of the cases, however, NICRO had contact with the prison social worker or other members of the prison staff regarding preparation of the prospective parolee for release on parole, or regarding preparation of his family for his discharge on parole. It is assumed that these cases were among those in respect of whom NICRO was advised of the forthcoming release on parole, that is, the 13,5% where NICRO was advised two months or longer before release and the 28,8% where NICRO was informed of the release date less than two months in advance.

As is evident from the fact that NICRO was only involved in pre-release preparation in respect of 15,3% of the parole cases, it does not mean that, if NICRO has contact with a prison staff member regarding the prisoner's forthcoming release on parole, that the organisation will become

involved in the pre-release preparation in respect of those prisoners. In fact, the writer makes the assumption that the discrepancy between these figures may point to either superficial liaison, or to a one-sided type of contact, in which NICRO usually initiates the contact, but the Department of Prisons often does not reciprocate in terms of integrating NICRO into the pre-release programme.

As far as indirect liaison with the Department of Prisons is concerned - that is, canalisation of information through another government department - the situation does not look any better for the prison aftercare agency. In only 1,2% of the cases NICRO received adequate advance notice of the release date of prospective parolees two months or longer before that date. In 9,2% of the cases, the agency was advised of the parole release date less than two months in advance. Many parolees (24,5%) had already been released when NICRO received notification of their release date. The reason for this is not clear, but it can possibly be attributed to cumbersome canalisation procedures.

In the majority of cases (61,3%) NICRO received no notification of the parole release date of prisoners at all. Respondents gave no indication what the situation was in respect of 3,8% of the cases.

While the reasons for the inadequate extent of liaison between the Department of Prisons and NICRO is not clear,

it is abundantly clear from the findings that there is inadequate liaison between the prison personnel and NICRO in respect of parole preparation, and that NICRO is seldom meaningfully involved in such pre-release preparation.

2.6 Parole conditions

The extent to which NICRO was supplied with parole conditions in respect of parolees placed under its supervision also gives an indication of the nature of liaison between the Department of Prisons and NICRO. The following reflects the situation in this regard.

TABLE 5

	Yes	No
NICRO was supplied with written parole conditions before release of the parolee or when he first reported	58,9%	41,1%
NICRO had made recommendations regarding parole conditions to the Department of Prisons	2,5%	97,5%
These recommendations were accepted	2,5%	97,5%

While in comparison with NICRO's very limited involvement in the pre-release preparation of parolees, it might seem encouraging that NICRO was supplied with written parole conditions in respect of 58,9% of the cases, it could be argued that the organisation is hardly in a position to perform proper parole supervision if it is not aware of the conditions under which a prisoner is released on parole.

To some extent this finding confirms the opinion expressed by many respondents in the parole survey which will be dealt with in chapter VIII that supervision and control in respect of parolees is inadequate.

The finding that NICRO made recommendations to the Department of Prisons regarding parole conditions in only 2,5% of the cases, must be seen in the light of the fact that NICRO was involved in the pre-release preparation in respect of only 15,3% of the cases.

As NICRO often knows a prisoner's situation in the community, and of the problems that may have been associated with his anti-social behaviour, it would contribute to more effective parole supervision if the organisation was consulted regarding the nature of parole conditions in respect of those parolees who are to fall under NICRO's supervision.

It is encouraging, however, that, in the few cases (2,5%) where NICRO made recommendations regarding parole conditions, these recommendations were all accepted by the prison authorities.

2.7 Summary

The findings of the survey present a picture of inadequate liaison between the Department of Prisons and the prison aftercare agency (NICRO) in respect of the preparation of prisoners for their release on parole. NICRO was involved

in the pre-release preparation of prospective parolees in only 15,3% of the cases and social workers of the organisation interviewed prospective parolees in prison in only 11,6% of the cases. The family of prisoners considered for release on parole was visited in only 15,3% of the cases - being exactly the same percentage as the number of cases of prisoners in respect of whose pre-release preparation NICRO was involved.

It is submitted that the limited involvement of the private aftercare agency in the pre-release preparation of parolees as well as in the preparation of the families of parolees for the return of the latter - together with the fact that in many cases (41,1%) NICRO was not informed of the conditions under which parolees were released - inhibits the rendering of effective parole supervision.

The inadequate involvement of NICRO in the pre-release preparation of parolees is also reflected by the limited role the organisation played in assisting parolees in securing employment and in finding accommodation. NICRO assisted only 5,5% of the parolees in securing employment and 4,9% in finding accommodation prior to their release.

In a properly organised and effectively operated parole system one would expect that there would be some contact and liaison between the prospective parole supervisor and the prison staff responsible for the welfare and treat-

ment of prisoners - particularly prison social workers - in all cases of prisoners to be released on parole. As one of the main objectives of parole is to bring about a smooth transition for the prisoner from the rigid, artificial and physically, socially and psychologically isolated prison environment to the complex, competitive and demanding environment of the open community, it goes without saying that the transitional phase in parole - that is the transition from the institution to the community - is of cardinal importance to the prisoner's successful adjustment in the community. It is difficult to see how this transition can be achieved effectively without adequate liaison and co-operation between the prison staff - especially the treatment staff - and the staff of the prison aftercare agency responsible for parole supervision.

3. Parole supervision

3.1 The nature and purpose of parole supervision

There is no standard definition of parole supervision. Various persons have different ideas of what it actually constitutes. At the one extreme it is seen as a control mechanism, in the form of a police-type of surveillance. At the other extreme is the conception of parole supervision as a method of assisting and treating offenders. In actual fact it is neither of these two exclusively, but a combination of both. It involves both, protection of society and rehabilitation of the parolee.

Beames²⁵⁾ defines parole supervision as follows :

"It is the sum total of the contacts, the communications and the interaction that goes on during the parole period between the supervisor and the parolee. It is how the supervisor copes with all of the feelings, problems, and crises brought by the parolee to the supervisor."

Generally speaking parole supervision has two basic objectives, namely, to protect the community and to assist in the rehabilitation of the offender. The protection of the community is striven after through surveillance of the

25. Beames R.S., "The elements of effective parole supervision," Canadian Journal of Corrections, January 1965, p. 50

parolee. This involves all the efforts of the supervisor to ensure the parolee's compliance with his conditions of release and with the laws of the country generally. Rehabilitation on the other hand refers to all the efforts to bring about the parolee's satisfactory adjustment in society, in terms of accommodation, employment, recreation, and healthy social relationships generally.

Giardini²⁶⁾ describes the purpose of supervision as being to help the offender to "grow into the sort of adjustment that will enable him to live his own life within the limits set by the community."

3.2 Parole conditions

Parole supervision takes place within the framework of the conditions under which the offender was released. These generally determine that the parolee must reside in a specified area; maintain regular employment; support his dependants; abstain from the excessive use of intoxicants; avoid undesirable places and persons; obtain permission to take any major steps, such as making debts or getting married; and complying with instructions by the supervisor. However, the purpose of parole supervision is not merely to ensure that the parolee conforms to the conditions of his release for the duration of his parole.

(Its ultimate aim is to assist the parolee in developing

26. Giardini, G.I., The Parole Process, Charles Thomas, Springfield, Ill., 1959, p. 264

new, socially acceptable ways of meeting their own needs and of adjusting to the expectations of society. In other words, the ultimate aim is not merely successful completion of parole, but permanent change from anti-social to socially constructive behavioural patterns.

It is important, therefore, that conditions are individualised. That is, they should be adapted to the needs, potentialities and life situations of each parolee. It is also important that such conditions are reasonable, practical and realistic. Furthermore, in order to be effective, parole conditions must be properly administered. If the supervisor is too lax about enforcing conditions, then society does not receive the protection to which it is entitled when a prisoner is released prior to the expiry of his sentence. If, on the other hand, conditions are enforced in an overly rigid and repressive way, it may lead to frustration and resentment on the part of the parolee, and inhibit the growth of fruitful rapport between supervisor and parolee. Parole conditions should be administered in a fair and sensible way, keeping in mind humanitarian considerations while, at the same time, being reasonably firm and setting definite limits.

3.3 The dynamics of parole supervision

In order to assure a smooth transition for the prisoner from the institution to community, it is essential that the supervisor establishes contact with the prisoner prior to

his release. He should interview him in prison at least a month before being paroled in order to assist with pre-release preparation, particularly concerning such aspects as securing employment and accommodation, informing the prisoner on the nature and purpose of parole, and preparing his family for his return. At the same time it will give the supervisor an opportunity to establish rapport with the prisoner.

One of the first steps of parole supervision is to gather social background information on the offender; both from the offender himself and from collateral sources, such as the wife, parents, relatives, former employer, and others who knew the offender well. In order to conduct effective parole supervision the supervisor requires adequate information on the offender and his background. This involves compiling a complete case record on the offender. Once adequate information has been obtained the supervisor can plan a supervision programme adapted to the needs of the particular case. This will involve regular visits by the parolee to the supervisor's office, visits by the supervisor to the parolee's home, and, if advisable, to latter's place of employment. If the employer and fellow-employees are unaware of the parolee's criminal record, a visit by the supervisor may jeopardise his employment. It is therefore, important that the supervisor is sensitive to the exigencies of the parolee's circumstances.

The frequency of contacts between the parolee and his supervisor will depend on the needs and circumstances of each case. During the initial period of a person's parole, it is usually necessary to have more frequent contacts with him, - say, once or twice a week - in order to assist with obtaining and adjusting to employment, adapting to family living, assisting with such immediate material needs as paying for accommodation and food, buying clothing, tools and other necessities.

Once the parolee has achieved a satisfactory adjustment in the spheres of employment and his social relationships generally, the frequency of contacts can be reduced to monthly or bi-monthly contacts. If however, the parolee experiences a crisis, such as in his marital relationship or in his employment, or if his behaviour deteriorates, supervision should be intensified, until such time as the crisis has been overcome or his behaviour has improved.

In order to assist the parolee to achieve stability and gratification in the major spheres of his life - material, social and spiritual - the supervisor has to be aware of and use the different resources in the community. These include employment agencies; educational organisations; sports, cultural and recreational facilities; health and welfare services; religious organisations; and any other resources that may enhance the parolee's adjustment. Once the parolee has found satisfaction in these areas, and feels

that he has a stake in the law-abiding community, he is less likely to engage in anti-social behaviour which may cause him to loose this stake.

The case history of many, if not most parolees includes a disrupted or pathological family background. As a result many offenders manifest emotional, psychological and/or social problems. Many manifest major character disorders. Considering this, together with the often deliterious effects of imprisonment on an already inadequately socialised offender²⁷⁾ one can expect that supervision of parolees involves a great deal of crisis intervention. The transition from prison to, and adjustment in the open community is seldom without considerable problems. Often crises arise in the marital adjustment, in the employment situation, and in social relationships generally. Therefore, parole supervision involves tactics "for defusing emotionally explosive situations, mediation arts, the signifiance of cultural information, and methods for settling disputes and making appropriate agency referrals in a wide assortment of troubled situations."²⁸⁾

The basic tool of parole supervision is counseling. That is, providing guidance, advise, and emotional support.

27. See section 1 of this chapter for a discussion of the effects of imprisonment on offenders

28. Carney, L.P., Probation and Parole : legal and social dimensions, McGraw Hill Book Company, New York, 1977 p. 238

While parole counseling is traditionally carried out on a casework basis - in a one-to-one relationship - it can also be applied by means of groupwork, especially where supervisors have large case loads. Whatever the approach, it must be kept in mind that, "the primary function of the parole officer is to provide concrete assistance to the client, and not to superimpose some 'treatment modality.'"²⁹⁾

3.3.1 The team management approach in parole supervision

As pointed out above, parole supervision has traditionally been carried out through the casework approach, in which one supervisor is responsible for a number of parolees, each of whom he deals with on a one-to-one basis. However, in recent years a new approach has been developed, in order to achieve greater efficiency. This approach, known as the team management approach, or as the community resources management team (CRMT) approach, consists of a team of supervisors, each of whom fulfils a different function, depending on special skills or interests. Thus one person may concentrate on parolees with problems of alcohol or drug-abuse, another on matters relating to employment and trade training, and still another on mental health. Parole case loads are pooled, parolees grouped on the basis of common problems, and each parolee is dealt with by the

29. Ibid., p. 241

person best equipped to deal with his immediate problems, such as securing employment or marriage counselling.

The rationale behind this approach is that, under the traditional approach, a supervisor is a "jack of all trades and a master of none." It is felt that, normally, the individual parole officer does not have the capability of dealing with all the various aspects of the different parolees' needs.

Henningsen³⁰⁾ describes the community resources management team (CRMT) approach, which is used by a number of agencies throughout the western United States, as follows :

The staff is organised into a unit, which consists of a team manager, four probation/parole officers and one community worker. Each officer on the team concentrates on one specific area, for example mental health, alcohol abuse, or vocational services. The officer need not be an expert in his area, but must know and use the appropriate community agencies and programmes for the particular problem. The parolee is not assigned to one supervisor for the duration of his parole, but meets with the particular officer who is best equipped to solve the problem he faces at a specific time.

30. Henningsen, R.J., Probation and Parole, HBT Criminal Justice Series, Harcourt Brace Janovich, Inc., New York, 1981, pp. 93-95

All the parolees under supervision of the agency are case pooled and grouped on the basis of common problems, such as lack of education, unemployment, drug-abuse and alcohol abuse. Newly paroled offenders are assessed and placed into the appropriate category - depending on the nature of his major problem(s) and needs. This categorisation will determine which staff member will work with him first. Different officers will deal with different problems - the most serious problems being dealt with first.

An important characteristic of the CRMT approach is the collaborative relationship it develops with the various community agencies. The parole officer plays the role of a 'resources broker', who brings the various resources in the community to bear on the parolee.

The CRMT approach has not been in operation for long enough in order to make a valid assessment as to its merits and demerits vis-a-vis the traditional one-to-one model of parole supervision. However, although it would appear to be a logical approach in terms of paying specialised attention to various problem areas, and in terms of utilisation of the variety of community resources, the researcher has some misgivings about abandoning the one-to-one model. From his own experience as a parole supervisor it has proven to be fruitful in terms of achieving a stable social adjustment, if the parolee can develop a relationship of trust and understanding with his supervisor - which usually takes

some time to develop. It is difficult to see how such a relationship can grow when it is of short duration and when different persons deal with the parolee. In fact, it is often found that there is a deterioration in a parolee's behaviour when he is transferred from one supervisor to another - e.g. when the supervisor leaves the agency.

Nevertheless, Henningsen feels that there are important advantages attached to the CRMT approach, inter alia, that the performance of parole officers improves because each team member is accountable to and held responsible by the other team members, and because team members pool knowledge and share decisions. Furthermore, he feels that there is a greater degree of client accountability as his behaviour is observed by more persons and the chances of violations being discovered are greater. Henningsen points out that, during the first year of CRMT supervision in the state of Arizona, probation and parole revocations more than doubled which, he feels, is consistent with greater client scrutiny and accountability.

It is, of course, questionable whether a greatly increased level of parole revocation - often, it is presumed, due to technical violations - is advantageous from the penological point of view, considering the generally negative effects of imprisonment - as discussed previously. Furthermore, in the absence of information to the contrary, one

could argue that the greater number of parole revocations are the result of the ineffectiveness of the CRMT approach as opposed to the traditional one-to-one approach.

As to the matter of accountability by staff members of the parole supervision agency, and by the parolee himself, in the average agency this is solved firstly, by staff supervision, carried out by a senior staff member, and secondly, by regular case conferences, in which supervisors present the cases of their parolees to their colleagues. The latter provide advice and constructive criticism.

What is certain, however, is that the traditional approach to parole supervision requires serious scrutiny in order to determine its effectiveness. This becomes evident, as far as the South African experience is concerned, from the analysis of the nature and extent of parole supervision in this country, in the following section of this chapter.

3.4 Revocation of parole

It was indicated above, in section 3.2, that parole supervision is carried out within the framework of a set of conditions. A breach of one or more of such conditions can lead to disciplinary action including, as the ultimate sanction, revocation of parole and re-imprisonment of the parolee.

The grounds for and the procedures of parole revocation differ from one country to another. Furthermore, there is considerable disagreement, particularly in the United States, as to the grounds for and the procedures of revocation. Critics of the current revocation procedures feel that parole is often revoked unjustly at the whim of a parole administrator, and that parolees should be allowed due process in revocation procedures. In this regard Carney³¹⁾ expresses himself as follows :

"The basic elements of due process have been missing historically from revocation proceedings. These basic elements include proper notice of proceedings, the availability of counsel, the right to confront and cross-examine accusers, and the right to present favourable evidence in one's behalf. Due process is the supreme guarantor of judicial integrity. Its absence leaves the door open to arbitrary and unconstitutional decisions in the correctional process. Prisoners have been placed in solitary confinement for inhumanely long periods of time. Parolees had their parole revoked at whim, where due process has not prevailed. Due process does not mean that every prisoner should be exempt from legitimate discipline. It does not mean that every parolee should be continued on parole. It does mean that unconstitutional treatment cannot be endured."

31. Carney, L.P., op. cit., p. 194

In 1972, the U.S. Supreme Court³²⁾ ruled that due process rights, in the form of notice and hearing, applies to the revocation of parole. It found that there were two stages at which the right of notice and a hearing apply : a preliminary hearing at the time of arrest and another hearing before parole is finally revoked.

When the parolee is arrested, he is entitled to a preliminary hearing to determine whether there is probable cause to revoke parole. This hearing, Henningsen³³⁾ points out, is designed to protect the parolee against personal and financial damage should there be no grounds for the accusation. At this hearing the parolee has the right to prior notice of the alleged offence and the inquiry; to appear in person; to present documents and witnesses; to hearing before a neutral hearing officer; and to be given reason for the decision that is reached.

The hearing before parole is finally revoked, involves the following rights : written notice of the alleged parole violation, together with corroborating evidence; opportunity to be heard in person and to present witnesses and documentary evidence; to confront and cross-examine adverse witnesses - unless the board finds good cause for

32. Morrissey, V. Brewer, 408 U.S., 471, 925 Ct. 2593, 33L Ed. 2d, 484 (1972)

33. Henningsen, R.J., op. cit., p. 98

refusing it; to a 'neutral and detached' hearing body (parole board or hearing examiner); and a written statement of evidence that is presented, and reasons for the revocation.

4. The nature and extent of parole supervision by the prisoners' aid agency

4.1 Introduction

The aim of this section is to determine the nature and extent of parole supervision as conducted by a prisoners' aid agency, being the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO). In order to determine the intensity of supervision the researcher will consider the number and frequency of interviews, the number of visits to the homes and places of employment of parolees, as well as the number of telephone calls and letters to and in connection with parolees.

Following the analysis of the survey of the extent and nature of parole supervision, the prison aftercare agency's explanation for the state of parole supervision will be considered.

Next the parole results - that is, the relative success or failure of parolees - will be considered. This includes violations of parole conditions, revocation of parole and arrest and re-imprisonment. As an indicator of parole success, the researcher will also consider parolees' adjustment in the areas of employment and accommodation, as well as family relationships - as reflected by living arrangements, participation in family functions, communication with relatives, and emotional support provided by

members of the family.

Consideration will also be given to the nature of parolees' social adjustment, as reflected by their relationships with their employers and fellow-employees, and by participation in cultural, educational, religious, recreational and sports activities. This will be followed by a prognosis by the parole supervisors for the achievement of a satisfactory social adjustment in the community on the part of parolees.

Finally, a limited a follow-up survey regarding the status of the parolees eighteen months after conclusion of the parole survey will be dealt with.

The tables that reflect the figures in respect of the various aspects under discussion appear in Annexure 1 and will be referred to in footnotes in the analysis of the survey below.

4.2 Profile of Parolees

In analysing the sample, the following profile emerges :

4.2.1 Race¹⁾

Of the sample of 148 parolees, 52, or 35% were Whites

1. See Table 6 for the racial distribution of the sample of parolees

48 (33%) were Coloureds, 39 (26%) were Blacks, and 9 (6%) were Asians. In comparing these figures with the long-term prisoners of the various racial groups released on parole generally²⁾, it emerges that, while White prisoners constitute only 4,3% of parole releases, they represent 35% of the sample. The corresponding percentages for Coloureds are 19,7% and 33%, for Asians they are 0,84% and 6%, and for Blacks 75,1% and 26%.

The reason for the proportionally much heavier representation of White parolees on the sample than non-Whites lies mainly in the fact that training of Coloured, Asian and, particularly, Black social workers has always lagged behind that of White social workers. Therefore, as services in respect of White prison social workers are more developed, more White prisoners tend to be properly prepared for parole, and released to a specific agency for parole supervision. By the same token, NICRO has more White social workers in its service than those of any other population group. Furthermore, its services in respect of White parolees are more developed. In more general terms, this difference must be seen in the light of differential states of socio-economic development of the various major racial groups of the Republic.

2. This includes all the parolees released to the various agencies, as well as those not placed under the supervision of a specific agency

The racial composition of the sample is, therefore, neither representative of the general prison population, nor of the total number of prisoners released on parole. What it does reflect is that a much larger percentage of White parolees are subject to proper parole supervision than non-Whites. It also indicates that a proportionately much higher rate of Coloured and Asian prisoners are subject to formal parole supervision than Black prisoners.

4.2.2 Sex

It is common knowledge that, in the Western civilization, males greatly outnumber females in the prison population. By the same token the number of male parolees under the supervision of NICRO is much greater than female parolees; the percentages of the sample being 94% males and 6% females

4.2.3 Age³

It is interesting to note that White and Coloured parolees have exactly opposite age patterns. While 44% of the Whites fall into the 40 year + category, exactly the opposite is true for Coloureds. But both groups have 33% of parolees falling into the middle range age category, namely 31-40 years. The reason for this probably lies in the higher proportion of youthful Coloured offenders.

3. The age distribution of the parole sample is reflected in Table 7

One would expect a similar pattern for Black parolees, but it is somewhat surprising to find that the age pattern of Black parolees is similar to that of White parolees, with 23% being between 21-30 years old, and 36% being 40 years and older.

In general, it can be concluded that most parolees tend to be over thirty years of age - 77% of the Whites, 77% of the Blacks, 67% of the Asians, and 56% of the Coloureds. Of all the groups, the Coloureds have the highest percentage of young parolees, 44% being between 21-30 years old. Of all the parolees together, 70% are older than thirty years, and 30% are between 21-30 years of age. Not a single parolee is under the age of 21 years.

4.3.2.4 Marital status⁴⁾

Of all the major population groups, by far the highest percentage of Asian parolees (78%) are married. The Whites (35%) are next, followed by the Coloureds (23%) and the Blacks (10%). 79% of the Black parolees are single, followed by 58% of the Coloureds, 35% of the Whites, and 22% of the Asians. The Whites represent by far the highest number of divorced parolees (23%) with the Coloureds being the only other group with divorced parolees (4%). A fairly small percentage of parolees - 5% Whites, 6% Coloureds and 8% Blacks - were living together with

4. See Table 8 for the marital status of the parolees in the sample

women. To a large extent, these differences in marital status between parolees of the major racial groups can probably be attributed to both cultural and socio-economic class differences.

In the case of 2% of the White parolees, 9% of the Coloureds, and 3% of the Blacks, the marital situation was unknown.

Of the entire sample, 27% were married, 6% were living together with women, 53% were single, 10% were divorced, and 2% were widowed.

If one considers that all the parolees were over 21, and the majority (70%) over 30 years of age - that is of an age where one would expect the majority of men to be married - the fact that so few persons were married could possibly be seen as one of the indicators of poor social adjustment.

4.2.5 Length of parole period (in months)⁵⁾

The majority of parolees (54%) were in the long-term category, i.e. twenty-five months and longer. 19% were in the 13-24 month category, 15% were in 7-12 month category, and 12% in the short-term category, i.e. 0-6 months. All population groups, except the Asians fell predominantly into the long-term category : Whites, 56%

Coloureds, 52%; Blacks, 61%; and Asians, 22%. The variation between the race groups in the categories up to and including two years is not sufficiently large to warrant discussion. The only noteworthy fact is that the majority of the Asian parolees (67%) fell into the 13-24 month category.

It should not be assumed from these figures that more long-term than short-term prisoners are released on parole. In fact, the opposite is true, namely that only 16 647 (13,5%) of the total of 123 196 prisoners released on parole during the statistical year of 1978-79 were long-term prisoners (with sentences of 2 years and over). The majority of prisoners, (67%) released on parole were serving sentences of four months or less.

(See table 45 on p.295)

The reason for the preponderance of long-term parolees in the sample lies in the fact that very few of the short-term parolees are placed under the supervision of NICRO. Most are placed under the supervision of employers, particularly farmers. It must also be kept in mind that it is generally only the long-term prisoners - those serving two years and more - who receive fairly intensive observation, classification and treatment and, consequently, who are more likely to be prepared for release on parole.

The relationship between long-term and short-term parole will be discussed in more detail further on.

4.2.6 Summary and discussion

The majority of parolees in the sample were Whites (35%) closely followed by Coloureds (33%). Next came Blacks (26%), and the smallest group were Asians (6%). As the sample was selected in a random fashion, it is assumed that it is representative of the parolees under the supervision of NICRO generally. This applies to the various elements of the profile of the parolees - namely, race, sex, age, marital status, and length of parole period.

There were very few females (6%) among the parolees, who generally tended to be over the age of thirty years. However, a fairly large number (44%) of the Coloured parolees were between twenty-one and thirty years old.

One third of parolees were either married (27%) or living in common-law unions (6%). The others were single (53%) or divorced (10%).

More than half (54%) of the parolees were in the long-term category. Only 12% were short-term parolees, and the remaining 34% were medium term parolees - that is, with sentences of over six months and up to two years. As far more short-term prisoners (67%) are released on parole than long-term prisoners (13,5%), it must be concluded that relatively few short-term parolees are placed under the supervision of a specific parole supervisory agency.

4.3 Supervision of parolees

4.3.1 Number of interviews with each parolee : 9.11.1979-10.5.1980⁶⁾

In more than one-third (35%) of all the cases (the total sample) no interviews were conducted with the parolees during the six month period in question. 75% of all parolees received less than five interviews during this period. The Coloured and Black parolees were in the worst position in this regard - 44% of each group having had no interviews at all. 25% of the White parolees were in this category, but no Asians. 14% of the sample had only one interview, 9% had two interviews, 9% had three interviews, 8% had four interviews, and 25% had five or more interviews.

Of the four main race groups, the Whites were interviewed most frequently, 33% having been interviewed five times or more during the six month period. 23% of the Blacks and Asians fall into this category, but only 18% of the Coloureds.

It is not possible to accurately pinpoint the reasons for the generally low number of interviews with parolees - only 21% of the parolees were interviewed on an average of once a month or more frequently. Some possible reasons for this are presented under section 3.4. Of the 148

parolees only 31 (20%) were interviewed six times or more during the six months. Only 8 (6%) were interviewed ten times or more, that is, an average of about twice a month.

4.3.2 Frequency of interviews

4.3.2.1 During the first month on parole⁷⁾

Of the parolees in respect of whom interviews were conducted during the first month, 38% received one interview. 20% received no interviews, 19% received two interviews, 15% three interviews, 5% four interviews, 3% five interviews. Nobody was interviewed six or more times.

Viewed in terms of race, it emerged that the Coloured parolees were interviewed least frequently with 33% not being interviewed at all, and 42% being interviewed once. Thus 75% were interviewed once or not at all. Next were the Asians, with 56% being interviewed once. They were followed by the Blacks, 15% of whom received no interviews, and 38% of whom received one interview. Only 13% of the Whites were not interviewed, and 31% were interviewed once.

4.3.2.2 During the following three months⁸⁾

One third (33%) of the parolees were not interviewed at all during the period of the second to the fourth month (inclusive) following release on parole. 22% were interviewed once, 15% twice, 17% three times 5% four times, 4% five times, and 4% six times or more during the three month period.

Of the different population groups, the Blacks were interviewed least frequently, with 70% receiving one or no interviews - 44% were not interviewed and 26% were interviewed once. 18% received two or three interviews and 12% received four or more interviews. Next were the Coloureds, 60% of whom were interviewed once or not at all (35% not at all, and 25% once); 28% were interviewed two or three times and 12% four times or more.

The Asians received the third least frequent - or second most frequent - numbers of interviews, with 44% being interviewed once or not at all (33% once and 11% not at all), 33% two or three times and 22% four or more times. The Whites were interviewed slightly more frequently than the Asians - 42% were interviewed once or not at all (15% once, and 27% not at all), 46% two or three times, and 12% four or more times.

8. Table 12

4.3.2.3 During the remaining two months⁹⁾

During the fifth and sixth months of the parole period, 51% of the parolees were not interviewed at all, while 22% received one interview, 13% two interviews, 5% three interviews, 4% four interviews, 2% five interviews, and 3% six or more interviews. Of the various population groups it was, again, the Coloureds who were interviewed least frequently, with 65% receiving no interviews, and 17% receiving one interview. Therefore, only 18% were interviewed more than once during the fifth and sixth months of parole. As far as the Blacks were concerned, 79% were interviewed once or not at all (46% not at all and 33% once), and 22% received more than one interview during the period in question. Next were the White parolees, 62% of whom received one or no interviews (46% no interviews and 16% one interview), and 38% were interviewed more than once. Finally, 55% of the Asians were interviewed once or not at all, and the remaining 45% were interviewed two or three times.

4.3.2.4 Evaluation

The most important aspect of parole is, probably, supervision - and the most basic technique of supervision, as of casework generally, is the face-to-face interview. In fact without supervision, parole is not parole in the penological sense, it is merely an early release. And,

for supervision to be effected, it is essential for the parole supervisor to have adequate contact with the parolee. While there is no definite standard as to 'adequate' contact, the researcher feels, from his own experience as parole supervisor, that proper supervision cannot be carried out if the parolee is not interviewed on a weekly basis during the initial period of parole - say the first month or two, depending on the nature of the adjustment of the parolee. As long as the parolee's basic needs - accommodation, employment and sustenance - have not been met, and as long as he is experiencing serious problems, for example, marital conflict, or any serious emotional or psychological problems, he should be interviewed at least once a week. Once he has achieved a relatively satisfactory adjustment in these areas, the interviews can gradually taper off to once a month.

It can hardly be claimed that proper supervision is exercised if the parole supervisor has no face-to-face contact with the parolee at least once a month - even during later stages of parole. The general frequency of interviews laid down by the Parole Service of Canada in its standards of supervision - which corroborate the researcher's views, as expressed in the preceding paragraph - can probably be regarded as generally acceptable by any standard of supervision. The standard is as

follows ¹⁰⁾:

- "(a) for the intensive supervision category, at least one interview every fifteen days;
- (b) for the active supervision category, at least one interview every twenty-one days;
- (c) for the periodic supervision category, at least one interview per month."

In view of what was said above, it is clear that the frequency of interviews both during the initial period and during the later stage of the six-month period, was not adequate to meet the standards of effective parole supervision. This is true for all (racial) groups of parolees, but particularly for Blacks and Coloureds.

4.3.3 Visits to/in connection with parolees : 9.11.1979 - 10.5.1980

4.3.3.1 Home visits ¹¹⁾

Contrary to expectations, by far the largest percentage of White parolees (67%) received no home visits at all. Next are Coloureds (48%), and then Blacks (41%). All Asian parolees received home visits. One home visit was made to 17% of the Whites, 25% of the Coloureds, 18% of the Blacks and 33% of the Asian. 8% of the White parolees received two visits, none three visits, and only

10. National Parole Board, Policy and Procedures Manual, p. 98

11. Table 15

2% received four or more visits. The Coloured parolees were in a somewhat better position, with 25% receiving one visit, 13% two visits, 8% three visits, and 2% four or more visits. The Blacks were even better off than the Coloureds in regard to home visits; 18% received one visit, 13% two visits, 10% three visits, and 15% four visits or more. The Asian parolees received most home visits of all the groups - 33% received one visit, 22% two visits, 33% three visits and 11% four visits and more. It must be pointed out, however, that the number of Asian parolees in the sample is so small - 9 out of 148 - that, when spread over a number of categories, there are so few persons in the various categories, that they do not provide a reliable reflection of Asian parolees generally.

When all the parolees in the sample are taken together, it emerges that 50% received no visits, 21% were visited once, 12% twice, 7% three times, and 6% four times or more. The situation was unknown in respect of the remaining 4%.

4.3.3.2 Visits to place of employment¹²⁾

In all groups of parolees very few visits were made to the place of employment. In respect of the Coloured parolees no such visits were known to have been made - in 96% of the cases no visits were made, and in the remaining 4% of the cases it was unknown whether any

visits were made. As far as the Black parolees were concerned, no visits were made in 90% of the cases, one visit was made in 5% of the cases, and three visits in 2% of the cases. In the case of eight out of the nine Asians, no visits were made to the place of employment. In the remaining case, two visits were made.

Most visits were made in respect of White parolees - one visit, 8%; two visits, 4%; three visits, 2%; and unknown, 6%. However, no visits were conducted to the place of employment in 80% of the cases.

It was unknown whether such visits had been conducted in respect of 4% of the Coloured parolees, and 3% of the Black parolees.

Of the total number of parolees in the sample, no visits were conducted to the place of employment in 89% of the cases, one visit in 4%, two visits in 2%, and three visits in 1% of the cases. In the remaining 4% the situation was unknown.

4.3.3.3 Visits other than to the home and place of employment of parolees¹³⁾

Relatively few visits were conducted other than to the home of the parolee or to his place of employment. In

13. These would include visits in connection with the parolee to another welfare agency, a government department, the police, etc. See table 17

70% of the cases no such visits were conducted. This was true for 77% of the Blacks, 73% of the Coloureds, 63% of the Whites and 56% of the Asians. One visit was received by 33% of Asians, 27% of Whites, 15% of Coloureds, and 13% of Blacks. Few parolees received two visits - 11% Asians, 8% Black, 4% Coloureds and 4% Whites. 6% of the Coloureds and 2% of the Whites received three visits, and 2% of the Coloureds received four or more visits.

4.3.4 Telephone calls : 9.11.1979-10.5.1980

4.3.4.1 To and from parolee¹⁴⁾

In 60% of the parole cases no telephone calls were made to or received from parolees. In comparison to the other race groups, White parolees made or received a fairly large number of telephone calls - 10% received or made five or more calls, 6% four calls, 23% three calls, 29% two calls, 6% one call, and 23% received no calls. By contrast, 92% of the Black parolees received or made no calls. This was true for 75% of the Coloureds and 56% of the Asians. 25% of the Coloureds received or made one or more calls, with the calls being distributed fairly evenly between one and five-plus. A few Black and Asian parolees received or made one or two calls, but none more than three.

4.3.4.2 To and from wife/parent /relatives/employer/friends, etc.¹⁵⁾

Somewhat more calls were made to or by others regarding the parolee than to or by the parolee. In respect of the Whites, one call was made in 17% of the cases, two in 11%, three in 23%, four in 6%, and five or more calls in 10% of the cases. Regarding the Coloureds, one call was made in 32% of the cases, and two or more calls were made in 16% of the cases. Five or more calls were made in regard to 12% of the Black parolees, four calls in 7% of the cases, three calls in 3%, two calls in 5%, and one call in 3% of the cases. No calls were made in 48% of all the cases - Indians, 78%; Blacks, 67%; Coloureds, 50%; and Whites, 29%.

The fact that considerably fewer calls were made to or received from the non-White groups than Whites is, to a large extent, probably due to the fact that there are relatively few telephones in the non-White residential areas. Few non-Whites can be readily contacted by telephone, and few have easy access to a telephone. The opposite is true for Whites. There are, however, also other factors that are responsible for the lesser communication with non-Whites than with Whites. These will be discussed below and elsewhere.

15. Table 19

4.3.5 Letters

4.3.5.1 To and from parolee¹⁶⁾

In slightly more than half (51%) of the 148 parole cases no letters were written to or received from parolees. In 21% of the cases one letter was written; in 15%, two letters; in 6%, three letters; in 2% four letters, and in 2% five or more letters. Black parolees were that group which wrote or received the least correspondence - 82% received or wrote no letters, 12% wrote or received one letter, and 3% five or more letters. The low rate of correspondence by Blacks can probably be understood in the light of their cultural background, where, even in the urban areas, communication by letter is uncommon. The fact that, generally, NICRO parole supervisors wrote less frequently to Black parolees may be attributable to the living and work conditions of Blacks generally - most live in deteriorated or poor environments, and employment is often unstable. The means of communication such as postal services are usually greatly inadequate. In these circumstances it is often difficult to contact parolees readily and to maintain regular contact.

It is noteworthy that White parolees received or wrote less letters than both Coloured and Asian parolees. While 48% of the Whites had no correspondence with NICRO, the percentage for Coloureds and Asians was 34% and 33%

respectively. Of all the groups, the Coloureds received or wrote the largest number of letters - 4%, five or more letters; 6%, four letters; 6%, three letters; 19% two letters; and 29%, one letter. Next were Asians - two letters, 33%, and one letter, 33%. 12% of the White parolees wrote or received three letters; 19%, two letters; and 17%, one letter. There appears to be no ready explanation for this. In fact, one would be able to explain the opposite more easily.

4.3.5.2 To and from wife/parents/relatives/employers/friends, etc.¹⁷⁾

Generally speaking, more letters were written to and received from other persons regarding the parolee, than to or from the parolee himself. The percentage of the cases where there was no correspondence regarding the parolee with persons other than the parolee was 40%. In 23% of the cases, one letter was written; in 17%, two letters; in 7% three letters; in 3%, four letters; in 7%, five or more letters.

In contrast to the previous category most correspondence occurred in connection with the White parolees. In only 21% of the cases there was no correspondence at all. (For Coloureds it was 45%, for Blacks 54%, and for Asians 56%). In 29% of the White parole cases, one letter was written; in 25%, two letters; in 12% three letters; in 5% four

letters; and in 4%, five or more letters. Concerning the non-White parolees, there was about an equal amount of correspondence in respect of Coloureds and Blacks, but less correspondence concerning Indians.

The fact that more letters were written to and received from persons other than the parolee, on his behalf, is probably due to the fact that, in order to assist the parolee in achieving a satisfactory adjustment in the community, it is often necessary to write to, and receive letters from those concerned with his adjustment, including such persons as his wife, his parents, relatives, friends, his employer, officials of relevant state departments, etc.

4.3.5.3 Summary and discussion

Measured in terms of contacts with and on behalf of parolees, supervision was, generally speaking, not intensive. In more than one third of the cases (35%) no interviews were conducted with parolees during the six month period of the survey. Since the initial period after release is often the most difficult one for the parolee - in terms of having to secure accommodation and employment, and adjusting to the demands of the non-institutional social setting generally - it is disturbing that so many parolees were not interviewed at all during the first six months after release.

It is also felt that interviews were generally conducted too infrequently to allow for effective supervision and control of parolees.

The situation regarding home visits looks even worse than the matter of interviews generally. While half (50%) of the parolees received no home visits at all, 21% received one visit, 12% two, 7% three, and 6% four visits respectively.

Even fewer visits were made to the place of employment of parolees. In 89% of the cases no such visits were made at all. However, it must be kept in mind that parolees frequently do not want to be visited at work. This may place their positions in jeopardy, as both employer and the employees are often unaware of the parolee's criminal record.

The other means of communicating with parolees - i.e. telephone calls and letters - were also used relatively infrequently, with no telephone calls having been made to or received from 60% of the parolees, and no letters having been written to or received from parolees in 51% of the cases.

It is apparent, therefore, that communication with or on behalf of parolees was rather limited.

4.4 Explanations for inadequate parole supervision

4.4.1 Introduction

In order to achieve effective parole supervision, the ideal would be for the supervisor to be fully aware of all facets of the parolee's social adjustment. This includes the nature of his accommodation and home environment, his employment, and his social relationships generally. To establish the nature of these adjustments reliably, and to assist the parolee in overcoming problems he should experience in any area, it would be necessary for the supervisor to visit the home of the parolee, his place of employment, as well as other significant persons or places, and to communicate sufficiently with the parolee, in terms of office interviews, telephone calls and writing letters.

In view of the fact that 50% of the parolees received no home visits at all and 21% received only one visit during a six month period; that no visits were made to 89% of the parolees' place of employment, and that no other visits were conducted in respect of 70% of the parolees, that only limited communication occurred with or regarding the parolee in terms of telephone calls and correspondence, it must be assumed that, generally speaking supervision of parolees under the care of NICRO is not adequate. However, it must immediately be stressed that the reason for inadequate supervision does not necessarily lie - in fact it

probably does not lie - in the quality of social work services, but in one or more extraneous factors, which may be beyond the control of NICRO. These emerged from the survey conducted by the National Council of NICRO among its branches. The aim of the survey was to determine the norm regarding parole supervision which exists at the various branches and to establish the nature of the problems experienced by NICRO branches in carrying out parole supervision. These problems which will be dealt with below, are, according to NICRO social workers, largely responsible for the inadequate state of parole supervision.

Following is a discussion of the norms regarding parole supervision practiced by NICRO branches across the Republic, as well as a discussion of the problems experienced by those branches, as supplied to the researcher by the National Director of NICRO.

4.4.2 Norm in respect of parole supervision at NICRO

Of the eleven centres at which NICRO renders parole supervision services, three indicated that attempts were being made to have one contact per week during the initial month after release on parole. Four branches indicated that their social workers aimed at having two contacts during the first month, and the norm of two branches was to have one contact during the first month. Of the remaining two branches, one indicated that it aimed at having as many contacts as possible during the first month and the other

that, if the parolee had no accommodation or employment, there are as many contacts as necessary, otherwise there is one contact per month.

Regarding the second and third month of parole, three branches aimed at having fortnightly contacts, five branches at having one contact per month, and the other four at having contact every two or three months - depending on the nature of a parolee's general adjustment.

Six of the eleven centres felt that they would like to see their parolees once a month after the initial three - month period. Four branches aimed at having contact with their parolees once every two or three months, and the remaining branch would like to continue seeing its parolees on a fortnightly basis for one year. Thereafter, quarterly contacts were regarded as adequate. Some branches indicated that the frequency and nature of contacts with parolees depends on the client's circumstances and needs.

Several branches made it clear that, in practice it was often not possible to abide by their norms - due to factors beyond their control. These will be dealt with below.

4.4.3 Factors militating against effective parole supervision

From the replies received from NICRO it was clear that all the branches of the organisation experienced considerable problems in the practical application of parole. The most

important of these problems will be briefly discussed below :

4.4.3.1 Preparation for release on parole

It was felt by some NICRO social workers that prisoners are generally not adequately prepared for release on parole. This is apparent from misconceptions regarding the role of NICRO, and parole generally, that parolees often manifest - particularly as far as non-White parolees are concerned. While some regard NICRO as an extension of the Department of Prisons, and as having mainly a 'policing' role, others see NICRO as purely a benevolent society, which is responsible for meeting the material needs of discharged prisoners. When the unrealistic material expectations of parolees are not met, they are even less inclined to co-operate with NICRO.

The conception of NICRO as being merely a benevolent society appears to be particularly prevalent among Black parolees - many of whom are not formally referred to NICRO for parole supervision, but are merely advised to approach NICRO if they require assistance with their documents and if they need financial aid. In this way their misconception of NICRO and of the nature of parole may have been, directly or indirectly, fostered by the prison personnel of the institution from which they were released.

Due to a lack of adequate preparation for parole supervision, many parolees - again mainly non-Whites - are not motivated to co-operate in a plan of parole, supervision. They come to the NICRO office once or twice, and when their needs for material assistance and advice have been met, they discontinue their contact with NICRO. This also applies when they feel that NICRO cannot, or won't, meet those needs.

In order to increase the effectiveness of parole supervision, NICRO social workers are of the opinion that they should be meaningfully involved in the pre-release preparation of parolees who are to be placed under their supervision.

Related to inadequate preparation for parole and inadequate motivation to co-operate with NICRO, is the fact that parole conditions - once again, particularly in the case of non-White parolees - are not satisfactory. In many cases such conditions are not related to the needs of the particular individual, and NICRO is often not mentioned as supervising agency - although this aspect has improved in respect of long-term White parolees.

NICRO feels that it should be consulted in drawing up conditions in respect of parolees who will fall under its supervision.

4.4.3.2 Attitudes of parolees towards parole supervision

Mainly as a result of inadequate preparation for release on parole (if any at all), many parolees display negative attitudes towards parole supervision.- which renders effective supervision difficult if not impossible, and which, according to several NICRO branches is responsible for the fact that parole services rendered by NICRO are not adequate.

In fact one branch of NICRO - Pretoria - indicated that the greatest difficulty it experiences in attempting to render an effective parole service is the poor attitude on the part of parolees towards parole supervision. This problem, according to that branch, is exacerbated by the fact that prison authorities fail to respond quickly and authoritatively to recommendations for the suspension of parole. Being aware of this lack of response with sanctions to technical violations on the part of the prison authorities, parolees often have no respect for the authority of the supervising agency. At the same time, also being aware of this state of affairs, NICRO social workers are led to ignore some parole violations - other than serious acting out or criminal behaviour.

NICRO feels that, if prisoners are properly informed as to the nature and purpose of parole, their responsibilities, and the proper role of the supervising agency, and at the same time, if it is involved in the pre-release prepara=

tion of prospective parolees, parole will be more effective.

4.4.3.3 Liaison with the Department of Prisons

From comments received from NICRO branches, it would appear that there is inadequate liaison between the staff of the Department of Prisons and that of NICRO. In many cases NICRO is expected to conduct parole supervision without adequate - or totally lacking - information on the parolee. It often happens that the prison concerned fails to send any reports in respect of parolees to NICRO, or that they send closing reports months after the parolees' release. Having adequate information regarding the parolees' background and their behaviour in prison at hand during the first interview, will enable the social worker to formulate a more effective plan of parole supervision, than if the social worker has to start from 'scratch.'

Another problem that is frequently experienced is that NICRO is not advised early enough of a prisoner's date of release on parole. In fact sometimes it receives no prior notice at all - particularly in the case of Black parolees. In many cases the social worker would notice from an ex-prisoner's release papers that he is on parole, when he approaches NICRO for material aid or for guidance.

4.4.3.4 Visits to the home of parolees

The NICRO branches put forward a number of reasons why relatively few visits to the homes of parolees are conducted. Following are the main reasons :

As a result of their high caseloads, limited financial resources, and demands for reports by official agencies, NICRO social workers are unable to conduct as many home visits as they would like to, or as they ought to. Much of their time is occupied in conducting social background investigations, submitting parole progress reports and other formal tasks. As the Branch Directors of the Tygerberg branch puts it :

".....submitting the report on time, with so many other deadlines to meet, one can so easily fall into the pattern of meeting the deadline for the parole report rather than planning a plan of treatment....."

The writing of background reports on prisoners - upon the request of the Department of Prisons - is very time-consuming. It requires contacting relatives and other persons, conducting home visits, and compiling the report. As the requests for such reports are numerous, especially at large centres, it makes major demands on the time of social workers.

The fact that virtually all NICRO social workers are

females and that most parolees are not at home during the day, complicates home visiting, as it is not advisable for female staff to visit single male parolees at night. This is complicated by the fact that many parolees, especially non-Whites live in areas where it would be unsafe for a woman to go at night.

Home visits are further complicated by the fact that NICRO is often supplied with a faulty or inadequate address. Furthermore, when visits are conducted during the day, the parolee is frequently not home. Thus, although a trip was made, it cannot be recorded as a home visit. In the case of short-term parolees, it sometimes happens that their parole has expired by the time that two or three unsuccessful attempts have been made to visit the parolee at home.

The researcher found the reply of one branch rather strange, namely, that home visits "are not encouraged (unless essential) in order to motivate the parolee to come to the office and to take fundamental responsibility for his problems."

While it can be accepted that a parolee should be motivated to visit the office of his supervisor, it is not acceptable in terms of social work practice that this should obviate home visits, which form part of normal social work intervention, and which the researcher regards as an essential

aspect of the overall treatment plan.

Further reasons for relatively low number of home visits conducted by NICRO social workers in respect of parolees were firstly, that many short-term prisoners - particularly non-Whites - were released on parole without having employment, which often led them to move to another area in search of employment. Secondly, as far as Coloured parolees in some areas (particularly Durban) are concerned, they may be paroled with employment but, being mainly artisans, many move to areas where employment is more lucrative, such as, for example Sishen or Sasol.

Finally, once a parolee has found employment, he cannot be visited at home during the day. At the same time he is often not in a position to take time off work in order to see his parole supervisor at the office.

It is clear, therefore, that there are a number of practical reasons for the inadequate contact between the parolee and the parole supervisor.

4.4.3.5 Visit to the place of employment of parolees

From comments of the various NICRO branches, it appears that most parolees do not wish to be visited at their place of employment as, in most cases, employers and fellow-employees are unaware of the parolees' criminal record. A visit by the parole supervisor may, therefore,

jeopardise the parolee's employment.

In view of this situation, parolees are only visited at their places of employment in exceptional circumstances, or where the employer is aware of the parolee's criminal record and where the latter has no objection to such visits.

In cases where employment is secured for the prisoner prior to his release on parole, he often changes his employment soon after release as such employment may have been secured - whether by relatives, friends, the prison staff, NICRO or the parolee himself - in order to facilitate parole release, rather than with occupational satisfaction for the offender in mind. He therefore often seeks more satisfying employment within a short period. In such a case the parolee often does not inform his new employer of his criminal record and, therefore, does not wish to be visited at work by his parole supervisor.

Furthermore, some parolees work in outlying areas and it is difficult for the social worker to visit them.

In view of the above mentioned factors, it is generally either difficult or not advisable to visit parolees at their places of employment, or to see the employer himself. From more than seventy years experience - since

its inception in 1910 - NICRO has found that employers, just as the public generally, are usually prejudiced towards ex-prisoners and are frequently not prepared to employ a person with a criminal record. In view of this, prisoners are reluctant to reveal their criminal past to employers which has negative consequences for comprehensive parole supervision - that is, supervision of all spheres of the parolees' existence, including employment.

4.4.3.6 Problems generally experienced in respect of Black parolees

The comments of NICRO branches corroborate the findings of the Commission of Inquiry into the Penal System of the Republic of South Africa (generally known as the Viljoen Commission), namely that parole in respect of Black offenders leaves much to be desired.

Most Black parolees have little understanding of the nature and purpose of parole which, as pointed out above, indicates a lack of adequate preparation for release on parole. In fact, relatively few Black parolees are properly referred to NICRO and placed under its supervision. The Soweto office of NICRO reported, for instance, that of forty parolees dealt with as from January 1981, only four (i.e. 10%) were referred officially for parole supervision. The others approached the office for aid and guidance, at which time it became apparent that they had actually been released on parole. As a result, such parolees do not feel obliged to submit to supervision.

As far as they are concerned parole means remission of part of their prison sentences.

The Soweto office also pointed out that most Black parolees, have support systems in the community and, therefore, do not regard the role of the social worker as being important in their rehabilitation - especially after material needs have been satisfied, such as securing documents and employment.

Several NICRO branches indicated that Black parolees tend to visit their offices only once or twice - until their material needs have been satisfied, after which they see no purpose in continuing to have contact.

Visits by social workers in order to maintain contact with parolees, are usually fruitless. Either the parolee cannot be located - to find an address in the sprawling Black townships, without proper street numbers, often is very difficult, if at all possible - or he is not motivated to maintain contact.

Furthermore, single parolees (and most are single) tend to move about frequently, without informing the social worker of their new addresses.

A further problem regarding parole supervision of Black offenders is the existence of influx control regulations.

After a person has been released on parole it often transpires that his documents are not in order. He is referred to the appropriate officials, who endorse him out of the area if he does not qualify to remain there in terms of the relevant legislation. In such cases he is not seen again after the first contact.

4.4.3.7 Summary and discussion

The norm for parole supervision enunciated by the various branches of NICRO in the survey conducted by the National Council of the organisation, appears to conform with the standard laid down by the Canadian National Parole Board in its Policy and Procedures Manual. However, it has emerged from the researcher's own survey that, in practice, the parole supervisors of NICRO do not abide by the norm they enunciated.

From the NICRO survey it would appear, however, that it is largely factors beyond the control of the organisation that underly the inadequacy of parole supervision. Among the factors that inhibit effective parole supervision are - according to the NICRO social workers - inadequate preparation of prisoners for release on parole; a faulty conception on the part of parolees of the nature and purpose of parole, and of the role of NICRO in respect of parole supervision; poor motivation on the part of parolees with regard to submitting to parole supervision; inadequate liaison between the Department of Prisons

and NICRO in respect of the whole parole process - including the pre-release preparation of prisoners for parole; the excessive demands made on the time of NICRO social workers by community investigations conducted at the request of the Department of Prisons; the adverse socio-economic conditions under which Blacks, in particular, live; inadequate financial resources available to NICRO; and, related to this, the staff shortage experienced by NICRO.

Most of these factors do not operate separately, but are interrelated, for example, the inadequate preparation of prisoners for release on parole on the one hand, and, on the other hand, a faulty conception on the part of parolees of the nature and purpose of parole, and the role of NICRO in that regard.

4.5 Parole results

4.5.1 Violations of parole conditions¹⁸⁾

Just over a third of the persons in the parole sample were known to have violated their parole conditions. It must be kept in mind that it is virtually impossible for the parole supervisor to be aware of every breach of parole conditions committed by the parolees under his supervision. However, in the present parole survey

18. Table 22

NICRO social workers reported the following numbers of parole violations.

Of the 52 White parolees, 28 (54%) violated one or more parole conditions. Second highest were the Asians, of whom 44% committed such violations. Next were the Coloureds with 27%, and the lowest number of violations - 13% - were recorded in respect of the Black parolees. However, in 20% of the 39 Black parole cases, social workers indicated that it was not known whether parole conditions had been violated. The same was true for 8% of the 48 Coloured parolees and 6% of the 52 Whites.

As parole violation is a negative indication of parole success, it will be dealt with fairly comprehensively under the section on parole success.

4.5.2 Revocation of parole¹⁹⁾

In 17 (11%) of the 148 parole cases under study, NICRO requested the Department of Prisons to revoke parole. That is, in about one-third of the cases of parolees who were known to have violated parole conditions. Of the seventeen cases where revocation was requested fourteen were actually revoked. The Whites had by far the highest incidence of requested (25%) and actual (21%) revocation. Next were the Coloureds, with 6% and 4% respectively.

The Black parolees had one request (3%) for revocation, which was executed. In 8% of all the cases, the social workers were uncertain as to whether parole was revoked or not. The main reason for this was that some parolees had disappeared.

4.5.3 Arrest and re-imprisonment²⁰⁾

During the six month period of the survey, twelve parolees (8%) were arrested and re-imprisoned. With 12%, the Coloureds had the highest rate of re-imprisonment, followed by the Whites, with 10%, and the Blacks with 3%. None of the Asian parolees were re-imprisoned.

Of the twelve parolees that were re-imprisoned, three (2% of the total) were returned to prison within one month of their release, one was re-imprisoned after one month, but within three months, and the other eight (5% of the total) were sentenced to prison again after three months, but within six months.

Re-imprisonment is the most tangible and the most extreme form of parole failure. Measured against this standard, the parole failure rate of offenders under the supervision of NICRO was very low. However, as will be indicated later on, non-imprisonment on its own is a very inadequate measure for parole success.

4.5.4 Employment results²¹⁾

Less than one-third (28%) of the parolees were employed for the full period of the survey - i.e. for six months. 4% were employed for five months, 7% for four months, 5% for three months, 8% for two months, 6% for one month, and 8% were unemployed for the duration of the survey. In just over one-third of the cases (34%), it was unknown for what length of time the parolees had been employed. In respect of the Black parolees the percentage is 58%. This is rather disconcerting, as the very concept of parole pre-supposes adequate knowledge of the main aspects of the parolee's life - among these is his employment. It is difficult to see how the objectives of parole - i.e. assisting the parolee in achieving a satisfactory adjustment in the community, and protecting the community - can be met if the supervisor is unaware of the parolee's employment circumstances. Of the different groups the Asians had the highest rate of full employment (45%), the Whites and the Coloureds had the same (31% each), and the Blacks had the lowest rate (18%).

During the period under study, 32% of the parolees who worked did not change their employment, 14% changed it once, 9% twice, and 4% three times. The number of cases in which it was not known how often the parolee had changed his employment was, again, high - 39%. As in the

21. Tables 25, 26, 27, and 28

previous category, the Blacks had the highest rate of 'uncertain' responses regarding changes in employment - namely, 59%.

At the end of the study period, that is, as at 10 May 1980, 37% of the parolees were employed, 20% were unemployed, and in the remaining 43% of the cases it was not known whether the parolees were employed or not. The Asians had the highest rate of employment, with 78%, next were the Whites (40%), then the Coloureds (35%), and last were the Blacks (26%). The latter had the highest rate of unemployment (28%), closely followed by the Coloureds (27%). The Whites only had a 12% rate of unemployment, but they had the highest rate of unknown cases - 48%. In 46% of the cases of Black parolees, it was unknown whether they were employed or not at the time in question. This applied to 38% of the Coloureds and 22% of the Asians.

In the minority of cases (22%) - the prognosis - made by the parole supervisors - was good for stable future employment. In the same number of cases (22%) it was reasonable. The prognosis was poor in a larger percentage of cases, namely, in 29% of the cases. As far as the remainder (27%) was concerned, the parole supervisors were unable to make a prognosis. White parolees had the highest number of poor prognosis (38%, as compared to the 27% of Coloureds, 26% of Blacks, and 0% of Asians). But the Whites also had the highest number of good prognosis (29%, as compared

with 25% of the Coloureds, 22% of the Asians, and 10% of the Blacks). The reason for this somewhat anomalous situation is that, for a high percentage of Coloured parolees (40%) and Black parolees (36%), the employment circumstances were unknown, and, therefore, no prognosis could be made, while, for White parolees the percentage where no prognosis could be made was only 14%.

The general picture of successful and stable employment on the part of parolees is a rather discouraging one. Less than half of the parolees (44%) had a good or reasonable prognosis in this regard. At the conclusion of the survey, only 37% of the parolees were known to have been in employment. At least 29% of the parolees changed their employment once or more during the six month period of the survey. The percentage is probably considerably higher, as the situation was unknown in 39% of the cases. This, in itself, can probably be seen as an indication of instability.

4.5.5 Accommodation²²⁾

Less than half the parolees (45%) lived at the same address for the six month duration of the survey. The Asians had the highest rate of stability in this area, namely 78%, Next were the Coloureds with 52%, followed by the Blacks with 40%, and the Whites with 36%. For both, Coloured and

22. Tables 29, 30, and 31

Black parolees, the percentage of cases where the situation in respect of accommodation was unknown was high - 34% and 42% respectively. The percentage for Whites, in contrast was considerably lower, namely 17%. 10% of the White parolees lived at one address for five months, 4% for four months, 10% for three months, 10% for two months, and 13% for one month. In other words, one third of the Whites lived at the same address for three months or less. This again, somewhat surprisingly, appears to indicate that the White parolees display more instability than the other groups. This is apparent in spite of the high percentage of unknown cases among Coloureds and Blacks, as these two groups have a much lower percentage in the categories between five months and 0 months than Whites.

A third of the parolees (32%) changed their address at least once during the six month period. The White parolees had the highest rate of mobility, in that 52% changed their address at least once. The figure for the Coloured was 21%, that for Blacks 22%, and for Asians 33%. Once again, however, the Coloureds and Blacks have a high percentage of unknown cases - 27% and 38% respectively - while that of the Whites was only 15%. While it may be assumed that a number of these cases changed their addresses during the six months, it probably still would not substantially change the picture.

According to the parole supervisors, the prognosis for stable accommodation is somewhat better than for stable employment - 33%, as compared to 22%. The percentage for unknown cases is virtually the same - with 26% and 27% respectively. As with employment, the Coloureds and Blacks have the highest percentage of unknown cases in the prognosis for stable accommodation. This may be due to the same factors that have been mentioned previously, namely, i.a., the difficulty in maintaining contact with Coloured and Black parolees, who live mainly in sprawling sub-economic townships which lack adequate means of transport and communication.

4.5.6 Family relationships

4.5.6.1 Living arrangements²³

Just over half of the parolees (56%) lived with their wives, parents or siblings. All Asian parolees fell into this category, which can be understood in the light of extended families and close family ties which still exist in the Indian community, to a greater extent than among the other groups. Next were the Coloureds, with 65%, followed by the Whites (50%). Least Black parolees (44%) lived with their families, which can probably be understood in the light of the breakdown of tribal, kinship and family ties in Black urban communities, resulting from rapid urbanisation and westernisation as

well as the adverse socio-economic conditions under which urban Blacks generally live. However, the survey shows a higher percentage of Whites than Blacks as not living with their families - 35% as compared with 21%. This is mainly due to the fact that the situation was unknown in more than twice as many Black parole cases (35%) than White parole cases (15%). 15% of the Coloured parolees did not live with their families, and 20% were recorded as unknown.

From these findings it is clear that more parolees than not lived with their families. This would be true even if all the parolees recorded as unknown lived apart from their families, which is unlikely.

4.5.6.2 Participation in family functions and communication with relatives and friends²⁴⁾

The majority of married parolees (60%), particularly Whites (80%) and Coloureds (59%) actively participated in family functions. Less than half (45%) of the Blacks, however, fell into this category. Again, this can probably be understood in the light of breakdown of tribal traditions and family and kinship ties, as well as the uncertainty and instability resulting from the lack of permanence of Blacks in the urban areas in terms of land ownership.

Surprisingly, in view of the findings regarding accommodation, and in view of their generally more supportive family life, the Asians recorded the lowest percentage (38%) in this category. It must be pointed out, however, that in 50% of the Asian parole cases, it was unknown whether they participated actively in family functions.

In 27% of the cases it was unknown whether the parolees actively participated in family functions. The percentage for the various groups was, Blacks 55%, Asians 50% Coloureds 18%, and Whites 10%.

The situation was different as far as the single parolees were concerned. Only 44% had frequent contact and communication with relatives and friends. The Coloured single parolees had most such contacts (48%), then came the Blacks (44%), and the Whites (39%) had the least contacts. As the situation of 36% of the Coloured parolees was recorded as unknown - compared to the Blacks (29%) and the Whites (22%) - it can be assumed that an even higher percentage of that groups has regular contact with relatives and friends.

It is difficult to understand why married White parolees have the highest incidence of social contacts with those close to them, but single White parolees have the lowest incidence. On the other hand, both married and single Coloured parolees have a fairly high incidence of such

contacts. As only one of the nine Indian parolees was single, no valid deductions can be made about the Asian parolees in this regard.

4.5.6.3 Emotional support provided by members of the family²⁵⁾

Possibly the most important pre-requisite for a person's healthy adjustment in the community and, by implication, for the prevention of recidivism by parolees - as of discharged prisoners generally - is the provision of adequate emotional support, particularly by members of the family and by other persons close to him.

From the survey it emerged that, in only 20% of the cases, the family provided adequate²⁶⁾ emotional support to parolees. The Asian and the White parolees were most fortunate in this regard, with 33% and 27% respectively receiving adequate emotional support. The Coloured and Black parolees were somewhat less fortunate, with 17% and 13% respectively.

Just over twice as many parolees (42%) were regarded as having received reasonable emotional support. Again the Asians had the highest percentage (67%). Next where

26. The social workers responsible for supervising the parolees were asked in the survey to rate emotional support accorded to parolees by their families as being either adequate, reasonable or non-existing. In this respect the researcher relied on the subjective assessment of the parole supervisor

the Coloureds (50%), followed by the Whites (44%). The Black parolees had by far the lowest incidence of emotional support (23%) from members of their families. They also had the highest incidence of 'unknown' responses, which could be an indicator of lack of emotional support rather than of provision of adequate emotional support. Had those parolees lived with their families or relatives, and experienced stability in their living arrangements, it could probably be assumed that it would have been possible for parole supervisors to establish and maintain contact with them. Consequently, they would not have fallen into the 'unknown' category.

As was the case in most of the previously discussed categories, the Coloured parolees also had a high incidence of 'unknown' responses (25%), as compared with the 12% of Whites and 0% of Asian parolees. The possible reasons for this were already mentioned.

4.5.7 Social adjustment

4.5.7.1 Relationship with employer and employees²⁷⁾

If one considers that, in the vast majority of cases (89%) no visits were made to the parolees' place of employment, and that, in 43% of the cases it was not known whether or not the parolee was employed at the closing date of the survey, in 39% of the cases it was

unknown how frequently the parolee had changed his employment, and in 34% of the cases it was not known for what length of time the parolee had worked for the same employer, then it is not really surprising that in 47% of the cases the relationship of the parolees with their employers and fellow-employees was unknown. The Blacks and Coloureds had by far the highest incidence of 'unknown' cases, with 67% and 63% respectively. Nevertheless, some conclusions can be drawn from the findings of the survey - even though, because of the above-stated reason, they do not have a high degree of validity.

It emerged from the survey that, in 18% of the cases of parolees who were employed or had been employed during the period of the survey, the parolees had a good relationship with their employers as well as their fellow-employees. Whites scored the highest with 29%, next followed the Coloureds with a considerably lower 19%. Still lower were the Asians with 11%, and last were the Black parolees with 5%.

A somewhat higher percentage of the parolees (29%) had a reasonable relationship with both employer and employees. In this category the Asians scored by far the highest, with 67%. Next were the Whites (23%), followed by the Blacks (18%), and the Coloureds (10%).

It is ironical that, while the Whites scored by far the highest percentage in terms of good relationships with employers and employees, they also had the highest incidence of poor relationships - 25%, as compared to the 11% of Asians, 10% of Blacks and 8% of Coloureds. As was pointed out previously, where this phenomenon occurred, an important reason is that both, the Black and Coloured parolees had a high incidence of 'unknown' responses - 67% and 63% respectively. It is therefore not possible to draw a very reliable conclusion from these findings. One can merely identify a tendency, namely, that only 38% of the parolees are known to have a good or reasonable relationship with employers as well as employees. This, together with the high percentage of 'unknown' responses, precludes one from assuming that the majority of parolees are socially well adjusted in relation to their employment situation.

4.5.7.2 Participation in cultural and educational activities²⁸⁾

In this area, as in the previous one, many of the parolees (42%) fall into the 'unknown' category - the percentages in respect of the various racial groups being : Coloureds 52%, Blacks 49%, Asians 33%, and Whites 31%. Of those parolees in respect of whom it was known whether they participated, 41% did not participate in any cultural and

28. Table 32

educational activities at all. The Black parolees have the highest incidence (49%) of non-participation, followed by the Coloureds (42%), then the Whites (34%) and Asians (33%).

Relatively few parolees (11%) participate in cultural and educational activities on an occasional basis. The Asian (22%) and White parolees (19%) figure most prominently here, with the Coloured and Black parolees only representing 6% and 2% respectively. No parolees from these two groups participate in such activities either regularly or fairly regularly.

A few Asians (12%) and Whites (10%) participate in cultural and educational activities fairly regularly, and only three White parolees (6%) participate regularly.

From these findings it emerges that very few parolees, particularly Coloured and Black parolees, are socially well integrated in the areas of cultural and educational activities.

4.5.7.3 Participation in religious activities²⁹⁾

In the area of religious activities a situation very similar to that in the area of cultural and educational activities prevailed. In very few cases (5%), parolees

29. Table 34

participated regularly in religious activities. 12% of the Whites, 11% of the Asians, 2% of the Coloureds, and none of the Blacks fell into this category. Slightly more parolees (7%) participated in religious activities on a fairly regular basis. Again, no Black parolees fell into this category, but 23% of the Asians, 12% of the Whites, and 4% of the Coloureds. The Blacks had the lowest rate of participation, with 15% only participating in religious activities occasionally. 41% did not engage in such activities at all, and in 44% of the cases it was unknown whether Black parolees participated in religious activities. Of the White parolees, 12% participated occasionally, 30% not at all, and in 34% of the cases the situation was unknown. 10% of the Coloureds participated in religious activities occasionally, 19% not at all - being the lowest in this category - and in 65% of the cases it was unknown whether or not the parolees participated in religious activities - being by far the highest percentage in this category. The actual percentage of those not participating may, therefore, be much higher than 19%.

From these figures, it is safe to deduce that the majority of parolees are not well integrated in religious groups - only 12% participate in religious activities regularly or fairly regularly. As has been pointed out before, the large number of 'unknown' cases probably have negative rather than positive implications in terms

religious participation.

4.5.7.4 Participation in sports and recreational activities³⁰⁾

Once again, very much the same pattern emerges in this regard as in the previous two categories.

Very few parolees (4%) participated in sports and recreational activities on a regular basis, and even fewer (2%) on a fairly regular basis. 15% of the parolees participated occasionally. 14% of the White parolees took part in such activities either regularly or fairly regularly. This applied to 11% of the Asians, 2% of the Blacks, and none of the Coloureds. A fairly small percentage of the Blacks (13%) and the Coloureds (11%) participated in sports and recreational activities on an occasionally basis, while 22% of the Asians, and 21% of the Whites fell into this category.

Apart from the Asians (22%), at least one third of the parolees of the other groups did not participate in these activities at all - Whites 40%, Blacks 36%, and Coloureds 33%. In comparing the extent of participation, it must be kept in mind that more than twice as many Coloureds (56%) than Whites (25%), about twice as many Blacks (49%), and nearly twice as many Asians (45%) fell into the 'unknown' category.

The extent to which a person participates in sports and recreational activities is one of the important indicators of a person's social adjustment in the community. With this in mind, it must be concluded that the parolees generally reflected a poor social adjustment in this area.

4.5.7.5 Degree of success achieved by parolees in their adjustment in the community³¹⁾

In comparing the parolees' adjustment in the various major areas of their social functioning - family activities, cultural and educational, sport and recreational, and religious activities - with the NICRO social workers' assessment of their adjustment in the community, it would appear that this assessment is somewhat too optimistic.

Where the survey found the adjustment of parolees to be good or fair in few cases, the social workers assessed it as being excellent or fair in more than half (51%) of the cases. 87% of the Asian parolees, 52% of the Whites, 52% of the Coloureds, and 39% of the Blacks were thought to have achieved an excellent or good adjustment.

40% of all the parolees were seen to have achieved an unsatisfactory or very poor adjustment. The Blacks with 46%, had the highest incidence. They were closely followed by the Whites (42%) and the Coloureds (38%), while the Asians had the lowest incidence (11%) of poor adjustment.

In only 9% of the cases no assessment could be made.

4.5.8 Prognosis for achieving a satisfactory social adjustment in the community³²⁾

The prognosis for a good adjustment (24%) as made by the NICRO social workers, is considerably more positive than their assessment of an excellent adjustment by parolees (6%). However, if the prognosis for good and mediocre adjustments are taken together, they virtually concord with the social workers' assessment of the parolees' excellent and satisfactory adjustments taken jointly - being 48% and 51% respectively.

The social workers' prognosis for a poor social adjustment (30%) is somewhat lower than their assessment of the parolees' actual poor adjustment (40%) - with unsatisfactory (18%) and very poor (22%) taken together. Therefore, it would, again, appear as if the prognosis for the future social adjustment of parolees as made by their parole supervisors is somewhat too positive - if seen in the light, particularly, of the social adjustment by the parolees in the areas of cultural and educational activities, participation in sport and recreation, and religious involvement.

Of the various racial groups, the Asians scored highest (56%) in the prognosis for a good adjustment. Next, but

much lower, came the Whites and Coloureds, with 27% each. The Black parolees were those with by far the lowest incidence (8%) of a good prognosis. There is little difference in the incidence of a mediocre prognosis, with the Blacks scoring 28%, the Whites 23%, the Asians 22% and the Coloureds 21%.

The White parolees had the highest incidence (40%) of a poor prognosis. Next came the Black parolees (28%), closely followed by the Coloureds (25%). The Asian parolees had by far the lowest incidence (11%) of a poor prognosis.

No prognosis could be made in 22% of the cases. As in most other categories of 'unknown' responses, the Black and Coloured parolees had the highest incidence in this category. Possible reasons for this were already advanced elsewhere.

In conclusion, the general picture regarding a prognosis for a good social adjustment by parolees is not very positive. The picture is even worse when one considers the assessment of the parolees' actual adjustment in the community. To say the least, there is a great deal of room for improvement.

4.5.9 Status of the parolees two years after commencement of the survey

As at 9 November 1981 - that is, two years after commencement of the survey, and sixteen months after its conclusion - the status of the parolees in the sample was as reflected in the table below :

TABLE NO. 43

	Whites	Blacks	Coloureds	Indians	Tot.
Still on parole	9,6%	12,8%	12,5%	-	10,8%
Completed parole and still in the community	30,9%	12,8%	22,9%	66,7%	25,7%
Completed parole but present position unknown	19,2%	20,5%	39,6%	33,3%	27%
Broke contact during parole; whereabouts unknown	28,8%	48,8%	10,4%	-	26,3%
Re-imprisoned	11,5%	5,1%	12,5%	-	9,5%
Died	-	-	2,1%	-	0,7%
TOTAL	100%	100%	100%	100%	100%

It is apparent from the table that 52,7% (78) of the 148 parolees in the sample completed their parole, and 10,8% were still on parole on 9 November 1981. Just over one-third (36,5%) of the parolees violated their parole - 26,3% by breaking contact with the supervising agency before their parole had expired, and 9,5% by being re-

imprisoned.

Of the different population groups the Asians have by far the highest success rate with 100%, followed by the Coloured parolees with 62,5%. The Whites are next with 50,1% and the Blacks have by far the lowest success rate with 33,3%. It must be kept in mind that 10,8% of parolees – 12,8% Blacks, 12,5% Coloureds and 9,6% Whites – were still on parole on 9 November 1981. As these persons had been on parole for two years by that date they could probably be added to the successes. In that case, the success rate for all parolees in the sample would stand at 63,5%. That for the Indians would remain at 100%, for the Coloureds it would be 75%, for the Whites 59,7% and for the Blacks 46,1%.

In considering these statistics, it must be kept in mind that the Indians represented a very small proportion of the sample of parolees - 9 out of 148 (6%). The findings in respect of this small number of persons can probably not be regarded as being representative of the Indian parolees generally. The degree of validity in respect of the other groups - ranging from 39 (26,4%) Blacks, to 52 (35,1%) Whites is, obviously, much higher than that in respect of the Indian parolees.

The reason why the parole success rate is much lower among the Blacks than the other groups can probably be found in

the fact that the parole system - from pre-release preparation to supervision - is greatly inadequate in respect of that group.

In general, the parole failure rate is relatively low - when compared to the recidivism rate of discharged prisoners generally. While the former is 35,8% which includes those who broke contact with NICRO-being slightly more than half of those who failed - the general recidivism rate has usually been round about 60%.

4.5.10 Summary

Just over one-third of the parolees in the sample violated one or more of their parole conditions, but only 8% were arrested and re-imprisoned. Of these the majority - eight out of twelve - were arrested after three months from their date of release. The other three were arrested within the first month of their release.

Although the social workers of NICRO indicated that the prison authorities were reluctant to follow their recommendations regarding revocation of parole in particular cases (see paragraph 3.4.3.2), it appears that in most cases where the organisation had recommended revocation, the Department of Prisons had actually revoked parole - NICRO had recommended revocation in 11% of the cases and it was done in 9% of all the parolees in the sample. It is, therefore, not clear why NICRO

social workers had reported experiencing this problem.

According to the findings of the survey, the employment results of parolees were relatively poor. Only 28% of the parolees were employed for the full six month period of the survey and only one third of those who worked did not change their employment during that period. At the end of the period of the survey only 37% of the parolees were known to be employed. In about one-third of the cases the employment situation of the parolees was unknown. This casts a rather poor reflection on the quality of the supervision in respect of those parolees as the nature of a person's adjustment in respect of employment is an important indicator of parole success. The unsatisfactory degree of parole success is also reflected by the fact that the prognosis for stable future employment - as expressed by the parole supervisors - was good in only 22% of the cases, and reasonable in a further 22% of the cases.

The situation regarding stability in respect of accommodation also did not reflect a high degree of parole success. Less than half of the parolees (45%) lived at the same address for the six month period of the survey. The high rate of mobility and the fact that in a large number of cases, - particularly in respect of Blacks and Coloured parolees - the situation regarding the parolees' accommodation was unknown, is a further indicator of a relatively

low degree of parole success.

Just over half of the parolees lived with their wives, parents, siblings or relatives. Married parolees tended to participate in family functions more frequently than single parolees, and to have more frequent contact and communication with relatives and friends. It would appear, therefore, that marriage is a positive indicator of parole success - a finding which concords with that of Waller's Canadian survey. (See Chapter on parole in Canada). However, according to the assessment of the parole supervisors, in only 20% of the cases the family provided adequate emotional support to the parolees, and in 42% such support was assessed as being reasonable. Keeping in mind that adequate emotional support by members of the family and close relatives is an important prerequisite for a satisfactory adjustment by parolees, than it must be assumed that the absence of such support would hinder parolees' adjustment to the community.

Further important indicators of the adjustment of parolees are, inter alia, their relationships with their employers and fellow employees, and the nature and extent of their participation in cultural, educational, religious, sports and recreational activities.

From the survey it emerged that in relatively few cases the parole supervisor was aware of the parolee's relationship with his employer and fellow-employees, which is not surprising, as in many cases the supervisor

did not know whether or not the parolee was employed. Furthermore, very few visits were made to the parolees' place of employment. Of the cases in respect of which the employment situation of parolees was known, only 18% had good and 29% reasonable relationships with employers and fellow employees.

Very few parolees participated regularly (6%) or even occasionally (11%) in cultural and recreational activities, which is a clear indication that few parolees are well integrated into society generally. This is further confirmed by a generally low incidence of participation in sports and recreational activities, as well as by a low incidence of involvement in religious activities.

The prognosis of parole supervisors in regard to the potential future successful adjustment of parolees is rather negative - in 30% of the cases the prognosis is poor, in 24% it is good, and in only 6% it is excellent. In 22% of the cases no prognosis could be made, as the circumstances of many parolees were unknown.

A somewhat more positive picture emerged, however, when the status of parolees was assessed eighteen months after completion of the survey. Just over half of the parolees (52,7%) had completed their parole, 10,8% were still on parole, and 36,5% had violated their parole - 26,3% by breaking contact with NICRO and 9,5% by being reconvicted

and re-imprisoned. Although these figures present a fairly positive picture in terms of parole success, they can be misleading. It must be borne in mind that mere completion of the parole period without being re-incarcerated is not an adequate measure of parole success. What has to be considered is the nature (quality) of a person's adjustment while on parole. In having considered such indicators of positive adjustment as employment and residential stability; relationships with employers and employees; violations of parole conditions - not necessarily involving a criminal charge; participation in family functions and communication with relatives and friends; and participation in cultural, educational, recreational and religious activities, it has actually emerged that the degree of parole success was relatively low.

5. The extent of parole in South Africa

5.1 Introduction

In order to gain a proper perspective of the extent of parole in South Africa, it is necessary to first consider the prison population and then to look at the number of parole releases in the light of those figures. This will be done in the following tables and discussions thereof.

5.2 The prison population

The following table reflects the prison admissions for the year ending 30 June 1979. Excluded from consideration are awaiting trial prisoners, prisoners sentenced to death, those sentenced to corporal punishment, as well as special categories of prisoners, including State President's patients, mentally ill prisoners, judgement debtors, those arrested tamquam suspectua de figura, witnesses in detention, and detainees under Section 6 of Act 83 of 1967.

These prisoners are excluded from consideration as they are normally not considered for release on parole. As only a few of these prisoners could possibly be considered for release on parole, their exclusion makes little if any difference to the findings.

TABLE 44 : PRISONERS ADMITTED DURING THE PERIOD
1 JULY 1978 TO 30 JUNE 1979*

	Whites	Asians	Blacks	Coloureds	Total
<u>Short-term sentences</u>	4 946	753	205 837	41 287	252 859
Percentage of total	2%	0,3%	81,4%	16,3%	100%
<u>Long-term sentences, including life imprisonment</u>	992	106	15 453	4 129	20 680
Percentage of total	4,8%	0,5%	74,7%	20%	100%
TOTAL	5 938	859	221 290	45 416	273 503
Percentage of total prison population	2,2%	0,3%	80,9%	16,6%	100%

5.3 Release of prisoners on parole

The numbers of prisoners released on parole during the year ending 30 June 1979 are reflected in the following table :

* Information for the above table, as well as for subsequent tables in this section, was obtained from the Report of the Commissioner of Prisons, for the statistical year of 1 July 1978 to 30 June 1979, R.P. 36/1980. As at 1 June 1982, this was the most recent statistical report available at the libraries of the University of Durban-Westville and the University of Natal

TABLE 45 : PRISONERS RELEASED ON PAROLE FROM 1 JULY 1978 TO 30 JUNE 1979

	Whites	Asians	Blacks	Coloureds	Total	Percentage of all prisoners released on parole
<u>SHORT-TERM SENTENCES :</u>						
Less than 2 years	635	257	87 374	18 283	106 545	67%
Percentage of total	0,6%	0,2%	82%	17,2%	100%	
(i) Up to and including 4 months	226	139	69 661	12 545	82 571	100%
Percentage of total	0,3%	0,2%	84,3%	15,2%	100%	
(ii) Over 4 months, up to and including 6 months	159	70	9 771	3 061	13 061	10,6%
Percentage of total	1,2%	0,6%	74,8%	23,4%	100%	
(iii) Over 6 months to under 2 years	250	48	7 942	2 677	10 917	8,9%
Percentage of total	2,3%	0,5%	72,7%	24,5%	100%	
<u>LONG-TERM SENTENCES :</u>						
Percentage of total	717	140	12 506	3 284	16 647	13,5%
	4,3%	0,9%	75,1%	19,7%	100%	
<u>TOTAL NUMBER OF PRISONERS RELEASED ON PAROLE</u>						
Percentage of total	1 352	397	99 880	21 567	123 196	100%
	1,1%	0,3%	81,1%	17,5%	100%	

From the above two tables it appears that a somewhat higher percentage of Blacks and Coloureds is released on short-term parole than White and Asian prisoners. While Whites constitute 2% of the short-term prison admissions (i.e. less than 2 years) they constitute only 0,6% of short-term parole releases. By comparison Blacks constitute 81,4% of short-term prison admissions, yet they represent 82% of short-term parole releases. For Coloureds the percentages are 16,3% and 17,2% respectively, and for Asians 0,3% and 0,2%. However, the differences between the rate of short-term imprisonment of the various population groups and their rate of parole release is not great.

As far as the relationship between the rate of long-term imprisonment and release on parole of long-term prisoners is concerned, the following picture emerges :

Whites constitute 4,8% of the long-term prison admissions and 4,3% of long-term parole releases. Their parole release rate is thus only slightly lower than their rate of imprisonment. The same is true for Coloureds (20% and 19,7% respectively), but the opposite applies to Blacks (74,7% and 75,1% respectively) and to Asians (0,5% and 0,9%). In general, however, there is only a small discrepancy between the rate of long-term imprisonment and the rate of release on parole of long-term prisoners in respect of the various population groups, as is the case in release of short-term prisoners on parole.

What is clear, is that the Blacks are by far most heavily represented in the category of those released on parole virtually immediately upon being admitted to prison, that is, those with sentences of up to and including 4 months. They represent 84,3% of this category, as compared to the 0,2% of the Asians and 0,3% of the Whites. However with 15,2% of the total number of parole releases, the Coloureds also represent a fairly high percentage of releases in this category. This category of parolees consists mainly of those who are released to farmers and other employers.

With Whites the opposite is true. They are in terms of parole release, least heavily represented in the category of short-sentences (0,3%) and most heavily represented in the category of long sentences (4,3%). To a lesser extent the same is true for Asian prisoners (0,2% and 0,9%). While a large number of Coloured prisoners are released on short-term parole, 12 545 compared to the 226 Whites - they are most heavily represented in the intermediate categories of sentences, being about 24% in the over 4 months up to 2 years categories. This can probably be seen in the light of the large number of relatively less serious drunkenness-related offences, such as assaults, thefts and burglaries, committed while under the influence of alcohol, which usually result in medium-term prison sentences.

If one considers release on parole of all the population groups together the following situation emerges :

While the total short-term prison admissions for the year ending 30 June 1979 was 252 859, the number of short-term prisoners released on parole during that year was 106 545 - in other words, 42% of those admitted.

The rate of parole release in respect of the long-term prisoners was nearly twice as high, namely 80,5% - 20 680 were admitted during the year, and 16 647 were released on parole.

When all the admissions and parole releases are added, the rate of release is 45% - that is, 123 192 out of a total of 273 539 prisoners.

5.4 Violation of parole conditions : 1 July 1978 - 30 June 1979

Violations of parole conditions are reflected in the following table :

TABLE 46

		Whites	Asians	Blacks	Coloureds	Total no. of violations
(i)	<u>SHORT-TERM PAROLEES</u>					
	Violated parole conditions	36	57	17 037	1 743	18 873
	Percentage of all violations	0,2%	0,3%	90,3%	9,2%	100%
	Percentage of all prisoners released on short-term parole	0,6%	0,2%	82%	17,2%	100%
(ii)	<u>LONG-TERM PAROLEES</u>					
	Violated parole conditions	101	10	1 263	448	1 862
	Percentage of all violations	5,4%	0,6%	67,8%	26,2%	100%
	Percentage of all prisoners released on long-term parole	4,3%	0,9%	75,1%	19,7%	100%

From the above table it is clear that, of the short-term parolees, the Blacks constituted the highest number of violations of parole conditions. While they constitute 82% of all short-term parole releases, they represent 90,3% of the parole violations in that category. 17 037 of the 87 374 Black prisoners who were released on short-term parole, violated their parole conditions - that is, 19,5%. However, the Asian short-term parolees appear to have had the highest rate of parole violations.

While they represent only 0,2% of the parole releases in that category, they represent 0,3% of the parole violations. 57 of the 257 Asian short-term prisoners who were released on parole, violated parole conditions - that is 22,2%, which is higher than the 19,5% of the Blacks.

Next in the order of parole violation were the Coloureds, who constituted 17,2% of all short-term parole releases, and 9,2% of the violations. Of the 18 283 Coloured prisoners released on short-term parole, 1 743 (9,5%) violated parole conditions. The White short-term parolees had the lowest rate of violations, both, as a percentage of the total number of short-term parole releases (0,2%), and as a percentage of White short-term prisoners released on parole - 635 were released and 36 (5,7%) violated.

Of the total of long-term parolees, the Coloureds had the highest rate of violations : they represented 19,7% of the releases and 26,2% of the violations. 14,9% (488) of the 3 284 released on long-term parole violated conditions. Second where the Whites. While they constituted 4,3% of the parole releases, they represented 5,4% of the violators. 101 of the 717 White long-term parolees violated. They represented 75,1% of the parole releases, and 67% of the violations. Of the 12 506 who were released on long-term parole, 1 263 (10,1%) violated conditions. The Asians had the lowest rate of violations for long-term parolees. They constituted 0,9% of the releases and 0,6% of the violations. Ten of the

140 (that is 7,1%) Asians who were released on long-term parole violated parole conditions.

It is interesting to note that Coloured long-term parolees have a proportionately much higher rate of violations of parole conditions than Coloured short-term parolees. (26,2% as compared with 9,2%). The same is true for Whites (5,4% as compared with 0,2%) and to a lesser extent, for Asians (0,6% and 0,3%). However, the opposite is true for Black parolees.

5.5 Re-imprisonment of parolees

The rates of re-imprisonment, as compared with the rates of parole release are reflected in the following table :

TABLE : 47

	Whites	Asians	Blacks	Coloureds	Total
(i) <u>SHORT-TERM PAROLEES (Under 2 years)</u>					
<u>Re-imprisoned</u>	22	9	3 100	854	3 985
Percentage of total no. re-imprisoned	0,5%	0,2%	77,9%	21,4%	100%
Percentage of all prisoners released on short-term parole	0,6%	0,2%	82%	17,2%	100%
(ii) <u>LONG-TERM PAROLEES</u>					
<u>Re-imprisoned</u>	66	0	1 216	475	1 757
Percentage of total no. of re-imprisoned	3,8%	0%	69,2%	27%	100%
Percentage of all prisoners released on long-term parole	4,3%	0,9%	75,1%	19,7%	100%

In comparing the percentage of release on short-term parole of prisoners of the various racial groups with that of re-imprisonment in that category it emerges that these do not differ greatly. For Whites it is virtually identical (0,6% and 0,5%); for Asians it is 0,2% and 0,2% respectively; a somewhat lower percentage of Blacks is re-imprisoned (77,9%) than is released on short-term parole (82%); the opposite applies to Coloureds, being 21,4% and 17,1% respectively.

While none of the Asian long-term parolees were re-imprisoned, the rate of re-imprisonment for Black long-term parolees was significantly lower than for Black short-term parolees. They represent 75,1% of those released, but only 69,2% of those re-imprisoned.

Whites were in a similar position, as they also had a slightly lower rate of re-imprisonment than parole release. They represented 4,3% of the long-term parole releases, and their share of re-imprisonment was 3,8%. The Coloureds constituted 19,7% of all those released on long-term parole and 27% of all those re-imprisoned. It is clear, therefore, that the Coloured long-term parolees had the highest rate of re-imprisonment of all the groups.

When the figures of re-imprisonment of all short-term parolees (3 985) are compared with the total number of prisoners released on short-term parole (106 549), it emerges that the general rate of re-imprisonment of short-term parolees is very low, namely 3,7%. While the reincarceration rate of long-term parolees is nearly three times as high as that for short-term parolees, it is, nevertheless, still very low. While 16 647 long-term prisoners were released on parole during the year ending 30 June 1979, 1 757 - being 10,5% of the number of releases - long-term parolees were re-imprisoned during that year. If the total number of re-imprisoned parolees (5 742) both long-term and short-term are compared with the total number of parole releases (123 196) during the relevant year, the percentage of all re-imprisoned parolees

is 4,7%, which is very low.

5.6 Conclusion

The reasons for variations in the rates of parole violations and re-imprisonment in respect of prisoners of the different racial groups are not clear. Any explanation given for such variations, both in respect of short-term and long-term parolees would be based on conjecture - until such time as adequate research is conducted on this matter.

There is, therefore, a need for further research to explain these discrepancies.

CHAPTER VI

ATTITUDES AND OPINIONS OF JUDICIAL OFFICERS, PRISON PERSONNEL AND
NICRO REGARDING PAROLE IN SOUTH AFRICA1. Attitudes of respondents towards parole1.1 Background to the study

The success of any penological measure in a democratic society depends, to a large extent, on the extent to which the public accepts and supports that measure. But, more particularly, it depends on the support of those who are involved in the administration and operation of the various aspects of the measure, as well as those concerned with related measures and with the broader system. In the case of parole, this concerns all those involved in the operation of the criminal justice system. This involves mainly the police, judicial officers - judges and magistrates, prison personnel - both custodial and treatment staff, and those involved in the aftercare for ex-prisoners.

In view of this, as part of a broader study on the nature and function of parole in South Africa, the researcher decided to determine how members of the judiciary, relevant personnel of the Department of Prisons, (educationists, social workers, case aids, psychologists, members of prison boards and commanding officers), as well as

social workers of NICRO felt about parole - that is, how they conceived of parole as functioning in practice, what they felt its purposes and practical implications were, and what suggestions they had for changes of the parole system. Questionnaires (see Annexure 5) were sent to judges, magistrates, correctional social workers and prison treatment staff, because it was felt that these are the persons who are, directly or indirectly, concerned with parole, or involved in the operation of the parole system. The findings of the study, it was felt, could, firstly, give an indication of the weaknesses (or otherwise) of the parole system in South Africa and secondly, they could provide important guidelines for necessary changes of the system.

Finally, it must be pointed out that this section should be read in conjunction with the following section (2) which deals with the comments made by the various categories of respondents.

1.2 Extent of the study

A total of 1 143 attitude questionnaires were sent out to all the judges, magistrates, prison personnel and NICRO social workers, together with franked and return-addressed envelopes - this included 72 judges, 800 magistrates, 229 personnel of the Department of Prisons, and 42 social workers in the employ of NICRO. It was intended that each member of these professions should receive a questionnaire.

Replies received were : 36% from the judges, 48,1% from the magistrates, 80,3% from the relevant prison staff and 100% from NICRO social workers.

It is felt that the percentages of returns from the various categories of persons, as well as the total percentage of returns, were high enough to render the findings valid.

1.3 Findings

Tables No.48 to No.51 represent a summary of all the responses from the various categories of persons. It will be noted that the Department of Prisons has been subdivided into a number of groups of employees - educationists, social workers, case aids, psychologists, prison board members, and commanding officers of prison commanments. This had been done as these groups represent different professions, the attitudes of which, it was thought, could vary. The findings substantiated this.

1.3.1 The nature of parole, its purposes, practical implications, effectiveness, and value

Table No.48 represents a composite picture of the attitudes of all the categories of respondents on the nature of parole.

1.3.1.1 The nature of parole

As the table below shows, only a few persons - 4,2% of all respondents - felt that parole is a form of amnesty. No judges or prison psychologists responded positively to this question, but a few magistrates (10,6%), educationists (7,1%), prison social workers (4,4%), case aids (8,1%), prison board members (2,4%), commanding officers (3,1%) and NICRO social workers (2,4%) felt that parole operates as a form of amnesty, that is, granting pardon to prisoners.

Even less persons regarded parole as unconditional discharge. No one responsible for treatment of, selection for, release on parole, and aftercare of prisoners - i.e. educationists, prison social workers, case aids, psychologists, prison board members, and aftercare social workers - saw parole as such. Only a small percentage of judicial officers - 3,8% judges, 7,3% magistrates-and 3,1% commanding officers of prisons felt that parole operated as unconditional release. The fact that considerably more magistrates than judges or commanding officers felt that parole operated as an unconditional discharge is, in part, a reflection of the dissatisfaction of a large number of magistrates with the way parole functions at present. It must be remembered that they represent by far the largest number in each category, and that 7,3% represents 27 magistrates.

Interestingly enough, a fairly large number of judges

TABLE 48: THE NATURE OF PAROLE

The Nature of Parole	DEPARTMENT OF PRISONS									
	JUDGES	MAGISTRATES	EDUCATIONISTS	SOCIAL WORKERS	CASE AIDS	PSYCHOLOGISTS	PRISON BOARD MEMBERS	COMMANDING OFFICERS OF PRISON COMMANDMENTS	NICRO SOCIAL WORKERS	AVERAGE OF ALL CATEGORIES
A form of amnesty	0	10,6	7,1	4,4	8,1	0	2,4	3,1	2,4	4,2
Unconditional discharge	3,8	7,3	0	0	0	0	0	3,1	0	1,6
Amelioration of punishment (i.e. leniency or clemency)	34,6	26,9	0	0	18,9	14,2	34,1	6,2	2,4	15,2
An early, but conditional release, involving supervision in the community	92,3	52,7	78,6	86,6	83,8	92,8	84,4	84,4	88,1	83,
Part of the punitive process	46,1	24,2	35,7	24,4	37,8	14,3	43,7	43,7	33,3	33,4
Other	0	2,7	0	0	0	0	0	0	0	0,3

(34,6%), prison board members (34,1%), and magistrates (26,9%) and, to a lesser extent, case aids (18,9%), psychologists (14,2%) and commanding officers (6,2%) thought that it was part of the function of parole to ameliorate punishment - i.e. an expression of leniency or clemency. No educationists and prison social workers, and only 2,4% of NICRO social workers saw parole in that light.

By far the majority of respondents - an average of 83% - regarded parole as being an early but conditional release, involving supervision in the community. However, only slightly more than half of the magistrates (52,7%) saw parole in this light. In view of the fact that this definition of parole is generally accepted by penologists and criminologists, the relatively low positive response by magistrates can also be seen as further proof of their dissatisfaction with parole in the Republic - especially, as will be seen later, if one considers that more magistrates saw the purpose of parole as reducing the prison population than as striving for the rehabilitation of prisoners. In contrast, 92,3% judges and 92,8% prison psychologists responded in the affirmative. All the other categories had a high positive response of between 80% and 90%, with educationists (78,6%) having the lowest percentage of positive responses, but still considerably higher than the 52,7% of the magistrates.

An average of one third (33,4%) of all categories of respondents felt that parole was part of the punitive process - because it imposes restrictions and controls on the released prisoner. The highest percentage of positive response came from judges (46,1%), the next highest, in descending order, being commanding officers (43,7%), prison board members (41,5%), case aids (37,8%), educationists (35,7%), NICRO social workers (33,3%), prison social workers (24,4%), magistrates (24,2%), and lastly, psychologists (14,3%).

While it is understandable that prison social workers, educationists, NICRO social workers and commanding officers, who generally felt that parole did not function as an amelioration of punishment, had a fairly high percentage of positive responses on the question of whether parole is part of the punitive process, it is difficult to explain why a fairly high percentage of the judges - 34,6% and 46,1% respectively - regarded parole as both an amelioration of punishment and also as being part of the punitive process. Similarly, almost an equal number of magistrates - 26,9% and 24,2% - regarded parole as amelioration of punishment and as being part of the punitive process. This does, however, indicate a rather high degree of disagreement between the members of these two professions on these two differing attitudes.

1.3.1.1.1 Summary

If one considers all the attitudes regarding the nature of people, the overall picture looks as follows :

All categories of respondents see parole firstly as an early, but conditional release, involving supervision in the community. Very few persons regard parole as an unconditional discharge or as a form of amnesty. In contrast to the high degree of consensus on the question of whether parole is conditional discharge involving supervision, or whether it is an unconditional discharge, or a form of amnesty, there is considerable disagreement on whether parole represents an amelioration of punishment (i.e. leniency or clemency). The scores of the various categories range from 0% to 34,6%; judges, prison board members and magistrates being at the top; case aids and psychologists in the middle; and commanding officers, NICRO social workers, prison social workers and educationists at the bottom.

A fairly large number of respondents also regard parole as being part of the punitive process, as it imposes controls and restrictions on the released prisoner. Close to half of the judges, commanding officers and prison board members, and slightly more than a third of the case aids, educationists and NICRO social workers see it in that light. In this category there is also a fair amount of disagreement - the positive responses ranging

from 14,3% (psychologists) to 46,1% (judges). However, this is the attitude which has the second highest average percentage positive responses of all categories - the generally (in criminological circles) accepted definition of parole having by far the highest.

Of all the categories, only a few magistrates (2,7%) felt that parole was something other than the five possible responses which were listed on the questionnaire. Their responses as to the nature of parole were as follows :

"An unwise exposure of the innocent to harm by the prisoner" - it is not clear what is really meant by this response -; - "the watering down of punishment"; "the destruction of punishment"; - what is probably meant here, is that parole is a way of cancelling out punishment -; "a Christian practice"; "a way of emptying prisons"; "manpower saving"; "a 'white elephant', because it cannot be enforced."

Two magistrates indicated that they did not know what parole was, responding as follows :

"I do not know what parole is, as presently applied," and "the theory differs markedly from what happens in practice; as a result, I do not really know what parole is."



1.3.1.2 Purposes of parole

From Table No.49 it becomes apparent that on an average, one third (33,4%) of all categories of respondents felt that the purpose of parole was to reward prisoners for good behaviour. The judges, again, figured prominently in this attitude, with 61,5% positive responses. The psychologists came next with 50%, then came the case aids (40,5%), educationists (35,7%), magistrates (29,9%), prison board members (26,8%), prison social workers (26,6%), commanding officers (15,6%), and, at the bottom, NICRO social workers with (14,3%). These percentages show a fairly wide disparity of positive responses, from which it is obvious that attitudes differ considerably on whether or not the purpose of parole is to reward prisoners for good behaviour. Most judges think so, also half of the psychologists, about a third of the magistrates, and just over a quarter of the members of prison boards and social workers. Only commanding officers and NICRO social workers generally did not see the purpose of parole as rewarding prisoners for good behaviour. The persons who felt that the purpose (or a purpose) of parole was to reward prisoners for good behaviour - especially judges and psychologists - were close to what seems to be the official position, if one considers the following comment which appears in an information booklet of the Department of Prisons on the matter of parole : "Just as the education process of a child is based on a sound balance between punishment and reward, so it is necessary

TABLE 49 : PURPOSE(S) OF PAROLE

PURPOS(S) OF PAROLE	DEPARTMENT OF PRISONS									
	JUDGES	MAGISTRATES	EDUCATIONISTS	SOCIAL WORKERS	CASE AIDS	PSYCHOLOGISTS	PRISON BOARD MEMBERS	COMMANDING OFFICERS OF PRISON COMMANDMENTS	NICRO SOCIAL WORKERS	AVERAGE OF ALL CATEGORIES
To reward prisoners for good behaviour	61,5	29,9	35,7	26,6	40,5	50	26,8	15,6	14,3	33,4
To protect the community	30,8	5,4	28,5	20	40,5	28,8	24,4	18,7	21,4	24,2
To mitigate punishment	15,4	14,4	21,4	6,6	10,8	0	21,9	0	4,8	10,6
To strive for the rehabilitation of prisoners, by providing guidance and assistance	80,8	46,7	64,3	93,3	83,8	92,8	82,9	84,4	71,4	77,8
To reduce the prison population	26,9	47,8	28,5	13,3	59,4	0	17	34,4	19	27,4
Other	0	0,8	0	2,2	2,7	0	0	0	2,4	0,9

to 'reward' the prisoner if he reacts positively towards the treatment to which he is subjected, with the view of his rehabilitation." (The emphasis is the researcher's.)

The fact that the average of all categories of respondents that saw the purpose of parole as being to protect the community was only 24,2%, could be seen, to some extent, as a general lack of trust in the parole system. This is substantiated by the comments made by respondents, especially by a large number of magistrates - which will be discussed further on in this chapter. It is significant that magistrates had by far the lowest percentage of positive responses, being 5,4%. The reason for this, again substantiated by numerous comments, is that magistrates, who deal with the bulk of criminal cases, often have accused persons appearing in front of them that were out on parole at the time of arrest. In contrast to the low percentage of positive responses by magistrates, 30,8% of all judges saw parole as aiming at protecting the community. However, the highest affirmative response (40,5%) came from case aids. The others are all fairly equal, being between 18,7% and 28,5%. Also significant in this regard is the fact that more than half (51,3%) of the magistrates indicated that they see parole as constituting an interference with the judicial process. This is further substantiated by the fact that an average of only 20,5% of respondents felt that parole, as it operates at present is effective, and

that an average of 63,5% of all categories were of the opinion that there is a need for some important changes to the parole system, to render it more effective.

An average of only 10,6% of all categories of respondents saw the purpose of parole as mitigating punishment - the highest number of positive responses coming from members of prison boards (21,9%) and educationists (21,4%). Next are the judges (15,4%), magistrates (14,4%), case aids (10,8%), prison social workers (6,6%), and NICRO social workers (4,8%). No psychologists or commanding officers saw the purpose of parole as being mitigation of punishment.

By far the majority of the respondents from all categories saw the purpose of parole as being to strive for the rehabilitation of prisoners, by providing guidance and assistance. The average of positive responses for all categories was 77,8%. While magistrates represented the lowest percentage (46,7%) of positive responses, prison social workers and psychologists represented the highest percentage of positive responses with 93,3% and 92,8% respectively. This can probably be seen in the light of the fact that persons in the latter two categories play an important role - perhaps the most important role - in preparing long-term prisoners for their release on parole. The next highest percentage of positive responses comes from commanding officers (84,4%), case aids (83,8%), prison

board members (82,9%), judges (80,8%), NICRO social workers (71,4%), and educationists (64,3%).

A fairly large number of persons, especially case aids (59,4%) and magistrates (47,8%), and to a lesser extent commanding officers (34,4%) regard the purpose - or, one of the purposes - of parole as being to reduce the prison population. Attitudes on this question have a wide range, from 0% positive responses by psychologists to 49,4% by case aids. The other categories are spaced widely in-between, with prison social workers 13,3%, prison board members 17%, NICRO social workers 19%, judges 26,9%, educationists 28,5%, commanding officers 34,4%, magistrates 47,8% and case aids 59,4%. It is significant that, contrary to the general trend, a slightly higher percentage of magistrates saw the purpose of parole as being to reduce the prison population, rather than to strive for the rehabilitation of prisoners. The reason for this can probably, again, be found in the fact that magistrates on occasions have the frustrating experience of trying offenders whom they had previously sent to prison and who, at the time of arrest, would still have been in prison if they had not been released on parole. (See comments by magistrates in this regard.)

A magistrate commented that the purpose of parole differs in respect of White and Black prisoners; for the former the purpose is to rehabilitate prisoners, and for the

latter, to reduce the prison population. Another magistrate feels that the purpose of parole differs with long- and short-term prisoners. As far as the former are concerned, the purpose is the rehabilitation of prisoners; for short-term prisoners, the purpose is to reduce the prison population. These two opinions largely boil down to the same thing, as Black prisoners constitute by far the majority of all short-term prisoners. (According to statistics provided in the 78-79 annual report of the Commissioner of Prisons, Blacks constituted 82% of short-term parole releases - i.e. prisoners with sentences of less than two years.)

Only a few persons - an average of 0,9% of all categories - felt that parole had additional purposes than those mentioned on the questionnaire. These were, case aids (2,7%), NICRO social workers (2,4%), prison social workers (2,2%), and magistrates (0,8%). Following are what these respondents regard as additional purposes of parole :

Case aids : "To re-unite the prisoner with his family sooner, in order that he can carry his own responsibility", "to control contact between short-term prisoners and recidivists", "to give prisoners a chance to prove themselves in the societal norms", "to encourage the parolee to be independent and to develop a sense of responsibility", "to help a prisoner achieve more insight into his mistakes", "to convince the prisoner that he

is being trusted", "to prevent contact between short-term and long-term prisoners, and to prevent recidivism", "to bring about the development of a sense of responsibility", "the main purpose of parole is to bridge the gap between the rigid prison setting and the normal community", and "to nurture a feeling of independence in the prisoner";

NICRO social workers : "to change the role of imprisonment from that of a deterrent"; (it is not clear what is meant by this as the respondent does not indicate which role should substitute the one of deterrent); "to provide an opportunity to become re-integrated into the community while serving a sentence", and "to allow the prisoner to serve part of his sentence as a useful member of the community, under supervision, in order to strive for eventual rehabilitation".

Prison social workers : "to return those to prison who do not abide by the conditions, or who misbehave and may again engage in criminality, for further treatment", "to assist in making the prisoner's adjustment successful";

Magistrates : "to satisfy the psychological climate of modern society", "to advance spiritual wellbeing".

Virtually all these responses fall into one of the five broad categories of attitudes that appear on the question=

naire under the heading of purpose(s) of parole - most of them being covered by the category on rehabilitation of prisoners, even such responses as those referring to contact between short-term and long-term prisoners, and the response which sees the purpose of parole as convincing the prisoner that he is being trusted. A response which also falls under the category of rehabilitation of prisoners, but which is of such importance that it merits special mention, is the one which sees the purpose of parole as being "to bridge the gap between the rigid prison setting and the normal community." This really is the most important purpose of parole, and the main reason for its existence. The respondent which sees the purpose of parole as being to return those who violate parole to prison for further treatment, is thinking mainly of the protection of the community, but also of the rehabilitation of offenders.

Finally, the magistrate who sees parole as aiming "to satisfy the psychological climate of modern society", probably feels that parole functions as mitigation of punishment - in the sense of a permissive philosophy.

1.3.1.2.1 Summary

In summary, the main purpose of parole is seen by all categories, except by magistrates, as being to strive for the rehabilitation of prisoners. Secondly, to reward prisoners for good behaviour is also regarded as

an important purpose of parole. The purpose which is third in importance according to the average percentage of responses in all categories, is the reduction of the prison population. Next, and close in importance, is the protection of the community. The purpose that is regarded as being of least importance is the mitigation of punishment.

1.3.1.3 Practical Implications of Parole

The most important practical implication of parole, according to the average percentage of responses in all categories (71,2%), is that it helps discharged prisoners to achieve a more satisfactory adjustment in the community.

The percentage positive responses of six of the nine categories of persons is very high; being educationists, 85,7%; commanding officers, 84,4%; prison social workers, 82,2%; prison board members, 80,4%; NICRO social workers, 78,6%; and judges, 76,9%. The fact that the difference between the lowest and highest score is only 8,8% indicates a high degree of concensus between these professional categories. The next three categories are widely spaced, with case aids having 67,6% positive responses, psychologists 50% and magistrates only 35,3%. Except for psychologists the responses of these categories are fairly consistent with responses on the purpose of parole as being to strive for the rehabilitation of prisoners, which is very similar in nature. It is difficult to explain why nearly twice as many psychologists (92,8%) regard the purpose of parole as being to strive for the rehabilitation of prisoners, than those who see the implication of parole as helping discharged prisoners to achieve a more satisfactory adjustment in the community. One possible explanation can be found in the fact that not a single psychologist felt that parole, as it operates at present in South Africa is effective. In other words, those psychologists who did not respond positively to the question of whether a

TABLE 50: PRACTICAL IMPLICATIONS OF PAROLE

PRACTICAL IMPLICATIONS OF PAROLE	DEPARTMENT OF PRISONS									
	JUDGES	MAGISTRATES	EDUCATIONISTS	SOCIAL WORKERS	CASE AIDS	PSYCHOLOGISTS	PRISON BOARD MEMBERS	COMMANDING OFFICERS OF PRISON COMMANDMENTS	NICRO SOCIAL WORKERS	AVERAGE OF ALL CAGETORIES
Parole mitigates the negative effects that may result from continuous imprisonment	69,2	26,9	42,8	46,6	64,8	57,1	63,4	40,6	38,1	50
parole helps discharged prisoners to achieve a more satisfactory adjustment in the community	76,9	35,3	85,7	82,2	67,6	50	80,4	84,4	78,6	71,2
parole represents an interference with the judicial decision	7,7	51,3	0	2,2	8,1	0	14,6	9,4	7,1	11
Other	0	2,7	0	0	2,7	14,3	0	0	0	2,2

practical implication of parole was that it helps discharged prisoners to achieve a more satisfactory adjustment in the community, may feel that this does not happen in practice.

It is significant, once again, that the magistrates have by far the lowest percentage of positive responses in this category - being about 36% lower than the average of all categories of respondents. However, this is consistent with their relatively less positive attitudes towards other aspects of parole.

The next most important implication of parole, judging by the percentage of positive responses, was that it mitigates the negative effectives that may result from continuous imprisonment. Here the average percentage of all categories was 50%; the highest number of positive responses coming from judges (69,2%); then case aids (64,8%); followed by prison board members (63,4%); psychologist (57,1%); prison social workers (46,6%); educationists (42,8%); commanding officers (40,6%); NICRO social workers (38,1%); and, lastly magistrates (26,9%). The wide spread of positive responses - a range of 42,3% - indicates a large variation of attitudes on this question. It is interesting to note that the two categories of judicial officers are respectively at the top (judges) and bottom (magistrates) of the scale of positive responses. This matter will be dealt with further on under the discussion of the attitudes of the various categories of respondents.

A relative low average of 11% of the respondents from all the categories expressed the opinion that parole represents an interference with the judicial decision,

From what was said previously about the generally negative attitude of magistrates towards parole, it is not surprising that more than half of all magistrates (51,3%) regard parole as an interference with the judicial decision. The next highest, after a large gap, are prison board members, with 14,6% positive responses. Then follow commanding officers with 9,4%; case aids with 8,1%; judges with 7,7%; NICRO social workers with 7,1%; prison social workers with 2,2%. No educationists or psychologists saw parole in this light. If the magistrates are left out of contention, then the average for all the other categories of respondents is only 6,1%, instead of 11%.

1.3.1.3.1 Summary

About a third of all respondents - namely 207 out of a total of 617 - felt that parole, as it is applied at present, interferes with the judicial decision. Of these, however, 189 persons (i.e. 91,3%) were magistrates. In contrast, only 18 persons (11,2%) from all the other categories regarded parole as such. It is very clear, therefore, that magistrates are that group of persons that is most antagonistic towards releasing offenders on parole.

1.3.1.4 The effectiveness of parole

On the question of whether parole, as it operates today, is effective, the average percentage of positive responses for all categories was only 20,5%. In fact, if the case aids - who have a positive response of 20,1% more than the second highest category - are omitted, the average percentage of positive responses for the other eight categories is as low as 16,6%. After case aids, commanding officers recorded the second highest number of positive responses, with 31,2%. Next were the educationists with 28,5%, followed by prison board members (26,8%), then, after a gap of 11,3% are the prison social workers (15,5%), judges (15,4%) and magistrates (13,6%). Only 2,4% of the NICRO social workers are of the opinion that the present parole system is effective, and not a single psychologist, (0%).

Substantiating the low esteem in which the large majority of respondents hold the present parole system, is the fact that an average of 63,5% of all categories of respondents indicated that there is a need for some important changes to the parole system in order to render it more effective. It is surprising that only 26,9% of the judges felt that there was a need for major changes to the parole system - considering that so few of them (15,4%) had expressed the opinion that parole, as it operates at present in South Africa, is effective. It was also surprising that only 53,3% of the magistrates, who, as has become clear from the above discussion, generally reflected

TABLE 51: EFFECTIVENESS AND VALUE OF PAROLE

EFFECTIVENESS AND VALUE OF PAROLE	DEPARTMENT OF PRISONS									AVERAGE OF ALL CATEGORIES
	JUDGES	MAGISTRATES	EDUCATIONISTS	SOCIAL WORKERS	CASE AIDS	PSYCHOLOGISTS	PRISON BOARD MEMBERS	COMMANDING OFFICERS OF PRISON COMMANDMENTS	NICRO SOCIAL WORKERS	
Parole, as it operates at present in South Africa, is effective	15,4	13,6	28,5	15,5	51,3	0	26,8	31,2	2,4	20,5
There is no need for a parole system	0	11,9	0	0	0	0	0	9,4	0	2,4
Parole is a valuable aspect of the penological process	76,9	28,5	28,5	35,5	45,9	50	70,7	46,9	40,5	47
There is a need for some important changes to the parole system in order to render it more effective	26,9	53,3	92,8	77,7	62,1	64,3	53,6	53,1	88,1	63,5

a negative attitude towards parole, expressed the view that there is a need for important changes to the parole system. This can perhaps be understood in the light of the fact that less than one third of all magistrates (28,5%) felt that parole is a valuable aspect of the penological process, and that 11,9% indicated that there is no need for a parole system. Apart from magistrates, the only other category of respondents who registered positive responses to the last question, were prison board members (9,4%).

The category of persons who felt most strongly that there was a need for important changes to the parole system in order to render it more effective, were the educationists (92,8%), closely followed by NICRO social workers (88,1%), who are, as a group of professional persons, most intimately connected to the actual operation of the parole system in the community - i.e. of parole in the sense as defined by penologists, not with "parole" as applied to short-term prisoners, who are released to employers (mainly farmers) - which is not parole in the true sense of the word. The writer is, however, unable to explain why comparatively so many more educationists (92,8%) than psychologists (64,3%) felt that there is a need for major changes - especially since far less psychologists (0%) than educationists (28,5%) regarded the present parole system as being effective. Conversely, it is clear why only 53,1% of the commanding officers expressed the view that there was a

need for substantial changes to the parole system - namely, because a fairly high percentage (31,2%, being the second highest of all categories) felt that parole as it operates at present, is effective.

When one considers the average percentage of positive responses to the question of whether parole is a valuable aspect of the penological process, we find that it is fairly low, at 47%. In fact, the positive responses of all categories, except those of judges (76,9%) and prison board members (70,7%), are between 28,5% and 50% - magistrates and educationists (28,5% for each category), prison social workers (35,5%), NICRO social workers (40,5%), case aids (45,9%), commanding officers (46,9%), and psychologists (50%). The average positive responses of these last seven categories is 39,4%.

While an average of only 20,5% of all categories of respondents see parole as being effective, considerably more (an average of 47%) feel that it is, nevertheless, valuable. This is not necessarily a contradiction, as it can possibly be understood - at least, to some extent - in the light of the fact that an average of 71,2% of all categories indicated that it is a practical implication of parole to assist discharged prisoners to achieve a more satisfactory adjustment in the community, and also, by the fact that an average of 50% of all categories felt that parole mitigates the negative effects that may result from continuous imprison=

ment. These aspects are, in themselves, valuable, even if, on the whole, parole is not very effective. It may also be argued that some respondents may feel that it is preferable to release an offender on parole - even if it is not effective - to keeping him in prison.

Finally, there are only two categories of respondents - magistrates and commanding officers - in which there are some persons (11,9% and 9,4% respectively), who feel that there is no need for a parole system at all. This brings the overall average for all categories to 2,4%.

1.3.1.4.1 Summary

From the low percentage of positive responses on the question of the effectiveness of the South African parole system, it is clear that very few persons (107 out of a total of 620 respondents - i.e. 17,2%) feel that our present system is effective. In fact, the majority of persons, namely 359, expressed the opinion that there is a need for some important changes to the parole system in order to render it more effective.

While less than half of all respondents (231 out of 620) felt that parole is a valuable aspect of the penological process - probably because of its lack of effectiveness - only 47 of the total number of respondents felt that there is no need for a parole system. In other words most persons felt that there is a need for a parole system, but

that it requires fundamental changes in order to be effective.

1.3.2 The attitudes of the various categories of respondents

1.3.2.1 Attitudes of judges towards parole

When considering the attitudes of judges towards parole, it must be kept in mind that considerably less judges (36% of all the judges in the Republic) than the other eight categories of persons responded to the questionnaire. The validity of the findings, is, therefore, not as high as it is in respect of the other categories. Nevertheless, a 36% response is sufficiently high to allow the researcher to make certain deductions, and to reach reliable conclusions.

As to the nature of parole, nearly all judges (92,3%) regard parole as an early but conditional release, involving supervision in the community. Just less than half (46,1%) feel that it is also part of the punitive process, because it imposes restrictions and controls on the released prisoner. Slightly more than a third (34,6%) of the judges, in addition, see parole in the light of leniency or clemency - namely, as an amelioration of punishment. Only one judge regarded parole as unconditional release, but nobody saw it as a form of amnesty.

By far the majority of the judges (80,8%) felt that the

purpose of parole was to strive for the rehabilitation of prisoners, by providing guidance and assistance. A fairly large number (61,5%) saw a purpose of parole as being to reward prisoners for good behaviour. It has already been pointed out that, at least as far as short-term prisoners are concerned, this is confirmed by an official statement.

Just less than a third of the judges (30,8%), regard the protection of the community as one of the purposes of parole. Seven of the twenty-six judges (26,9%) felt that parole also aimed at reducing the prison population, and four (15,4%) regarded mitigation of punishment as one of the purposes of parole.

Most judges feel that, in practice, parole has two main implications, namely, it helps discharged prisoners to achieve a more satisfactory adjustment in the community (76,9%) and, secondly, it mitigates the negative effects that may result from continuous imprisonment (69,2%). Two persons (7,7%) regarded parole as representing an interference with the judicial process.

Regarding the effectiveness and value of parole, twenty (76,9%) of the twenty-six judges expressed the opinion that parole is a valuable aspect of the penological process. Yet only four (15,4%) thought that, as it operates at present in South Africa, parole is effective. Strangely enough, however, only seven judges (26,9%) felt that there

is a need for some important changes to the parole system in order to render it more effective. Not a single judge felt that there is no need for a parole system.

In order to get an idea of the relative importance that judges attach to the various aspects and characteristics of parole, the five (of the total of seventeen) responses with the highest positive scores were arranged in order of importance. These were as follows :

1. Parole is an early, but conditional release, involving supervision in the community (92,3%);
2. The purpose of parole is to strive for the rehabilitation of prisoners, by providing guidance and assistance (80,8%);
3. Parole helps discharged prisoners to achieve a more satisfactory adjustment in the community (76,9%);
4. Parole is a valuable aspect of the penological process (76,9%);
5. Parole mitigates the negative effects that may result from continuous imprisonment (69,2%).

As will be seen further on, prison board members have attached the same relative weight to the various aspects as the judges. Even the percentage responses in these categories do not differ much, with the largest margin of difference being 6%. Of the total of 17 categories, there are only three where scores between judges and prison

board members differs more than 10%. It would appear, therefore, that the attitudes of judges and prison board members regarding parole are quite similar. Various conclusions could be drawn from this finding, but the conclusion the researcher wishes to draw is that judges would be well suited to sit on prison boards. In fact, it will be a recommendation that judges sit on prison boards, and that a judge acts as chairman of the central prison board.

1.3.2.2 Attitudes of magistrates towards parole

It was gratifying to receive such a large number (368) of responses from magistrates. Nearly half (48,1%) of all the magistrates (at the time of the survey there were about 800) returned completed questionnaires. More than any other group, they also submitted a considerable number of written comments.

Looking at the whole picture of attitudes on parole, those of the magistrates differed considerably from the general trend. In contrast to the other groups of persons (their average of positive responses being 85,5%), slightly more than half (52,7%) of all the magistrates regarded parole as being a conditional release involving supervision. Marginally more than one quarter (26,9%) saw parole as a form of leniency or clemency, and just less than one quarter (24,2%) as being part of the punitive process. 27 of the 368 magistrates (7,3%) regarded parole as nothing more than unconditional discharge, and 10 (2,7%) added their

own definitions.

It was interesting to notice that slightly more magistrates (47,8%) felt that the main purpose of parole was to reduce the prison population, than those (46,7%) who saw it as striving for the rehabilitation of prisoners. Nearly a third of all the magistrates (29,9%) regarded it as a purpose of parole to reward prisoners for good behaviour, and only a very small percentage (5,4%), compared to the other categories of respondents (average of 24,2%), felt that parole strives for the protection of the community.

According to a large number of magistrates (189, i.e. 51,3%) the main practical implication of parole is that it represents an interference with the judicial decision. This differs greatly from the attitudes of the other eight categories of respondents, who have a low percentage of positive responses (ranging from 0% to 14,6%) to this question. (The average for all categories was 11%). Again, in contrast to the other respondents, (average of 72,1%), only about a third of the magistrates (35,3%) see parole as, in practice, helping discharged prisoners to achieve a more satisfactory adjustment in the community. A number of magistrates (99, i.e. 26,9%) are of the opinion that parole mitigates the possible negative effects of continuous imprisonment. This is considerably lower than the positive responses of each of the other categories to this question, (the average for all respondents being 50%).

In regard to the effectiveness of parole, as the other categories, only a few magistrates (50, or, 13,6%) were of the opinion that the present parole system is effective. Over half of all the magistrates (196, being 53,3%) indicated that they thought there is a need for some important changes to the parole system. This is one fo the few responses where there was not a great degree of discrepancy between the attitudes of the magistrates, and those of the other categories of respondents. At the same time only 28,5% of the magistrates - as contrasted to an average of 49,3% for the other eight categories of persons - felt that parole is a valuable aspect of the penological process. The possible reason for this has already been mentioned.

Again, in contrast to the other categories (except commanding officers), a fairly large number of magistrates (44, i.e. 11,9%) stated that there is no need for a parole system. It is significant that the attitudes of the magistrates differ most widely from those of the other categories of respondents in the three responses which are probably the most important aspects or aims of parole, namely, that parole is an early, but conditional release, involving supervision in the community; that parole strives for the rehabilitation of prisoners, by providing guidance and assistance; that parole helps discharged prisoners to achieve a more satisfactory adjustment in the community. While the magistrates have a much lower percentage of positive responses in these responses, they have considerably higher

positive responses than all the other categories of persons to the question of whether parole represents an interference with the judicial process. It is clear from what has been said above that, of all the categories of respondents, the magistrates are that group of persons who are most dissatisfied with parole as it operates in this country.

1.3.2.3 The attitudes of some categories of the Department of Prisons personnel

The six categories of employees who are most directly concerned with treatment of prisoners, and with their preparation for and release on parole have completed attitude questionnaires on parole. As Table No. 1 indicates, the average response of employees of the Department of Prisons was 80,3% - ranging from 73,7% to 91,4%. This high percentage of returns gives the findings of the study, in respect of these categories of respondents, a high degree of validity. Each category will be dealt with separately.

1.3.2.3.1 Educationists

Other than the attitudes of the magistrates, those of the educationists do not vary a great deal from the attitudes which are generally held by members of the other categories of respondents - as reflected by the average percentages for all categories.

On the nature of parole, the large majority of educationists (78,6%) feel that it is an early, but conditional release.

Just over a third (35,7%) regard parole as being part of the punitive process, and only 7,1% see it as a form of amnesty. Not a single person in this category regards parole as being unconditional discharge, or as representing an amelioration of punishment.

About two-thirds (64,3%) of the educationists expressed the opinion that the purpose of parole is to strive for the rehabilitation of prisoners. This is somewhat lower than the average percentage of the positive responses of all the categories (77,8%). 28,5% of the educationists saw another purpose of parole as being to protect the community, and the same percentage, to reduce the prison population. Both these figures are very close to average percentages of all categories. Just over one-third (35,7%) felt that it is a purpose of parole to reward prisoners for good behaviour. Again, this is in keeping with the average general response (being 34,5%). 21,4% of the educationists, being twice as high as the average of all categories (10,6%) saw the mitigation of punishment as another purpose of parole.

More educationists (85,7%) than any other category saw the major practical implication of parole as being that it helps discharged prisoners to achieve a more satisfactory adjustment in the community. Also a fairly large number (42,8%) felt that parole mitigates the negative effects that may result from continuous imprisonment. This also does not differ a great deal from the average of all responses (50%).

Apart from the psychologists, the educationists are the only category of respondents that do not regard parole as an interference with the judicial decision.

Again, more educationists (92,8%) than the other categories, (the average being 63,5%) feel that there is a need for some important changes to the parole system. In accordance with this, a rather low number of educationists (28,5%) regard parole as a valuable aspect of the penological process. This is considerably lower than the average percentage for all categories (47%). Also a low number of educationists (28,5%) stated that parole, as it operates at present, is effective. Yet, no educationist expressed the opinion that there is no need for a parole system.

1.3.2.3.2 Social workers

The attitudes of the social workers on the nature and purpose of parole do not differ a great deal from those of the educationists. 86,6% regard it as a conditional release, involving supervision in the community, 24% as part of the punitive process, and 4,4% as a form of amnesty. As the educationists, none of the social workers saw parole as an unconditional discharge or as a form of amnesty.

93,3% indicated that the purpose of parole is to strive for the rehabilitation of prisoners, and only a relatively small percentage felt that it had additional purposes : to reward prisoners for good behaviour, 26,6%; to protect the

community, 20%; to reduce the prison population, 13,3%; and to mitigate punishment, 6,6%.

The major practical implication of parole, according to 82,2% of the social workers, was that it helps discharged prisoners to achieve a more satisfactory adjustment in the community. 42,8% felt that, in practice, parole mitigates the negative effects of continuous imprisonment, but only 2,2% were of the opinion that it represents an interference with the judicial decision.

Only a few (15,5%) social workers (less than the average of all categories of 20,5%) are of the opinion that the present parole system operates effectively, and a large number (77,7%, being more than the average of all categories of 63,5%), expressed the opinion that there is a need for major changes to the parole system. Just over one-third of the social workers (35,5%) regarded parole as a valuable aspect of the penological process, and they were unanimous in their opinion that there is a need for a parole system.

1.3.2.3.3 Case aids

This category of persons, consisting of non-White staff members only, whose function it is to assist the professional social workers and other members of the treatment staff, expressed the following opinions on parole : 83,8% regarded parole as an early, but conditional release; 37,8% as part of the punitive process; 18,9% as amelioration of punishment;

and 8,1% as a form of amnesty. 83,8% of the case aids saw the purpose of parole as being to strive for the rehabilitation of prisoners; 59,4% (being by far more than any other category) to reduce the prison population; 40,5% to reward prisoners for good behaviour; 40,5% to protect the community; and 10,8% to mitigate punishment.

Virtually a similar number of case aids saw the practical implications of parole as being to mitigate the negative effects of continuous imprisonment (64,8%) as those who felt that it was helping discharged prisoners to achieve a satisfactory adjustment in the community (67,6%). A small percentage (8,1%) felt that, in practice, parole interferes with the judicial decision.

More cases aids (51,3%) than any other category (the average of all categories being 20,5%) expressed the opinion that parole, as it operates at present in South Africa, is effective. Yet, somewhat surprisingly, 62,1% thought that there is a need for some important changes to the parole system in order to render it more effective.

1.3.2.3.4 Psychologists

Of all the categories, the highest number of psychologists (92,8%) saw parole as a conditional release, involving supervision. Yet, only a few (14,3%) regarded it as being part of the punitive process, and equally few (14,2%) as amelioration of punishment.

Again, a high percentage (92,8%) felt that the purpose of parole is to strive for the rehabilitation of prisoners. 50% saw another purpose as being to reward prisoners for good behaviour and 28,5% as being to protect the community. None saw the purpose of parole as being to mitigate punishment, or to reduce the prison population.

On the question of the practical implications of parole, 57,1% of the psychologists felt that, in practice, parole mitigates the negative effects of continuous imprisonment, and 50% felt that it helps discharged prisoners to achieve a satisfactory adjustment in the community.

The psychologists were the only category where not a single person felt that the present parole system operates effectively. Half of them (50%) were of the opinion that parole is a valuable aspect of the penological process, and 64,3% that there is a need for major changes to the parole system, in order to render it more effective.

1.3.2.3.5 Prison Board members

As with the other categories, the large majority of prison board members (87,8%) saw parole as a conditional release, involving supervision. 41,5% regarded it as being part of the punitive process; 34,1% as amelioration of punishment and 2,4% as a form of amnesty.

Again in line with the other categories, except magistrates, a large percentage (82,9%) of prison board members indicated that the purpose of parole is to strive for the rehabilitation of prisoners. Similar numbers of persons felt that the purpose of parole is to reward prisoners for good behaviour(26,8%); to protect the community (24,4%); and to mitigate punishment (21,9%). 17% saw parole as aiming to reduce the prison population.

The large majority of prison board members (80,4%) stated that, in practice, parole has the effect of helping discharged prisoners to adjust satisfactorily in the community. 63,4% felt that parole operated as a factor mitigating the negative effects of imprisonment, and 14,6% saw it as interfering with the judicial decision.

Far more prison board members (70,7%) than the average of the other categories (47%) were of the opinion that parole is a valuable aspect of the penological process and, conversely, somewhat less (53,6%) than the average (63,5%) felt that there is a need for some important changes

to the parole system, in order to render it more effective. Also more prison board members (26,8%) than the average (20,5%) expressed the opinion that the present parole system operates effectively. It appears, therefore, that prison board members, more so than most persons from the other categories, are relatively satisfied with the way parole operates in South Africa at present. On the whole however, there are no wide discrepancies between the attitudes of prison board members and those of the other respondents, except those of the magistrates.

1.3.2.3.6 Commanding officers of prison commandments

On the question of the nature of parole, the attitudes of the commanding officers do not differ significantly from the general norm. The large majority (88,1%) see parole as a conditional release, involving supervision. A fairly large number (43,7%) regard it as being part of the punitive process; 6,2% see it as amelioration of punishment; 3,1% as a form of amnesty; and 3,1% as an unconditional discharge.

The main purpose of parole according to the commanding officers - as judged by their high positive response of 84,4% to this question - is to strive for the rehabilitation of prisoners. Just over one-third (34,4%) feel that parole also aims at reducing the prison population; 18,7% see a further purpose of parole as being to protect the community, and 15,6% to reward prisoners for good behaviour. Nobody

saw the mitigation of punishment as one of the purposes of parole.

A large number of commanding officers (84,4%), as compared to the average for all categories of 71,2%) felt that, in practice, parole helps discharged prisoners to achieve a more satisfactory adjustment in the community. Only the educationists have a slightly higher percentage (85,7%) of positive responses in this category. 40,6% of the commanding officers feel that parole mitigates the negative effects of continuous imprisonment, and 9,4% see it as representing an interference with the judicial decision.

In general commanding officers appear to be relatively satisfied with the parole system as it operates at present. Nearly a third (31,2%) - being considerably higher than the average for all categories of 20,5% - are of the opinion that parole, as it operates at present in South Africa, is effective. By the same token, less commanding officers (53,1%) than persons from all the other categories, except judges, see a need for major changes to the parole system. Also a fairly large number of commanding officers (46,9%) regard parole as a valuable aspect of the penological process. Apart from magistrates, commanding officers are the only other category in which there are persons (9,4%) who feel that there is no need for a parole system.

1.3.2.4 NICRO social workers

As all NICRO social workers (100%) returned completed questionnaires, our findings on the opinions of this category of respondents are absolutely valid.

The majority of NICRO social workers (88,1%) expressed the opinion that parole is a conditional release, involving supervision, and one-third (33,3%) saw it as part of the punitive process. A small percentage (2,4%) felt that parole operates as amelioration of punishment, and also 2,4% saw it as a form of amnesty.

The purpose of parole, according to most NICRO social workers (71,4%) is to strive for the rehabilitation of prisoners. 21,4% felt that it is to protect the community; 19% to reduce the prison population; 14,3% to reward prisoners for good behaviour, and 4,8% to mitigate punishment.

78,6% of all NICRO social workers see the practical effect of parole as helping discharged prisoners to achieve a more satisfactory adjustment in the community; 38,1% see it as mitigating the possible negative effects of continuous imprisonment; and 7,1% regard it as an interference with the judicial decision.

Judging by their positive response to the question (88,1%) NICRO social workers feel strongly that there is a need for

major changes to the parole system. This is confirmed by the fact that only 2,4% feel that the present parole system operates effectively. Nevertheless, 40,5% of these respondents were of the opinion that parole is a valuable aspect of the penological process. This does not contradict the response to the question regarding the need for change to the parole system, as the question regarding the value of parole may be seen as referring to the principle rather than the practice.

1.3.2.5 Profile of parole

When the average percentage of the responses of all categories of respondents is taken, the following profile of parole emerges :

Parole is an early but conditional release, involving supervision in the community (82,9%). To some extent it is part of the punitive process (33,4%).

The purpose of parole is mainly, to strive for the rehabilitation of prisoners, by providing guidance and assistance (77,8%). However, it is also a purpose of parole to reward prisoners for good behaviour (34,5%). To a lesser extent parole also aims at reducing the prison population (27,3%) and at protecting the community, by keeping the released prisoner under surveillance and control (24,2%).

In practice, parole helps discharged prisoners to achieve

a more satisfactory adjustment in the community (71,2%), but it also mitigates the negative effects that may result from continuous imprisonment (50%).

Parole is a valuable aspect of the penological process (47%) but, as it operates at present in South Africa, it is not effective - only 107 persons of the total of 620, i.e. 17,2%, expressed the opinion that parole is effective. Therefore there is a need for some important changes in order to render it more effective.

1.3.3 Conclusion

The survey reveals that the large majority of respondents (83%) see parole in its true penological sense, namely, as an early but conditional release, involving supervision in the community. It is significant however, that only 52,7% of the magistrates see parole in this light, and 27% view it as an expression of leniency. Just over one-third of the judges and of the prison board members also see parole as a form of leniency. Generally speaking, therefore, most respondents have a correct conception of the nature of parole - even those who regard it as leniency, since, in practice, that is what it often amounts to, particularly in respect of Black parolees. This conclusion is reached in the light of the greatly inadequate control exercised over parolees, again, particularly over Blacks.

As to the purpose of parole, most respondents (78%) share the conception that penologists generally hold, namely, that its purpose is to strive for the rehabilitation of prisoners by providing guidance and assistance. Nevertheless, one third of the respondents see the purpose of parole as being to reward prisoners for good behaviour. Respondents who see it in that light are probably not far wrong as, in practice, prisoners who exhibit the most exemplary behaviour in prison are most likely to be released on parole. Thus, even if behaviour in prison is not the most important consideration for parole selection, it certainly plays an important role.

The practical implications of parole are seen by the majority of respondents as being to assist discharged prisoners in achieving a satisfactory adjustment in the community. Nevertheless, half of the respondents saw parole as having the effect of mitigating the negative consequences that may result from continuous imprisonment. Few penologists, would disagree that imprisonment generally has dysfunctional consequences for its inmates, and that, therefore, it is advisable to release prisoners under supervision before expiry of their sentences.

More than half of the magistrates saw the practical implication of parole as being an interference with the judicial decision. The average for respondents from the other categories who held this view was only 6%. The reason

for the attitudes of the magistrates in this regard probably lies in the fact that they often have the frustrating experience of sentencing an offender to a particular term of imprisonment, but having to try the offender again for a further crime long before his original sentence has expired. This emerges strongly from the comments made by magistrates, which will be dealt with in the next chapter.

The majority of all respondents (64%) felt that there is a need for some important changes to the parole system in order to render it more effective. Only 21% of the respondents were of the opinion that parole, as it operates at present in South Africa, is effective.

The most striking finding of the survey, is the generally negative attitude of magistrates towards parole. A fairly large number (51%) see parole as an interference with the judicial decision. Nearly half of all the magistrates (48%) regard the purpose of parole as being to reduce the prison population, and 53% feel that there is a need for major changes to the parole system.

It is submitted that the attitudes of the magistrates are, to a large extent, based on practical experience and that, because of the important role they play in the criminal justice system, and because of their large numbers, cognisance should be taken of their views on parole. It is further submitted that all the components of the criminal

justice system, particularly magistrates, should be meaningfully integrated into the parole decision-making process.

2. Opinions of respondents regarding parole

2.1 Introduction

As judicial officers, prison personnel and NICRO social workers form the central figures around which the parole system revolves - in terms of parole policy and practice - their opinions regarding parole in South Africa are of cardinal importance.

In view of this and in view of the extensive comments made by the respondents, it was decided to devote an entire section to the opinions expressed by them - over and above their completing the questionnaires. For the same reason, the various opinions - having been divided into a number of major categories - are quoted in detail. Identical opinions are not repeated.

It is felt that, for the sake of authenticity, and as the comments made by respondents are generally clear and concise, it is preferable to quote rather than to paraphrase them. The comments of all the categories of respondents will be briefly summarised at the end of this chapter.

Due to the diversity of comments made by the various classes of respondents, it was not possible to use a uniform set of

categories of comments for the four classes of respondents.

Although a separate section has been devoted to the opinions of the respondents, this and the preceding section form one entity, and must be read in conjunction with each other.

2.2. Opinions expressed by magistrates

As pointed out in the previous chapter the attitudes of magistrates regarding parole differ markedly from those of the other categories of respondents. Following are the five most frequent responses, in order of importance :

1. There is a need for some important changes to the parole system in order to render it more effective (53,4%);
2. Parole is an early but conditional release, involving supervision in the community (52,7%);
3. Parole represents an interference with the judicial decision (51,3%);
4. The purpose of parole is to reduce the prison population (47,8%);
5. The purpose of parole is to strive for the rehabilitation of prisoners, by providing guidance and assistance (46,6%).

When considering the relative weight of these responses it is noticeable that, while for all the other categories of respondents there are a few questions to which there is

a high percentage of positive responses, this is not the case for the magistrates. While the percentage for the question with the highest number of positive responses for each of the other categories of respondents is at least 83%, that for the magistrates is only 53,4%. An important reason for this is that there were considerably more magistrates than any other category of respondents. Nevertheless, these findings also point to the fact that there is not one single aspect of parole in regard to which a high percentage of magistrates hold the same attitudes. This is also borne out by the fact that there is relatively little difference between the percentages of responses in the five questions with the highest number of positive responses. In other words, the attitudes of magistrates are spread fairly evenly over a number of variables.

A large number of magistrates (215) made comments on the parole attitude questionnaire. These totalled thirty-six typed pages, as some respondents had lengthy comments, or raised a number of different points. The researcher has divided the various comments into a number of categories, which will be discussed below. An attempt was made not to repeat similar comments by different respondents.

2.2.1 Supervision and control

The largest number of comments related to supervision and control. From the comments it is clear that magistrates feel strongly about those matters. In particular, they feel that inadequate control is exercised over parolees, and that the quality of supervision is poor.

Following are some comments which are typical in this category :

"At present there is very little supervision, especially in respect of non-Whites. They are released, but no positive guidance is given - the person on parole soon reverts to his old habits."

"Inadequate control is exercised over those released due to a shortage of supervisory staff, especially in respect of Blacks."

"Parole in its present form is ineffective, since the Department of Prisons does not have the necessary staff or means to enforce the parole conditions. A prisoner can violate the conditions at will and it will not come to the attention of the prison. It is only when a prisoner appears in front of court again in connection with one or the other crime, that it comes to the attention of the prisons. Release on parole is, in my opinion, a form of punishment which, with better supervisions, could

be more advantageous."

"Parolees regard themselves as free because the supervision is not effective. Nothing short of another criminal offence would cause his parole to be affected."

"Supervision in parole is a farce. It is merely applied in name. Parole should be rendered stricter, for example, a moderate form of house arrest."

"The way parole is applied at the moment, it is a farce. There is no control over the paroled prisoner. After a person has committed further crimes, he is released on parole time-and-again. In my more or less fifteen years of experience as public prosecutor and as magistrate, I have not become aware of a single case where a prisoner was recommitted to serve the unexpired portion of his sentence."

"Release on parole must be under the control of a suitable person or organisation. Under the present system most parolees end up with farmers. What is done for their rehabilitation? He is just another worker."

".....Without supervision one cannot determine accurately to what extent those released on parole have been rehabilitated successfully"

"There should be positive and practical supervision....., e.g. by his employer reporting on him, and that he should from time to time report to a rehabilitation society - not to the prison."

Some expressed the opinion that parole will only be effective if there is constant follow-up and adequate assistance. Others linked effective parole to employment. In fact, a number of magistrates expressed the view that a prisoner should only be released on parole if he can be placed in employment immediately. However, the view that came to the fore most strongly was that parole does not entail adequate supervision and control - particularly in respect of Black parolees. As a result it was felt that parole conditions could be violated with impunity. Under these circumstances, some respondents felt that parole was a farce.

2. 2.2 Unjudicious discharge of prisoners

The matter in respect of which the second most frequent number of comments were made was that of selection and discharge of prisoners for parole. Eighty-three magistrates commented on these aspects. Many felt that prisoners are being released on parole too easily and too soon, thus nullifying the objectives of the court. In fact, several respondents felt that the present parole practice makes a mockery of the courts.

The comments regarding discharge and selections include the following :

"A person who deliberately commits a crime should be punished. I remeber an incident where an accused was sentenced to four months imprisonment for fraud (deliberately committed). The very same day he was admitted to goal he was released on parole. To my way of thinking that is wrong. He has suffered no punishment. It must be brought home to him that he has committed an anti-social act before he is released on parole."

"Courts take everything into consideration in sentencing - especially the time to be spent in prison for punishment, time necessary for reflection and for rehabilitation, as well as potential therefore. Yet parole is dished out indiscriminately. Virtually without exception and without knowledge about why and for what a person has been punished, and only in cases of scheduled crimes, previous convictions are put before the Board (Prison Board). Furthermore the Board member is uninformed and is, as it were, inclined to grant parole."

"I am aware of cases where convicted persons were released on parole on the day of their admission (to prison) - and that, where serious crimes were concerned. That brings our judiciary into discredit and leads to immense frustration on the part of complainants."

"A prisoner should not be released on parole routinely, but on merit, and merit alone. What purpose does it serve to release a habitual vagrant or a confirmed alcoholic on parole."

"Parole is too often granted to hardened criminals, persons who were previously paroled, but violated it - sometimes more than once."

"Courts impose an appropriate penalty which is necessary for a specific accused. What happens? He is sentenced, and the next day he is out again - on so-called parole. It is a monstrosity and interference with judicial discretion, which should be done away with.

"From personal observation, the present system thwarts the objectives of the court. I have knowledge of persons who were sentenced on one day and released on the following. The purpose of sentencing for those offenders is thus foiled and the courts are made a mockery"

"At great cost a man is prosecuted on seven counts of theft from railway trucks. He is sentenced to four months imprisonment on each count, but half of the sentence is suspended on appropriate conditions. About a month later the same person appears again on seven further similar charges - the offences having been committed since the previous sentence. What is the use? I would

suggest that this automatic parole be stopped and that only those who are suited are again let loose on the 'poor downtrodden community.'"

"There should be a more realistic relationship between the length of the sentence and the time a prisoner actually serves in prison. It is wrong to release a prisoner on parole, who is serving a sentence of prevention of crime, after only nine or twelve months. This is not merely an example - almost daily we deal with similar cases."

One magistrate pointed out in his commentary that, in cases where offenders have been declared habitual criminals and where the law determines that the minimum period of detention should be nine years, they are almost always released after having served only between four and six years. Furthermore, the period on parole is not that remaining of the maximum of fifteen years, but it is calculated to a maximum of nine years.

From comments quoted above, it is evident that many magistrates are frustrated with the way in which parole is applied. Because parole is granted virtually indiscriminately, they feel, the objectives of the court - particularly in respect of punishment - were thwarted and the judiciary was being brought into discredit, and victims of crime often felt frustrated. It was also felt that too many hardened criminals, who had previously been on

parole - which they often violated - were being released on parole.

2.2.3 Discrimination in selection

Related to the previous section, is the matter of parole selection. A number of magistrates expressed the opinion that the Department of Prisons should be more discriminating in selecting prisoners for release on parole, as indicated by the following comments :

"Prisoners let out on parole are, in my view, not properly selected, and many see it (parole) merely as an opportunity to get out of prison. They accept conditions which they are not at all prepared to abide by - thus the fact that so many again appear in court within a short period of time."

"The system (parole) can serve a very useful purpose if the prison authorities would make better use of their discretion. Many prisoners who have been released on parole are responsible for serious crimes while still on parole, because the wrong persons are released on parole."

"At present prisoners are being released (on parole) unconditionally, and that is an absurdity. Parole must be applied very judiciously and persons must constantly be under supervision. Full prisons are not an adequate reason for parole."

"As the system operates at present a prisoner generally has the right to one third remission when the sentence is imposed - without any attention being paid to merit. It also appears that hardened criminals are often back in front of court before their parole has expired. Consequently, far more attention should be paid to merit, and parole should not be a right but a privilege."

According to respondents, due to the indiscriminate release of prisoners on parole, the wrong persons often land back in the community prematurely, and again pose a threat to the community. It was felt that there should be more rigorous selection of prisoners for release on parole, which should occur purely not merit - not routinely.

2.2.4 Parole as a means of reducing the prison population

An objection voiced by several magistrates was that, in practice, one of the main purposes of parole, if not the main one, is to reduce the prison population. To some extent this has already become apparent in the discussion of the results of the parole attitude questionnaire. It was seen that more than half (51,4%) of the magistrates regarded one of the practical implications of parole as being that it is an interference with the judicial decision. This was also expressed in additional comments made by the respondents, as discussed above. Following are some of the views, expressed regarding the role of parole in reducing the prison population. (Some

of the respondents quoted above have already referred to this matter, in conjunction with other remarks.)

"I have completed the questionnaire to show that, in my opinion, the purpose of parole is basically to reduce the prison population....."

"At present prisoners are unconditionally released, which is an absurdity Full prisons are the reason for parole."

"The purpose in some cases is to reduce the prison population. I know for a fact that I have sentenced people to four months imprisonment for housebreaking and theft, and the prisoner was admitted through the one door and released through another, because of the population in prison."

"What has been said above (responses to the questionnaire), is what parole should be, but in the practical application thereof, it misses the target completely. The predominating reason for parole today is to keep the prison population as low as possible. In this process the authority of the courts is severely damaged, and a wrong image (or is it already the real image?) of the function of our courts is created in the mind of the community."

"The history of those persons (hardened criminals), as well

as the circumstances of the crimes, makes it clear that they are only released on parole to make room in overcrowded prisons for other prisoners."

"Parole should only be granted as concession for good behaviour and for a genuine desire to rehabilitate, and not as a way to empty prisons. There is no justification to let the real criminal loose on the community in order to keep the number of prisoners low, and thus to make a farce of the sentences to the court."

Having quoted some of the comments of magistrates regarding the indiscriminate and too early release of prisoners on parole, and the fact that prisoners are released early mainly to reduce the prison population, attention will be paid to comments regarding the types of prisoners who should, or should not be released on parole.

2. 2.5 Types of prisoners to be released and those not to be released

A number of magistrates expressed concern about the release on parole of hardened criminals and recidivists, as the following comments indicate.

"No parole for those who again commit similar offences, especially if committed whilst on parole in respect of the first sentence."

"Hardened criminals should not be released on parole at all. A person who has already received two 'blou baadjies'¹⁾ must not be paroled. Parole is only good for people who will use the opportunity."

Having expressed the view that 'non-hardened' offenders would benefit from parole if it entailed supervision, assistance and guidance, a respondent commented that, *"the old rogues, however, regard it (release on parole) as a sign of weakness and a new opportunity to commit further crimes."*

".....When, after repeated warnings, a man has proved himself to be a moral leper, an outlaw, a criminal in character and habitual practice, to set him at liberty is quite as stupid and as wicked as it would be to allow a smallpox patient to go at large in the community."

"Too often in the case of sexual crimes the criminal is given the opportunity to add further victims to the many families that have been broken, and who have been caused endless suffering. We should rethink about granting parole in such cases."

1. The concept of 'blou baadjie', which means blue jacket refers to an offender sentenced as a habitual criminal and receiving a sentence of 9 to 15 years imprisonment

"Parole for first offenders is warranted, but it is ridiculous to release a habitual criminal after eighteen months or two years. Sentences such as corrective training, prevention of crime and declaring a person a habitual criminal already allow a wide discretion (2-4 years, 5-8 years, 9-15 years) to the prison authorities, and the matter should be left there."

According to a respondent, 'reference book offences'²⁾ should not justify imprisonment and should, therefore, be removed from the parole system.

Another magistrate expressed the opinion that burglars do not deserve to be released on parole.

Some persons expressed the view that only first offenders should be considered for parole :

"Parole is good with first offenders, who will probably never again commit the particular type of offence, or only under exceptional circumstance; otherwise it holds greater danger than good."

While, as the above comment indicates, some magistrates feel that parole is appropriate for short-term prisoners

2. It is presumed that the respondent is referring to contraventions of control measures in respect of the urban Blacks, particularly offences against the Bantu (Urban Areas) Act (Act No. 25 of 1945, as amended)

others felt that only long-term prisoners should be released on parole, as the following comments reflect :

"Abolish parole for prisoners serving prison sentence of four months and less (short-term), and treat every case over four months on its own merits, so that parole can be regarded as a privilege, not a right."

"There should be no parole for prison sentences up to four months without the choice of a fine. The reason being that the judicial officer has already considered all the circumstances in deciding that the accused should be deprived of his liberty as punishment. Where the sentence is over four months, without the choice of a fine, parole should only be considered if the judicial officer recommends it when passing sentence. Reasons can be given for a non-recommendation."

"Parole release should only be applicable in respect of long sentences of imprisonment, and then only after the court which imposed the sentence is consulted."

Others feel that long-term prisoners serving sentences for serious crimes should only be released on parole after having served a substantial portion of their sentences.

"The exclusion of certain crimes in considering parole is unrealistic. Each case should be considered purely on merit."

Although most respondents expressed the view that certain categories of offenders should not be released on parole - such as sex offenders, burglars, and habitual criminals - the opinion was also expressed that certain crimes should not disqualify a prisoner from being released on parole.

2. 2.6 Judicial officers should play a role in parole selection

A matter on which a number of magistrates felt strongly is that the court which sentenced the prisoner should be consulted when an early release on parole is considered. In fact, several respondents expressed the view that the decision to release prisoners should lie with the court, and not with the prison. Following are comments that illustrate these views :

"Before a prisoner is released on parole, a recommendation should be obtained from the trial court."

"The judicial officer should be consulted before a prisoner is released on parole. He did, in fact, have reasons for imposing imprisonment. The court has all the facts of the case in front of it when passing sentence, but it seems that parole, in the case of short-term imprisonment, is granted without any reference to the minutes of the case."

"The trial court is in my opinion in a better position to judge those cases (of hard-core criminals) and could perhaps be requested to endorse goal warrants accordingly when parole is not recommended."

"Release on parole should only be authorised by the judicial officer who passed sentence, or by a body of judicial officers not below the rank of the sentencing court, after consideration of a recommendation by the prison authorities."

"In the event that a board (parole board) considers parole after three-quarters of the sentence has elapsed it is the magistrate who passed the sentence who should have the final say - he is the one who knows why he passed the sentence. At present the parole system - which operates haphazardly - complicates the matter of sentencing."

"The judicial officer should be consulted. I realise that it would place tremendous pressure on judicial officers, and would result in additional work, but prison boards surely do not have all the information, for instance, the circumstances under which the crime was committed; the problem of combating the crime concerned. The deterrent value of a particular punishment on others is sometimes nullified by parole."

2.2.7 Parole represents an interference with the judicial decision

As indicated in the previous section, more than half of the magistrates in the sample expressed the opinion that parole represents an interference with the judicial decision. Apart from completing the question relating to this matter in the questionnaire, a number of magistrates submitted further comments on this matter. These include the following :

"The police and the court go to all the trouble to apprehend and punish people, then they are just released and that has no effect on crime prevention."

"In sentencing, all the circumstances - subjective and objective - are taken into account. Thus suspended sentences are often imposed; but in certain cases the court specifically wants to impose imprisonment in order to protect the community. Here the trial court's discretion as to whether or not parole is to be granted, should apply. Otherwise it is merely a matter of reducing the prison population, and the authority of the courts in regard to sentence is undermined."

"In practice it (parole) boils down to the release of prisoners without aftercare, that is, the prisoner is merely granted remission of a part of his sentence. I am not in favour of parole, because there are two standards for parole, namely the theoretical one, and that applied by the prison authorities. Punishment can, in my opinion,

only be imposed by one person or body. Otherwise the authority of the punishment is undermined."

The dissatisfaction of magistrates with the parole system once again becomes evident in their comments quoted above. It is felt that, as the court had already considered all the relevant factors in passing sentence, the altering of these sentences by means of releasing prisoners on parole represents an interference with the judicial decision.

2. 2.8 Inadequate training and shortage of staff

Another matter that elicited considerable comment is the question of parole staff. As the following comments reflects several magistrates saw the reason for an ineffective parole system in the shortage and inadequate training of parole supervisors :

"Parole in its present form is ineffective because neither the Department of Prisons, nor any place of detention has the necessary staff or means to enforce the parole conditions."

"As a result of a shortage of probation officers, especially as far as non-Whites are concerned, aftercare services are inadequate."

"What is needed, are sufficient trained social welfare

(probation) officers, effective assistance to paroled prisoners regarding adjustment in the community, and training for jobs, social outlook, etc."

"Parole could only be properly effective if there were sufficient probation and guidance officers to give individual attention to prisoners on parole."

"Many more persons should be appointed as 'parole fathers' - a friend or other confidante - a neighbour, or perhaps a minister or elder. The social welfare officer can supervise these 'parole father' in his 'area.'"

2.2.9 Aftercare, guidance and assistance

Related to the matter of staff, is that of aftercare services, the inadequacy of which many respondents blamed for the ineffectiveness of parole as appears from some of the opinions quoted below :

"Where proper supervision is carried out, parole can, without doubt, make a positive contribution to the rehabilitation of the prisoner. The weakness of the system consequently lies, in my opinion, in the inadequacy of aftercare."

"In my estimation, there should be a much better and more goal - oriented after care service. Private individuals should be involved in this in order to supplement the

manpower."

"I regard the purpose of parole to strive for the rehabilitation of the prisoner, by providing guidance and assistance. In the practice it is, however, only done to a very limited extent - and that frustrates the most important objective."

"The value (of parole) depends on how effective after-care and control is."

Several respondents feel that, if the two objectives of control and rehabilitation are not adequately met, then parole has failed. These elements are combined in the following three comments :

"It (parole) should effectively control recidivism by restricting and controlling post goal activities and should rehabilitate ex-prisoners by guidance and assistance. It should not be to reduce the existing goal population, but only the future goal population."

"A greater measure of control, guidance and assistance must be provided if the objectives put in par. 2(iv) are to have any measure of success. Both aspects 2(iv) and

3(ii) are subject to this condition."⁴)

"Parole will only be effective if there is constant follow-up after release, and if assistance is granted to get him (the parolee) adapted in the community. The system at present applied in California is, in my view, a healthy one. Assistance need not necessarily come from the state."

In the last comment, as in a previous one, it is implied that private initiative should play a role in the operation of parole.

Another respondent strongly recommends the establishment of 'aftercare clinics,' *"to assist discharged prisoners in being assimilated in the community. That will afford more effective rehabilitation than in prison."*

It is not clear whether the last respondent is referring to agencies similar to NICRO. If that is the case, the respondent may not be aware of the existence and work of NICRO, which performs the task suggested by him, namely *"to assist discharged prisoners in being assimilated in the community."* Some other welfare organisations also perform this task as a subsidiary aspect of their main services - such as the Christelike Maatskaplike Raad.

4. Par. 2(iv) in the questionnaire reads : "To strive for the rehabilitation of prisoners, by providing guidance and assistance." Par. 3(ii) reads : "Parole helps discharged prisoners to achieve a more satisfactory adjustment in the community."

According to one respondent, the lack of proper assistance is linked to recidivism :

"The paroled prisoner should receive more direct assistance in order to achieve an adjustment, as it happens in many cases that such a person again commits the same crime shortly after his release"

"At the moment there is a total lack of any form of social aftercare, and follow-up work within the community must be instituted"

"I am of the opinion that much more can be achieved in terms of rehabilitation outside prison, and this also applies to supervision. Whether the Department of Prisons can do more in this regard is not known to me, but the Department of Social Welfare and Pensions can, I feel, be more involved in rehabilitation and supervision. In my opinion this also applies to voluntary welfare organisations."

There is general consensus among magistrate respondents that the system of aftercare is inadequate. However, from some comments it is evident that certain respondents are ignorant of the actual state of affairs regarding aftercare. To say that, *"there is a total lack of any form of social aftercare and follow-up,"* shows that the respondent is unaware of, particularly, the work done by

NICRO. Nevertheless, from the survey regarding, inter alia, parole supervision - dealt with in Chapter IV - it is clear that, generally speaking, supervision of parolees is inadequate. That is to say, if there is any formal supervision and aftercare at all, which does not appear to be the case in respect of a large number of short-term prisoners who are released to employers before their sentences have expired.

Some respondents see the solution to the inadequate aftercare system in the use of volunteers as parole supervisors.

2. 2.10 Employment

Another matter, related to the previous one, on which there were a number of comments, is that of the necessity of employment in rendering parole effective. Following are some representative comments in this regard:

"Prisoners should not be released on parole before provision has been made for suitable employment for them."

"I may be wrong, but I feel that parole would serve a useful purpose, and not represent an interference with the judicial decision if steps were taken to place the prisoner in employment, and that active steps be taken to give him moral and physical assistance during the parole period to rehabilitate him. There should be, in addition,

meaningful supervision by trained staff."

Apart from the importance of employment as such, the matter of suitable employers was also raised :

"Education of potential employers with regard to rehabilitation of parolees should receive greater attention. Only persons showing a genuine interest in the rehabilitation of prisoners should be solicited as employers."

The matter of employment received attention from a number of respondents. Some expressed the view that a prisoner should not be released on parole unless proper employment had been arranged for him. The importance of employment for parole success was stressed by several respondents.

2. 2.11 The need for information on the offenders and the offences

As the following comments indicate, some respondents expressed the opinion that the prison authorities generally know too little about the background and criminality of prisoners when deciding to release them on parole :

"Too much emphasis is placed on the prisoner's behaviour during imprisonment, without investigation of his background, or consultation of the case record. Even hardened criminals are quite freely released on parole, and

commit similar crimes within one month. The beautiful story that prisoners tell is usually accepted as the truth"

"Notice must be taken of the facts that have led to conviction"

"Not only the facts of the case in question, but also the background and home circumstances should be taken into consideration when parole is considered."

While it is probably true that little, if any, effort is made to investigate the home background and adjustment to the community prior to imprisonment in respect of short-term prisoners released on parole, a fairly thorough background study is conducted in respect of most long-term prisoners - particularly Whites - before they are released on parole. Thus, it is, once again, evident that many respondents are ignorant of what really happens in respect of release of prisoners on parole.

2.2.12 Co-operation between the Department of Prisons and other agencies

A few magistrates made the point that, in order for parole to be effective, there should be meaningful co-operation between the prison authorities and other agencies - public as well as private. This view is reflected in the following comments :

"Efforts must be made to bring about better supervision and closer contact and co-operation between the prison authorities and possibly organisations in which a greater number of members of the public are involved."

"The magistrate who sentenced the accused should be consulted in the matter. He, the police and welfare officers often have information and knowledge on the accused which can be very valuable to the prison authorities. The behaviour of an accused inside and outside prison often differs considerably."

"The court considers a sentence thoroughly before passing it. Those considering parole are not aware of the facts on the basis of which sentence is passed. It is therefore, essential that there should be liaison between the various agencies."

Although relatively few magistrates stressed the importance of co-operation between the Department of Prisons and the other agencies involved in the criminal justice system, the researcher feels that it is a prerequisite for the effective operation of parole. Parole should not be treated as an isolated phase of the criminal justice system, but it should be an integrated facet of the whole system. That is, the police, the courts, prison authorities and the aftercare agency should all be meaningfully involved in a co-ordinated approach to parole. How this can be

achieved will be dealt with in more detail in the final chapter of this thesis.

2.2.13 The Prison Board

The following comments are representative of those made regarding the composition and operation of prison boards :

"Firstly, the starry-eyed and fiscally minded should not serve on parole boards. Secondly, practical court or police experience is essential for members of the board."

"Persons with knowledge of crime and rehabilitation of criminals should be appointed on prison boards. Such appointments should not be made as reward for services rendered to a political party."

"A police officer and magistrate from the district should be members of the prison board, to decide when parole should be granted."

Some respondents felt that members of the prison boards should have appropriate experience for their task - particularly in terms of judicial and police experience.

As is apparent from chapter IV, the nature and composition of parole boards have changed since the time this survey was conducted. (See the section on the legal basis of parole.)

2.2.14 Non-white prisoners and parole

A variety of comments were made regarding parole in respect of non-Whites. Among these were the following :

"Much more attention must be paid to Blacks - the impression is that the prisons are only too glad to release them. When they abscond from persons under whose supervision they were placed, apparently nothing is done. More selection should be applied as to where they are placed after their release on parole."

"As far as Black prisoners with sentences of four months and less are concerned, they are received in prison on one day, and released the next day. That has a wrong influence on the complainants and the witnesses, because they cannot understand why the person is out of prison so soon. Thus, imprisonment does not serve as a deterrent. In the case of Whites there is usually better control with employers"

".....without laying claim to expert knowledge in that regard (parole and aftercare), I must say that, as far as the Blacks are concerned, the parole system at present often creates the impression that it is applied to counter over-population in prisons."

".....the Black man actually does not understand what 'parole' really implies - as is the case with 'suspended

sentence."

"Parole is good if the purpose thereof can be brought home to the prisoner, otherwise the non-Whites would judge it to be weakness on the part of the Whites. In the vocabulary of the non-White, especially the Black, words such as 'mercy' and 'compassion' do not exist."

"The Black prisoner does not appreciate what is attempted to be achieved (with parole). To him it is merely an unconditional release"

".....Most non-Whites see parole merely as a form of amnesty or evasion of punishment, and they boast about it"

"I wish to respectfully submit that any study on parole will be useless if no distinction is drawn between Whites and, especially, especially Blacks. To throw the two groups together, as is done with studies on punishment and reformation, as if there exist no social, ethnic and other differences, cannot lead to a proper understanding."

From the above comments, it is evident that a number of magistrates feel that parole, as it operates in respect of, particularly, Blacks, leaves much to be desired. They are particularly dissatisfied with the virtually immediate release of large numbers of short-term Black

prisoners. This, they feel, results in a loss of confidence in the criminal justice system, particularly on the part of complainants.

It was also felt that many Black prisoners do not understand parole, which they regard as unconditional release, evasion of punishment, or a weakness on the part of the White man.

2.2.15 The difference between theory and practice in parole

A point raised by several respondents is that there is a difference between what parole is purported to be, and what it really is in practice - as is reflected by the following comments :

"One and two marked by me above,⁵⁾ is what parole ought to be. However, as it is applied in practice, it misses the target over a wide front. Unconvincing grounds for parole, debasing of authority, and veiled interference with the sentence of the court, are a few aspects which place a large question mark over the system of parole as it is applied at present."

"Parole is, in theory, a valuable aspect of the penological process. However, it demands practical adjustments. In

5. *The respondent is referring to the first two questions of the questionnaire, which deal with the nature and purpose of parole respectively*

my opinion it should be primarily aimed at rehabilitation. Therefore candidates should be rigidly selected, which is apparently not always done."

"In appropriate cases parole is laudable, but a fundamental difference has emerged between theory and practice."

As has already become apparent from previously quoted comments, a number of magistrates feel that there is a difference between what parole is purported to be, and what it actually is in practice.

2.2.16 A 'tough' approach should be adopted

A firm approach, some magistrates felt, is the only appropriate one in dealing with prisoners :

"The courts already extend to prisoners all the leniency they can possibly extend. Things like parole, prison reform, diet and any such humanitarian manifestations towards a prisoner only encourage others to commit crime."

"Experience teaches that where a prisoner is under modern prison conditions of little work, with enough food, clothing, medical care, etc., he easily adapts to good conduct - but as soon as he is released on parole, he reverts to his criminality, is aware that imprisonment is no longer a deterrent. The long lists of previous convic-

tions are striking examples thereof."

"Parole does not always help, and sometimes the courts' hands are tied. Without being cruel, I would suggest that corporal punishment can be imposed more often (in appropriate cases.) Thus prison overcrowding can be avoided, and production would not suffer."

".....Punishment as presently applied to crimes with a moral connotation should be replaced by indefinite detention - until there is no reasonable chance of an offender committing another offence."

In the analysis of the parole attitude questionnaire (in section 1) it was pointed out that, of all the categories of respondents, magistrates hold the most negative attitudes towards parole. The extreme manifestation of this attitude is reflected in the above comments, in which the respondents advocate a more punitive approach to offenders.

2.2.17 There is no need for parole

In table 4, in the preceding section (Section 1), it was shown that 11,9% of all the magistrates were of the opinion that there is no need for a parole system. Some respondents felt strongly about the matter and made inter alia, the following further comments in this regard:

"When the court has, after thorough exercise of its discretion, decided on an appropriate penalty, there should be no need for finding another way out. The rehabilitation of the prisoner should occur within the framework of his sentence."

From this and the following comments it is clear that some judicial officers are not prepared to share their sentencing function with the Department of Prisons.

"At the time of the trial when he passed sentence, the presiding judicial officer, considering all relevant factors, already determined when, in his opinion, a prisoner should be released."

"I do not know how the system could be improved; it is so ineffective from the judicial officer's point of view that I sometimes think we can do without it. The sentence is passed with consideration of all relevant facts, and now, through an administrative act, everything is upset."

"If sentencing occurs on a healthy basis (there is space for improvement), parole is unnecessary. The fundamental principle should remain that the courts punish and the prisons execute the sentence."

"I am of the opinion that there is no need for a parole system. In the event of an accused feeling that he has

been wronged by the sentence imposed on him he can avail himself of appeal or review procedures"

Some respondents, such as the one quoted below, felt that certain changes in the administration of criminal justice would obviate the need for parole :

"It might be better if short-term imprisonment was not imposed without the option of a fine. Postponement for the payment of fines can be allowed. With a second or subsequent similar offence, six months' imprisonment or more, without the option of a fine, should then be imposed. Then parole would be unnecessary."

"I believe that parole is undesirable Through parole the sentences of the courts are, to a large extent, rendered ineffective."

From the above comments, it is evident that a number of magistrates are of the opinion that there is no need for parole. Such persons feel that, as the court has taken all the relevant factors into consideration when sentencing, and has then passed the appropriate sentence, there is no need for reduction of the sentence by an administrative act - i.e. release on parole by the prison authorities.

2.2.18 Positive comments regarding parole

In comparison with the numerous critical comments regarding parole, relatively few magistrates expressed positive opinions on the matter. In fact, of the 215 persons who expressed views in addition to completing the questionnaire, only 4 (1,9%) made positive comments regarding the present parole system. It must be pointed out however, that the remaining 211 (98,1%) magistrates did not all express negative views. Many merely made certain suggestions, without criticising parole as it operates at present. Following are some of the positive comments :

"Although there is prejudice against parole, and it is often seen as interference with the sentencing of the courts, it should, nevertheless, be seen as a system which contributes a great deal to the rehabilitation of prisoners."

"Parole helps discharged prisoners to achieve a more satisfactory adjustment in the community."

"It (parole) prevents that a prisoner mixes with hardened criminals and that he comes under their influence. It also serves as a transition stage between the prison and the community, so that he is not isolated and disrupted, and soon finds his place in the community again."

"In my opinion parole is so effective that it should be extended to long-term prisoners."

The last comment indicates either that the respondent is not aware that long-term prisoners are indeed released on parole , or else, that he feels that more long-term prisoners should be released on parole than is the practice at present.

2.3 Opinions expressed by judges

In the introduction to the previous section it was pointed out that a relatively low percentage of judges (36%) completed and returned questionnaires. Of the 26 judges who returned questionnaires, 15 (58%) submitted additional comments. They have been divided into the following four categories :

2.3.1 Supervision and control

One-third of the judges (5) commented on the matter of supervision and control. Among their comments were the following :

*"In the early stages supervision should be strict, with insistence upon regular contact with the supervising authorities. The placing of the ex-prisoner in employment is most important."*¹⁾

1. *In the chapter on parole in Canada, the researcher pointed to Waller's finding that the arrest rate among unemployed parolees is significantly greater than that among employed parolees*

"There should be more and closer supervision, which involves more qualified people to exercise that supervision."

"The person (parolee) should be placed under supervision, otherwise it is merely interference with the sentence of the court."

*"Provision should made for (a) adequate and qualified supervision of the prisoner while he is on parole;
(b) effective organisation to assist the prisoner on parole to rehabilitate himself and adjust to the community"*

These comments indicate that just as the magistrates, the judges feel that parole supervision should be intensified.

2. 3.2 Lack of information and knowledge on parole

Also one-third of the judges (5) expressed views regarding the absence of information on parole, or stated that they did not have enough knowledge on the matter - which may be related to the inadequate provision of information on parole by the prison authorities.

"Without any detailed information as to the number of recidivists amongst the prisoners released on parole and without any knowledge as to the reasons why the others do not commit crimes after being so released, it is not possible to answer this question adequately."

"Parole can be a valuable aspect of the penological process, but I do not know how it operates at present in this country."

"Perhaps my knowledge is inadequate. Nevertheless, the objectives of parole should be conveyed to the prisoner and to the general public"

"It is obvious, in my view, that there is a need for a parole system, but I do not know how it is applied and what its effect is in practice, because of a lack of information."

These comments may give the clue as to why such a low percentage of questionnaires were returned by the judges - namely, that they did not have enough information on parole to enable them to reply to the questions in the questionnaire. The researcher feels that it is essential for the effective operation of the parole system that judicial officers, the police, aftercare agencies, as well as the public generally should be adequately informed on the nature and objectives of parole, and on the extent and success of release on parole.

2.3.3 Preparation and release

Several judges felt that adequate pre-release preparation and judicious selection for release on parole are important determinants of effective parole.

"Release should be preceded by proper preparation for freedom - especially for long-term prisoners. Parole is unlikely to help a prisoner who returns to a disrupted family with pressing family problems, hence it is only part of the process of rehabilitation which should continue while the prisoner is in goal, and should include sympathetic help and advice to his family while he is there."

"Parole is necessary, but I don't like the large-scale release of prisoners just because the prisons are full. This brings the courts into discredit."

"Parole should only be granted in relation to the employment opportunities available to prospective parolees, and the capacity of supervisory staff. Parole should not be granted so liberally that it damages the judicial decision in sentencing."

"There should be no fettering with the discretion to grant parole; for example, it should not be subject to the type of offence committed, but should depend on the circumstances without reference solely to the offence."

"There does not appear to be any liaison between the Commissioner (of Prisons) and the court which has imposed the sentence. In my view some cases require such a liaison."

Again, like the magistrates, some judges emphasised the importance of pre-release preparation - including preparation of the families of parolees. It was also felt that parole should not be granted too liberally, and that there should be liaison between the prison authorities and the court that sentenced the offender to be released on parole.

2.3.4 Supervisory staff

The following comments represent the views of judges regarding parole supervisors :

"If the supervisory machinery could be made available, parole could be beneficially extended and used as a corrective measure in the treatment of prisoners."

"Since constant supervision is indispensable for parole, it follows that trained staff must be available."

"By far the majority of prisoners let out on parole are non-White, for the elementary reason that our non-White population so far outnumbers our White population that inevitably - disregarding sociological causes - our non-White prison population similarly outweighs our White population. There is such a sad lack of welfare workers and probation officers to cater for our non-White population, that parole in such cases in effect becomes merely an early conditional release, where the ex-prisoner is

left to his own resources. The prospects of his relapsing into crime are excellent, and for this reason alone I regard parole as it presently applies an interference with the judicial decision, which has to look, inter alia, to the interests of the community by the very limited methods presently available to us.

The above comments reflect the view on the part of judges that there are not sufficient parole supervisors - particularly in respect of non-White prisoners - and that such persons should be appropriately trained.

2.4. Opinions expressed by prison personnel

A large number (149, or 81,4% of the total) of the personnel of the Department of Prisons recorded comments regarding parole - other than completing the parole attitude questionnaire.

What strikes one immediately in analysing the comments of the prison personnel, is that there is a fairly high degree of consensus of opinions among them. While the magistrates expressed a large variety of opinions in their written comments, with the number of respondents spread over a variety of opinions, there was a high degree of consensus of opinions among prison personnel. Of the 157 points that were raised by respondents, 133 (84,7%) fell into two categories. The other 24 comments fell into one of six further categories - with an average of

four comments per category.

It is interesting to note that the high degree of consensus among prison personnel occurred inspite of the diversity of their professional roles. They included social workers, prison board members, case aids, educationists, commanding officers, and psychologists. Furthermore, other than the magistrates, the prison personnel included some non-Whites, mainly in the category of case aids.

Not only was there a high degree of consensus on attitude regarding specific topics, but opinions that were expressed were frequently recorded in a remarkably similar way.

The relative difference in concensus between prison personnel on the one hand and magistrates on the other could not-although perhaps to some extent-be ascribed to their numerical difference alone, or even mainly. The reason being that there also was a fairly large number of prison personnel respondents - 183, as compared to 386 magistrates. While the researcher does not have definite ideas as to the reason for the difference, he feels that a more plausible explanation is that the prison personnel work is closer proximity to each other - most of the respondents being stationed at a few major institutions. At the same time the magistrates are spread over the numerous centres across the country. There are probably more than 400 offices, some of which

are manned by only one magistrate.

There is, therefore, more opportunity for interaction and exchange of ideas among prison personnel. Furthermore, the activities of the prison personnel are governed more rigidly by the administrative rules and procedures of the Department of Prisons. The staff of the Department is probably also subject to a more rigid and more clearly defined staff code and departmental policy than the magistrates, who have a greater degree of autonomy, and function more independently of each other.

2.4.1 Aftercare, control and supervision of parolees

The matter which elicited by far the greatest number of comments was aftercare of parolees generally, and control and supervision specifically. Of all the comments that were recorded, eighty-two (i.e. 55%) concerned this matter. Therefore, although there were a large number of comments - covering twenty-six typed pages - only a number of representative views will be quoted below.

"The so-called 'free' parole is in conflict with the true aims of parole. The parolee must be more bound, and under supervision and authority of a specific individual, with whom he must remain in touch for the full period of parole. There should be no doubt in the parolee that,

unless he adapts satisfactorily, he will be returned to prison for his entire parole period. The emphasis should, however, be placed on responsible behaviour rather than on limitations."

"A parolee should be visited more frequently in order to determine the nature of his adjustment. In the event that he is unable to adjust, his parole should be revoked."

"Parole is essential, but better aftercare services can render it more successful. The value of the parole system is nullified by a lack of aftercare and follow-up services - especially as far as the non-Whites are concerned."

"Parole supervision carried out by a welfare organisation would carry more weight, and a parolee should definitely be brought back to prison if he does not abide by his parole conditions, even if he has not committed a crime."

Other respondents also expressed the view that parole should be suspended if conditions are not kept.

"There must be stricter supervision of parolees. It should be made certain that parole conditions are abided by, or that impractical conditions are removed. The chairman of a board area to which the parolee is going should be advised of the presence of the parolee in his area. In

other words, a copy of the release certificate should be sent to the relevant chairman."

"It should be possible to take steps more easily and more speedily against persons who ignore their conditions. When sentencing (parole violators), courts should have short reports on the way in which the person lived up to previous parole conditions. Supervision in respect of short-term parolees is virtually non-existent. As potential recidivists, especially their adjustment in the community should be watched more closely."

"Aftercare services are, at present, not delivered satisfactorily. The Department could, for instance, employ a full-time person, or persons, who would specifically be concerned with aftercare services; for instance adjustment at work, regular discussions with the employer, supervision at home, as well as general assistance and guidance. In my opinion aftercare services do not receive their rightful attention, which undoubtedly waters down parole."

"Prisoners must be motivated to co-operate with aftercare services for their own benefit. More intensive care must be given to the prisoner on parole. The external organisations are not capable of guiding the ex-prisoner and therefore he is neglected. Aftercare services must be the task of the Department of Prisons."

"At present it (parole) does not appear to be completely effective, as parolees often lose contact with the social worker concerned, and are not always motivated to keep contact. High caseloads are a continuous problem in almost every sphere of social work, and break down the effectiveness of the programmes."

Several respondents made the point that parole supervision should be conducted by staff of the Department of Prisons.

"Parole should be continued by the Department of Prisons because they know the prisoner best, and because present aftercare services are not capable of conducting supervision, and they do not do it. Church organisations should also be actively involved."

".....Is it not time that, as in England, a Department of Aftercare under the Prisons is established?"

The last part of this statement is incorrect, as in England, although it is now a statutory function, aftercare does not fall under the prison administration.

"In order to prevent parole from becoming a farce which might as well mean 'unconditional release,' stricter control must be exercised where a person does not abide by his parole conditions. This does not mean a person's parole should be revoked lightly, but intensive attention is

required by the relevant board under whose control the person is, and by the external social worker, under whose supervision the person has been released."

"Parole conditions are broken too easily. There should be stricter and more intensive supervision by a special officer of social welfare. There should be more co-operation between the prison and the employer. Parole should be revoked more readily, otherwise the Department of Prisons is held for a fool."

"Parole conditions in respect of prisoners with social and psychological problems should be discussed with the relevant social work and/or psychologist. Stricter control should be exercised in regard to parole conditions. Parole conditions should, therefore, be drawn up in consultation between the relevant staff members."

"Parole conditions should have more relevance for the individual as such, and for his needs. More responsible demands should be made on the parolee, for example, he should report regularly to Social Welfare (once a month). If parole conditions are not abided by, the parolee should immediately be arrested, otherwise our whole parole system is inadequate."

"Prisoners released on parole should be visited continuously, and reports be written after every visit. People allowed

to get prisoners released on parole must follow strict orders, and (the Department of) Prisons must see to it that these orders are carried out. Ill-treatment of prisoners should be taken as a very serious offence and such a person must never be given prisoners."

This respondent is obviously referring to release of short-term prisoners (mainly Blacks) to employers - especially farmers. It would appear that the respondent is of the opinion that such employers sometimes ill-treat the prisoners placed under their 'parole supervision!

"I think that parole will be more effective if measures can be designed to measure its effectiveness."

"Social workers with a thorough knowledge of criminal policy (studied in criminology) should be made responsible for the supervision of parolees and their aftercare and adjustment to community life."

".....In respect of non-Whites, there are too few organisations that are concerned with aftercare. It is a great need. Aftercare services must be improved and the prison board must meet its responsibility in respect of the parolee - through interest in his progress, and by reacting to recommendations made by the organisation

which is responsible for his aftercare."

"Due to insufficiency of prison social workers, most cases are not referred to outside welfare organisations."

Several members of the prison personnel made the suggestion that aftercare hostels be established for parolees :

"Where a prisoner grew up in institutions, and has no accommodation after release on parole or otherwise, requests should be directed to external welfare organisations that a 'home' or hostel be established, involving conditions and supervision."

It would appear that the respondent is not aware that NICRO is operating a few such aftercare hostels at various centres. However, it could be argued that such facilities only meet the needs of a small number of parolees and unconditionally discharged prisoners, and that there is a need for such facilities to be greatly expanded.

The following is a similar recommendation as the last one, except, it would appear, that it envisages state-run transition hostels, (probably like those run in Canada - where there are both privately operated and state-run hostels :

"Parolees should be admitted to an institution. They should perform rewarding work in the private sector. The parolee should, so to speak, board. The adjustment then occurs gradually. Counselling can be given at night, and, if necessary, the parolee should be referred back to the same institution where he served his sentence."

"All race groups should only be released under supervision when there is accommodation and employment waiting for him/her - including the homelands."

"Parole should be changed in such a way that, with board cases²⁾, if they do not adapt satisfactorily they could be returned to prison for short periods of between one and six months."

".....Consideration should be given, especially in the case of pure first offenders, that the accused be placed on parole by the trial court, until he has repaid a specific amount to the complainant who has suffered damages."

The respondent is probably referring to probation rather than parole.

"There should be effective supervision by the agency outside the Department of Prisons. Arranging for employment

2. Prisoners serving sentences of two years and longer

after release is important in order to keep the parolee actively busy, to facilitate adjustment and to combat loafing."

The majority of the staff of the Department of Prisons (55%) expressed opinions regarding control and aftercare in respect of offenders on parole in the community. The view that was most frequently expressed was that parolees should be subject to stricter control and supervision. Many respondents also felt that, if a parolee does not abide by his conditions of release, his parole should be revoked. Furthermore, parole conditions should be meaningfully geared to the needs of each case.

A number of respondents indicated that the Department of Prisons should assume responsibility for parole supervision. Others saw that as the task of the private agency, and the view was expressed that the Department should heed the recommendations for parole revocation made by aftercare agencies.

It is significant that one respondent conceded that because of a shortage of prison personnel, prisoners that are released are in most cases not referred to voluntary welfare organisations.

2. 4.2 Selection, preparation and release

While by far the greatest number of comments expressed by prison personnel concerned the treatment and control of prisoners after their release on parole, a considerable number of respondents - thirty-five, being 23,5% of all respondents - expressed opinions regarding selection and release procedures.

Several members of the prison personnel expressed the view that prisoners should be released on parole when they are ready for it. To detain persons beyond that point, it was felt, would merely lead to personality degeneration. Others felt that prisoners should be more adequately prepared before being released on parole.

While some respondents expressed the opinion that hardened criminals should not be released on parole, others felt that, when considering parole release, there should be no discrimination in respect of the types of crime for which an offender was incarcerated.

A few respondents expressed the view that greater use should be made of probation.

Following are a number of the most common opinions expressed by respondents regarding the matters of selection, preparation and release on parole.

"The prisoner should be more intensively informed and prepared for release on parole from the beginning of his sentence."

"The criterion (for release on parole) should not be so closely tied to time (length of sentence served), but more attention should be paid to individual adaptation, reformation, etc. in order to prevent demoralisation resulting from long detention."

"What should be considered (in parole selection), is the prisoner's previous offences, and when he is ready for release. He should be released as soon as possible."

"After conviction the offender should be properly selected - because rapists and robbers will have to be kept out of the community - and returned to his former employer under strict supervision. He should then be forced to compensate the complainant or widow financially for the damage he has caused."

Some respondents however, felt that a person should not be disqualified from release on parole because of the type of offence he committed:

"That creates frustration and rebelliousness among the prisoners Why can a person who stole a car obtain parole, while someone who bought a diamond cannot?"

"Parole should, in my opinion, also be considered for crimes such as dealing in diamonds, murder, etc. If not in all cases, then at least for those with a good prognosis, as it can further their rehabilitation. Parole should sometimes be recommended even earlier than when one-third of the sentence has been served, especially where a person is a D C 1³⁾ and where he can be assisted in adapting to society."

"Circumstances permitting, long-term prisoners should be released on parole sooner, for instance where the court has recognised mitigating circumstances in the case of first or second offenders"

"In my humble opinion, the file with the background history, which describes the crime, should be consulted, and where minor crimes were committed a person should also be released on parole, even if he is serving an indeterminate sentence. It is also my opinion that many prisoners are sentenced in accordance with their previous convictions."

".....No person who is not ready should be released on parole. In my opinion persons are released on parole because their sentences and type of crime qualifies for it."

3. D C 1 stands for depth classification, category 1

"Parole should not be put to prisoners as a 'right'. It should not be applied in a stereotype way especially in the case of long-term prisoners. A prisoner should really strive to achieve it, and he must earn it. If he does not abide by the conditions, he must be punished so that he learns to consider the consequences of his behaviour."

On the other hand, there were several respondents who felt that imprisonment no longer serves a purpose once an inmate is ready for release on parole. In fact, some felt that it is counter-productive if a prisoner is not released on parole when he is ready.

"A prisoner should not be released on parole before he has the necessary accommodation, employment, etc., and effective aftercare in order to assist him in bringing the critical period immediately after release."

"The whole concept of parole should be carefully interpreted to prisoners to whom it applies. More resources outside prison should be used in close co-operation with the sections inside prison which are responsible for parole."

As the following comments indicate, a number of members of the prison personnel stressed the importance of releasing prisoners on parole at the appropriate time, not at an administratively determined date :

"Sentences should be of such a nature that prisoners can be released on parole when they have been rehabilitated to such an extent that they can adapt satisfactorily in society, irrespective of the length of their sentences or the nature of their crime....."

"There are some cases where parole still has to be applied too rigidly, with the result that persons are not released when they are psychologically ready, but when personality degeneration has already set in. Is that the purpose of detention? Surely not."

"Parole should be geared more to the individual; for instance, a prisoner should be released on parole when it appears to be most advantageous for his rehabilitation. One-third or half of the sentence being remitted appears to be impractical to me."

"Prisoners are, in my opinion, released on parole too late, and the parole period is hopelessly too short"

Other respondents wanted offenders released sooner-even before they get into prison :

"Persons who qualify for release on parole should, in my opinion, be released on parole direct from the court, without first admitting them to prisons. This procedure would prevent those persons from being branded. Such a

system would facilitate rehabilitation and reduce prison admissions, thus projecting a better image."

"Prisoners with sentences up to and including four months imprisonment should, subject to the discretion of the court, not be sent to prison, but should be placed directly on parole or probation supervision."

What these respondents have in mind is not release on parole, but a sentence of probation.

"Parole should only be granted to first offenders. Most recidivists revert to crime again in any event, and return to prison."

"Selection should be much stricter, so that it is not mass-bound as at present Parole conditions should be aimed at the individual and should be strict. Re-imprisonment should be applied more consistently. The idea of parole is positive, but as applied in practice at present it is a farce."

Finally, there was the view that the courts should merely determine guilt or innocence, but the prison administration should determine the length of the sentence :

"As a result of overcrowding (of prisons) there is a tendency to recommend release on parole immediately after

the minimum half or third, as the case may be. The most effective approach in my view, would be that courts merely determine guilt and refer to Prisons, and that the Board, with the full details at its disposal, as well as persons such as social workers, psychologists, spiritual workers and others will be best equipped to determine when rehabilitation has been achieved and when release on parole should be considered"

It appears from the above comments that, while some members of the prison personnel feel that certain types of offenders - such as rapists and robbers - should not be released on parole, others are of the opinion that there should be no discrimination in terms of the type of crime prisoners have committed when considering release on parole.

A number of respondents made comments regarding the time of release on parole. Most felt that a prisoner should be released when he is psychologically ready, not at some administratively determined date. It was felt that, if prisoners were detained beyond that stage, personality disintegration would set in. In fact, other than the magistrates, who felt that prisoners were often released on parole too early, some members of the prison personnel felt that prisoners should be released as soon as possible. This eagerness of prison officials to release prisoners at an early date, can probably be understood in the

light of the fact that, working in close daily contact with prisoners, they are aware of the negative effects of continued imprisonment on a prisoner's ability to achieve a satisfactory adjustment in the community.

Another possible explanation is the desire on the part of the Department of Prisons to reduce and prevent overcrowding in prisons. The first assumption is given support by statements made by two senior prison officials during the past decade to the effect that the prison is the worst possible place to try and rehabilitate offenders.⁴⁾

An interesting - though not new - point that was made, was that the court should merely determine guilt or innocence, and that the Department of Prisons should decide on the length of the sentence. To a large extent this is what happened with the system of indeterminate sentences, as practiced in California. Furthermore, the prison authorities in South Africa already have a wide sentencing discretion, in that they are able to release prisoners long before the time determined by the court.

Apart from the numerous comments on matters related to the above two areas a few respondents commented on some additional matters. These are as follows :

4. General P.G. van Aardt was quoted in Die Vaderland newspaper of 6 September 1972 as having made a statement to that effect. A similar statement was made by Col. J.P. Roux in a paper he read at a criminological conference held at UNISA in 1972

2.4.3 Parole in respect of Black prisoners

Comments regarding Black parolees appear to have been made mainly by Black members of the prison personnel, who feel that parole, as it operates in respect of Blacks is not properly structured, and its operation is ineffective - particularly as far as aftercare is concerned.

Following are the most common comments in this regard :

"As far as the non-Whites are concerned, in particular, the value of the parole system falls away as a result of a lack of aftercare and follow-up services."

"Prisoners who reside at the places where there is no NICRO branch, should not be granted a long period of parole, because this is a temptation since the Bantu Affairs Commissioners do not give constructive supervision. It should be ensured that there is accommodation and employment for him before being released on parole, otherwise he will remain a menace to the community and parole will prove a temptation to him."

"There should be more of sufficiently qualified social workers, especially in the Bantu townships where serious crimes are being committed e.g. in Soweto."

The following lengthy comment appears to come from a Black auxillary worker who outlines specific problems experienced in releasing Black prisoners on parole.

"I am of the opinion that release on parole is subject to supervision. The Bantu prisoner is therefore placed under the supervision of the Bantu Affairs Commissioner. For some reason or other the B.A.C. seems mainly concerned about the registration of reference books and for their residence and employment, and little supervision is done, since some prisoners do not even bother to touch the B.A.C. offices. This, therefore, seems to turn out as a form of early release and not a step towards rehabilitation. There seems to be a gap between what has been done in prison, and aftercare. If there is any worth mentioning efforts made by NICRO in this regard, it cannot be substantiated, since there are few NICRO branches. How about making sure that the B.A.C. reports back to the Prison Board on what they have done in behalf of the parolee towards rehabilitation over a certain period?.....

The system of parole release does not in any manner seem to be based on the behaviour of the prisoner or that he is more liable (has more potential) for rehabilitation. It would appear as though emphasis is placed on the completion of a certain period (excluding the applicable half or one-third of the sentence). If after the said period the prisoner has not committed any prison offence then he is generally taken to be fit for release on parole There seems to be a guideline for release on parole, rather than emphasis on rehabilitation. It may be to cut down on prison population

At present most prisoners seem to favour parole, but then it is taken as early release, and not purposes of rehabilitation. Since every Bantu prisoner has to report to the B A C in connection with the reference book, whether released on parole or not, there is no distinctive procedure for parolees - which means that it is merely a form of early release. Some other procedure should be followed to help the parolee towards rehabilitation. Some prisoners even go to the extent of claiming release on parole after completion of a certain period if no prison offence has been committed....."

"Parole, I believe, would be effective if there was after-care for, especially, Black prisoners - also if prisoners were not judged like numbers but, instead, board members consisted of people who understood human behaviourunlike old pensioners who are used for our boards"

Several respondents felt that as the above comments indicate, that the supervision, control and aftercare of non-White prisoners generally leaves much to be desired.

2.4.4 A co-ordinated approach towards parole

As indicated in the following extracts from comments made by prison staff, some respondents felt that the various organisations involved in the parole process, both before and after release, should co-ordinate their efforts.

"Parole conditions are sometimes impractical, as definite arrangements are not made in respect of accommodation and employment. Parole conditions should be determined in consultation between relevant instances and professions. Co-ordination between welfare services which deliver after-care services and prisons must improve. Members⁵⁾ regard parole and parole conditions as less important - an attitude which must change."

"..... Social workers outside and inside prisons must co-operate in order to render supervision effective."

"There should be closer liaison between the Department of Social Welfare and Pensions, Coloured Affairs, Indian Affairs, and Prisons"

"In order to apply parole successfully, there must be the closest liaison between the Departments of Prisons and Social Welfare, and the employers in the community"

"Resources outside prison should work in close co-operation with the sections within the prison that are responsible for parole"

"..... The parolee should be properly informed regarding the concept of parole. Therefore it is essential to involve

5. The respondent is probably referring to members of the prison personnel

*the organisations which are connected with his parole - among others, the internal and external social workers."*⁶⁾

2.4.5 Prison Boards

A few respondents expressed views regarding prison boards, which included the following :

"I feel that the prison boards should be involved more in aftercare services"

"More must be done to exercise control over a prisoner who is on parole. Prison boards should visit such a prisoner just before his parole expires in order to determine whether or not he is adapting well to the community."

"..... The body which considers parole should be composed in such a way that there is room for a jurist, psychiatrist, clinical psychologist and social worker."

"In my view prison boards should have a greater measure of discretion or power with the granting of parole. The rehabilitation of prisoners is seriously damaged when emphasis is placed on a formula (that is, if parole is seen purely in terms of the length of detention) rather

6. *Since the time these comments were made, the nomenclature of these state departments has changed to Health and Welfare, and Internal Affairs (Indian and Coloured) Sections respectively*

than on the human being (and his progress, adaptation, attitude, co-operation, insight, potential, etc. etc.) Each being is, indeed, unique, therefore each case ought to be dealt with separately and individually"

2.4.6 Day parole

As was already indicated under the heading, "A co-ordinated approach towards parole." several respondents suggested that prisoners should be released on day parole before being granted full parole.

".....A more effective system of day parole should be implemented."

"The possibility of granting day-parole should be considered and, wherever possible, be granted before the period of normal parole."

"As soon as a person is ready for parole, he should be gradually returned to the community, by using day parole..."

"More exceptional cases could be released on day parole (working during the day, and reporting back to prison in the evening.)"

The previous and the following respondents appears to have a system of conditional release in mind such as that which is applied in Canada, where an attempt is made to release

prisoners on day parole and then, as the next step, to discharge them on full parole. In other words, conditional release ideally occurs in steps - first a programme of temporary absence, then day parole, and finally full parole.

"It (parole) should be implemented more gradually, that is, initially day parole, special occasions parole⁷⁾, work parole, and then full parole. In this way gradual exposure to the community is brought about. At the same time supportive therapeutic channels are kept open for times of setbacks"

"Day parole should be used particularly in the case of first offenders, and where it can lead to behavioural adaptation in the community (such as in the case of alcoholics and drunken drivers."

2.5. Opinions expressed by NICRO social workers

As was pointed out under the Introduction to the previous chapter, all the forty-two NICRO social workers completed the parole attitude questionnaires. Of these social workers twenty-nine, that is 69% submitted additional comments. Altogether forty-three points were raised by these respondents who submitted additional comments. The

7. This concept is probably similar to the Canadian temporary absence programmes

largest number of comments (35%) concerned the matter of supervision and control. Next came the question of liaison between the Department of Prisons and NICRO, and pre-release preparation, which constitutes 33% of all the comments. These two matters - liaison and pre-release preparation - will be dealt with together, as they are closely related in the minds of NICRO social workers.

Although the matter of revocation of parole could be dealt with under the heading of supervision and control, it will be discussed separately, as a number of respondents confined their comments to the matter. (19% of the comments related to revocation of parole.)

The fourth category of responses concerned questions relating to release of prisoners on parole, including eligibility for parole. This represented 13% of the points that were raised.

Following are representative comments under the various categories of responses. Where the same or very similar comments were made by different respondents, they will not be listed.

2.5.1 Supervision and control

As is evident from the following comments, a number of NICRO social workers expressed the view that parolees should be subject to stricter control.

"Being given the privilege to be in the community, strict measures should be taken to ensure that parolees comply with parole conditions."

"There should be stricter supervision, for instance, regular reporting to the police as well as the social worker. There should also be stricter supervision by the parole board, and the parolee should again appear before the board at least once in three months."

"Every parolee should be placed under the supervisor of a specialised welfare agency, e.g. NICRO. This will eliminate unconditional parole and will provide more adequately for rehabilitative services."

"On many occasions parole conditions are violated and still the parolee is left outside, as he does not have any welfare agency that will supervise him. It just seems like a very easy way of depopulating the prisons."

"It is recommended that it be made a condition that all prisoners released on parole should report to the nearest NICRO office for supervision and aftercare services."

"There should be far more parole supervisors, so that more intensive supervision may be carried out."

A number of respondents felt that NICRO should be clearly mentioned as the supervising agency in the parole conditions. Some also referred to the need for additional staff in order to be able to render more effective parole supervision. In this regard the following interim solution was proposed : *"Because of the lack of supervisory personnel, trained volunteers and registered social workers in other fields should be used in the interim."*

Furthermore, several social workers were of the opinion that the matter of parole conditions needed attention. It was felt that conditions should be established on an individual basis, because, what is good for one, is not always good for another.

2.5.2 Pre-release preparation and liaison between the Department of Prisons and NICRO

Several respondents felt, as reflected by the comments below, that the parole system would be more effective if there was closer liaison between the Department of Prisons and NICRO regarding the preparation and release of prisoners on parole.

"Supervision of parolees should be better organised, that is, the Department of Prisons should work closely with NICRO. This would enable parolees with psychological problems to receive professional help, and motivated

clients could have many of their frustrations reduced through guidance. NICRO should be informed of the date of release and conditions must be made for clients to call at NICRO. Parole progress reports should be made use of (by the Department of Prisons) instead of being filed away or destroyed."

"Before actual release, parolees should be provided with personal papers, for example, identity cards."

"Parole conditions must be clearly defined to the parolee."

"Organisations should be advised timeously of parole releases."

"Some changes have to be brought about in the parole system as it is applied in South Africa, in that it is very meaningless to the parolee. In most cases the parolee does not even know the conditions of his release which are not explained to him. Although released to a definite residential address, the parolee finds nothing that binds him, in that he is not referred to any welfare agency that will supervise him."

The respondent probably does not mean that there is no supervision at all, but that the vast majority of prisoners on parole are not placed under the supervision of specific organisations.

"As it operates for Blacks it (parole) is a means to depopulate prisons. There should be proper notification either to a community - based correctional agency or to a statutory body of impending releases."

"NICRO social workers should be permitted to recommend parole, based on interviews with the family."

"The Prisons Department should make the parolee fully aware of the implications of parole."

It was generally felt that more of a team approach ought to be used in the application of parole, where all persons concerned with the parolee should be involved. Such a team should consist of inter alia, members of the parole board the prison social worker, the external social worker, the police, and a minister of religion. In such a way a co-ordinated team approach could be instituted.

2.5.3 Sanctions in regard to parole violation

From the comments made by NICRO social workers, it appears that it is a source of frustration to the parole supervisor that when he advises the Department of Prisons that a parolee has violated conditions of his parole (other than committing a crime), frequently no action is taken by the Department.

"When prison officials are informed regarding deterioration of a parolee's behaviour, no action is taken. The reasons for this are to be investigated."

"If the parole supervisor makes a recommendation to the parole board, the recommendation should be seriously considered and action should be taken."

"Controls need to be more uniformly enforced - for example, revocation should be practiced regularly as a deterrent...."

"A sworn affidavit from the external social worker to the magistrate should be enough for revocation"

Another view was that parole *"should be withdrawn on recommendation of the social worker after discussion with the chairman of the Prison Board."*

"When a parolee is completely uncooperative he should be re-incarcerated immediately, otherwise the positive effects of parole are undone and the whole system is a farce. Prisoners will begin to view parole merely as an early release, which becomes unconditional because conditions are not enforced."

It was also felt that the external social workers need greater power in the revocation of parole - which is usually a long, and too often an unsuccessful operation.

2. 5.4 The release of prisoners on parole

Just as some members of the prison personnel, a few NICRO social workers felt that prisoners should not be barred from release on parole because of the type of offence they had committed. Their comments include the following :

"All prisoners should be eligible, and considered for parole, regardless of the offence."

Again, similar to a number of prison staff, some NICRO social workers were of the opinion that short-term prisoners (with sentences of less than six months) should not be released on parole, as it leaves too little time to bring about rehabilitation.

Furthermore, they also felt that parole should be awarded on merit to those who have shown effort to change established behaviour patterns.

Just as some prison personnel, a few NICRO social workers was also of the opinion that graduated release should be introduced in the form of day parole.

2. 6 Summary

From the large number of additional (unsolicited) comments made by respondents to the parole attitude questionnaire, it is evident that judicial officers, prison personnel

and NICRO social workers feel strongly about the matter of parole. From the large variety of comments, it is also evident, however, that respondents hold different - often conflicting - attitudes to parole. Nevertheless, there were a few issues on which representatives of all categories of respondents expressed opinions, and regarding which there exists general consensus.

The issue which appears to be foremost in the minds of most representatives from the four categories of respondents is that of supervision and control. From their comments it is clear that there is general consensus that supervision in respect of parolees is inadequate. In fact, in the majority of cases of prisoners released on parole - particularly Black prisoners - there is no supervision (in the penological sense) at all. It is also generally felt that, once a prisoner is released on parole, insufficient control is exercised over the parolee. Because of this, many respondents see parole as nothing but an early release, and a means to depopulate prisons, or, worse, as an interference with the judicial process. A number of respondents, particularly magistrates, have described parole - as it operates today - as a 'farce.'

Another matter on which a large percentage of respondents from all categories expressed opinions was that of selection and release of inmates. However, in this regard there was less uniformity of views than in respect of supervision and control. Some persons felt that such categories of prisoners

as violent offenders, recidivists and sexual offenders should not be considered for parole release. Others expressed the opinion that, in selecting prisoners for parole, there should be no discrimination in terms of the offence in respect of which the offender was imprisoned. The criterion of parole release, it is felt by these persons, should be the individual's suitability and readiness for release, not the kind of crime he committed. Furthermore, it was felt by many respondents that prisoners should be properly selected for release on parole, and that such release should not be a purely administrative act - which appears to be the case especially in respect of a large number of short-term prisoners.

A considerable number of respondents indicated that prisoners were not adequately prepared for release on parole. Some persons felt that, in this regard, there should be greater liaison between the Department of Prisons and external agencies. In fact several respondents expressed the view that the parole service should consist of a co-ordinated approach. That is, representatives of the various facets of the criminal justice system - the police, the judiciary, the prisons, and the aftercare agencies - should be involved in the parole process.

Apart from these two major categories of comments, the opinions expressed by respondents were spread over a number of diverse views. These included the need to adopt a tough approach to offenders, the view that parole is applied

basically as a means to reduce the prison population, the unjudicious release of prisoners on parole, inadequate training and shortage of staff, that parole represents an interference with the judicial decision, and that the theory of parole does not concord with the practice. In other words, the stated objectives of parole differ from the practical application of parole.

Generally speaking, each category of respondents emphasised aspects of parole which were of direct concern to them in terms of their own professional activities. Thus magistrates - who have to try parolees again if they commit further crimes while on parole - felt that judicial officers should play a role in the decision to release prisoners on parole, that prisoners should not be released on parole so readily, that parolees should be subject to more stringent control, and that parole, as it operates at present, represents an interference with the judicial decision. Magistrates, therefore, seemed to be concerned mainly with protecting the public.

As the major function of the Department of Prisons is the secure containment and control of prisoners, it is understandable that many respondents from the Department also emphasised control. However, the increasing emphasis that has been placed on rehabilitation during the past two decades is reflected by the fact that a number of members of the prison personnel stressed the importance of treatment,

preparation, aftercare, and penal reform.

Judges, who are somewhat removed from the day-to-day operation of the parole system, emphasised the lack of information regarding the practical implications of parole. As a result, a number of judges indicated that they lacked sufficient knowledge on parole in order to comment on the matter. Several stressed the need for adequate supervisory staff, and for proper supervision and control.

Comments made by NICRO social workers reflected a certain amount of frustration because of the lack of adequate liaison between the Department of Prisons and NICRO, and because of the fact that NICRO is not meaningfully involved in the pre-release preparation of prospective parolees. Another reason for frustration is that parole conditions cannot be enforced with sanctions, as requests for parole revocation are often not met.

CHAPTER VII

PAROLE IN CANADA1. Introduction

The researcher has decided to present an outline of the Canadian parole system, in order to provide a standard against which the South African system can be compared. The Canadian system was chosen because the researcher believes that it represents one of the most sophisticated parole systems in the world. The Canadians have, for many years, paid a great deal of attention to conditional release of prisoners, constantly aiming at developing a more effective parole system. Furthermore, the researcher has first-hand experience of parole in Canada, as he was employed by the John Howard Society of Quebec for five years - where his duties involved, i.a. supervision of parolees.

Information in this chapter was drawn mainly from the Policy and Procedures Manual of the National Parole Board of Canada, which was kindly supplied to the researcher during his visit to the offices of the National Parole Board in February 1981. The book, Criminal Justice in Canada¹⁾, was also consulted. Furthermore, the researcher also obtained

1. Griffiths, C.T., Klein, J.F., and Verdun-Jones, S.N., Criminal Justice in Canada : An Introductory Text, Butterworth and Co., (Western Canada), Vancouver, 1980

information on the nature and operation of the Canadian parole system, when he spoke to various parole officials, criminologists, and other persons in Vancouver, Winnipeg, Toronto, Ottawa and Montreal during his four-week visit to Canada early in 1981. At that time the office of the Solicitor-General provided the researcher with a number of information booklets and pamphlets on parole, which were also consulted for the purpose of this analysis.

As the Canadian parole system was still undergoing changes at the time when the researcher obtained his information, certain parole policies and practices may have changed by the time this thesis is presented for examination.

2. Historical Background to Parole in Canada

Parole, as it is applied in Canada today, was, no doubt, influenced by the work of the pioneers of conditional release procedures - particularly by Maconochie and Crofton - discussed in the chapter on the historical development of parole generally.

Prior to the advent of parole, prisoners were occasionally released (unconditionally) on humanitarian grounds by order of the Governor-General - upon the advice of a Minister of the Government. However, this was an act of clemency, rather than conditional release.

The first parole legislation to be passed in Canada was

the Act to Provide for the Conditional Liberation of Convicts of 1899. This legislation, generally referred to as the 'Ticket-of-Leave Act', provided for the conditional release of prisoners for the next sixty years. Because of Canada's vastness and sparse population, it was difficult to implement an effective programme of supervision. As a result, relatively few prisoners were released on ticket-of-leave during the early years after the promulgation of the 'Ticket-of-Leave Act'. The only supervision that conditionally released prisoners received initially was their monthly visit to the local police station. However, the Salvation Army's Prison Gates Section provided assistance and guidance for many years. In fact, in 1905 a staff member of the Salvation Army became the first parole officer in Canada. He was appointed to the staff of the Department of Justice and was given the task of investigating prisoners for possible release on ticket-of-leave.

The beginning of an organised parole service in Canada can be traced back to 1913, to the event of the establishment of the Remission Branch of the Department of Justice. It appears that this led to more liberal application of release on licence of prisoners. Miller²⁾ points out that, in the 1920's, this caused public criticism of the government, which led to the reorganisation of the Remission Service in the late 1920. The position of Dominion Parole Officer

2. Miller, F.P., "Parole", in McGrath, W.R. (ed), Crime and its Treatment in Canada, MacMillan, Vancouver, 1965

was abolished, and a more definite official policy for granting conditional release was formulated.

The end of the Second World War heralded another phase in the development of parole in Canada. There was a rapid growth of the voluntary prison aftercare movement, mainly in the form of the John Howard Societies, which established branches in a number of centres, and thus made more resources - in terms of aid to and supervision of parolees - available for the increased application of conditional release of prisoners. Private welfare organisations, such as the John Howard Societies, the Salvation Army, and the Elizabeth Fry Societies assisted with Community investigations in respect of parole applicants, finding employment for such persons, and assisting and supervising them after their release on parole.

Furthermore, during the post-war years the Federal Remission Service established working arrangements with provincial probation services to assist in conducting community investigations and in supervising of parolees.

Possibly one of the most important events in the history of Canadian parole, was the appointment of a "Committee to Inquire into the Principles and Procedures Followed in the Remission Service of the Department of Justice of Canada" in 1953. This Committee - also known as the Fauteux Committee, after its Chairman, Mr Justice Gerald Fauteux - recommended the promulgation of legislation to

establish a National Parole Board. This was done in 1959, when the Parole Act, "An Act to Provide for the Conditional Liberation of Persons Undergoing Sentences of Imprisonment", was enacted. The Act also transformed the Remission Service into the National Parole Service.

In keeping with developments in penological philosophy elsewhere, the concepts of reform and rehabilitation were incorporated into the parole legislation, and the concept of punishment was de-emphasised. To quote the Parole Board Manual; "When the Parole Act was enacted, the restraint era characterised by the warehousing of inmates was terminated. Parole in Canada was still very sensitive to the reform era but was well into the rehabilitation era of corrections. During that time reform was the prime policy of corrections, safety of society was paramount and adherence to society's rules and values was emphasized. However, concern for the individuals in the system grew in all parts of the world and more attention was directed towards the rehabilitation concepts."³⁾ The philosophy and practice of parole has never satisfied all the members of the criminal justice system in Canada, as was also, and still is the case in all countries where parole is practiced on a fairly large scale. In fact, the very concept of parole always was and still is a controversial one.

3. National Parole Board, Policy and Procedures Manual, Government of Canada, Ottawa, 1980, p. 7

Griffiths et. al. point out that the Parole Board has come under attack from various quarters since its inception in 1959. The police, the courts, the news media, inmates themselves, and civil liberty supporters have levelled a vareity - often conflicting - criticisms at the parole system : "It has been faulted for being too liberal in the granting of parole, for not being liberal enough, for being capricious in the use of its 'unfettered' discretionary powers, for being insensitive to the principles of natural justice in dealing with parole applications and parolees, for usurping judicial sentencing authority, and the like."⁴⁾

The increasing emphasis which was placed on the individual offender and his rehabilitation needs, demanded greater professional skills from parole officers which, in turn, led to more intensive training of such persons, mainly in the social sciences.

While, initially, the emphasis was primarily on the individual, in time a number of programmes with a broader emphasis were developed, including groupwork, volunteer involvement, and residential programmes. Eventually, during the 1960's, increasing attention was placed on the community as the focus of treatment, which led to the establishment of programmes for pre-release and gradual release. The role of the parole officer broadened from that of counsellor, on a one-to-one basis, to that of "broker of community resources" - someone

4. Griffiths, C.T. et al, op. cit., p. 259

who had to bring resources in the community to bear on the parolee.

It was not only the philosophy of parole that changed over the years, but the structure of parole also underwent changes. The number of Parole Board members increased from five to nine and, in 1973, the Parole Act was further amended, in order to provide for the appointment of ten additional ad hoc members, in order to meet the needs of the expanding parole system. A year later saw the decentralisation of the Parole Board, with two Board members being assigned to each of the regions; being Quebec, Ontario, the Prairie Provinces, British Columbia, Yukon Territory, and the Northwest Territories. In this way parole investigations and decisions were expedited.

The National Parole Service, being independent of the National Parole Board - the former being responsible for the case investigations and for supervision, and the latter for decisions regarding parole release - also regionalised its investigation and supervision services.

The membership of the National Parole Board was, once again, expanded in 1977, when a further amendment of the Act provided for the appointment of seven additional members. At the same time provision was made for involving citizens in decisions regarding the early release of prisoners serving indeterminate sentences or life sentences. This

matter will be dealt with under the discussion of release procedures in section 8.

A recent development has been the amalgamation of the National Parole Service and the Canadian Penitentiary Service, to become the Correctional Service of Canada.

3. Legal basis for parole in Canada

The principal legislation governing the structure and function of the parole system in Canada is the Parole Act of 1959, as amended, and the Parole Regulations (P.C. 1978-1528) as amended. However, the Penitentiary Act, the Prisons and Reformatories Act, and the Criminal Code of Canada also place certain limitations on the jurisdiction of the National Parole Board. The fundamental aspects of both the Parole Act and the Parole Regulations will be quoted and discussed in the following sections.

4. Jurisdiction of Federal and Provincial paroling authorities

One of the major problems facing Canada in developing a uniform and universally applicable parole system is the fact that its provinces have a high degree of autonomy in many areas including, to a certain extent, in the field of criminal justice. This had led to the situation where some provinces, notably Ontario and British Columbia, had developed their own provincial parole services. In these provinces the somewhat strange situation exists where the courts can impose an indeterminate sentence in addition

to the fixed term of imprisonment. In such cases the National Parole Board has jurisdiction over the definite part of the sentence, and the province has jurisdiction over the indeterminate part. According to the Policy and Procedures Manual⁵⁾ of the National Parole Board, in future the provinces will have increased jurisdiction in the matter of granting parole, in that the provinces that already have their own parole services - i.e. Ontario and British Columbia - will be able to extend the functions of their parole boards, while the other provinces may establish parole boards, to assume jurisdiction over prisoners in provincial institutions, with the exception of those who are serving sentences of life imprisonment as minimum punishment, and also excluding persons serving indeterminate sentences.

In all other cases (i.e. those where the provinces do not have jurisdiction), the National Parole Board has absolute discretion in the matter of granting parole to inmates serving sentences in either provincial or federal prisons.

5. The National Parole Board

The National Parole Board consists of twenty-six members,⁶⁾ who are appointed by the Cabinet upon the recommendation of the Solicitor-General. One of these members is designated

5. Ibid., p. 10

6. Section 3 of the Parole Act deals with membership of the Parole Board

as Chairman, and another as Vice-Chairman. The Cabinet also appoints an executive committee, consisting of not more than ten members. Apart from the twenty-six full-time members, the Parole Act makes provision for the appointment of Temporary Members, in the event that a member is absent or unable to act (Section 3(3) or when it is necessary to eliminate any accumulation of matters pending before the Board (Section 3(3.1)). Furthermore, Section 3.1(1) of the Act empowers the Solicitor-General, on the recommendation of the Chairman of the National Parole Board, to establish regional panels, known as Regional Community Boards, consisting of part-time members. These Community Boards, comprising representatives from police forces, local governments, professional associations, trade unions, or community associations, are involved in the decision-making process when parole is considered for prisoners convicted of murder, those serving sentences of preventive detention as dangerous criminals, habitual criminals or dangerous sexual offenders. Two of these persons sit as full voting members on a three-member panel of the National Parole Board whenever cases as those mentioned above are considered for parole. Presumably the rationale behind these Regional Community Boards is to involve citizens of the various regions in deciding whether or not prisoners who may pose a threat to the community should be released on parole.

An important reason behind involving members of the community in decisions regarding the release of dangerous criminals on

parole is probably to allay public criticism of the early release on parole of such persons. In other words, if the community shares in the responsibility of releasing dangerous criminals on parole, it is less likely to point a finger at the paroling authorities if such persons commit further crimes while on parole.

During the first decade of its existence, the National Parole Board drew its members exclusively from the judiciary and the legal profession. This approach was criticized by the Ouimet Commission⁷⁾ and, within a few years, the Board included criminologists, psychologists, social workers, a journalist, former police and prison officials, and even an ex-prisoner.

The operations of the National Parole Board are divided into five geographic regions. These are :

1. The Pacific Region, comprising British Columbia and the Yukon;
2. The Prairies Region, consisting of Alberta, Manitoba, Saskatchewan, and the Northwest Territories;
3. The Ontario Region;
4. The Quebec Region; and
5. The Atlantic Region, which consists of New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland.

7. Ouimet, R. (Chairman), Report of the Canadian Committee on Corrections - Towards Unity : Criminal Justice and Corrections, Information Canada, Ottawa, 1969, p. 339

Each region has a number of regional offices, varying according to its size and population - for instance, while Ontario has seventeen parole offices, the Pacific Region has only eight - and each is responsible for conducting hearings with all federal prisoners within its region, who are eligible for parole. This decentralisation has eliminated many of the long delays that presented a problem when all parole hearings were conducted by the central office in Ottawa. (The researcher had experience as a parole supervisor in Montreal of the anxiety and frustration among parole applicants in prison, arising out of these long delays.)

The gathering of information in respect of parole applicants and the preparation of the reports that are placed before the Parole Board, is done by the National Parole Service, which is a branch of the Correctional Services Canada. This could be somewhat confusing to the person who is used to a less complicated federal system. In simple terms, the latter can be seen as the data collection and supervising agency, while the former is the decision making body. However, both fall under the Department of the Solicitor General - the National Parole Board as an independent agency, and the National Parole Service as a branch of the Correctional Services Canada, which also includes the Penitentiary Service (i.e. the prison service).

6. Provincial parole boards

Until recently (1978) the federal-provincial relationship in the matter of parole was a rather simple one. Only two out of the ten Canadian provinces had their own parole boards. The boards of these two provinces - Ontario and British Columbia - had limited jurisdiction, having been concerned exclusively with parole in respect of prisoners serving the indefinite portion of a combined definite/indefinite sentence - a type of sentence which existed only in these two provinces. This sentence consisted of two aspects or parts - the first consisted of a fixed ('definite') term of imprisonment of not less than three months, and the second of an 'indeterminate' term, not exceeding two years less a day. (The 'less a day' provision was made because, as soon as an offender received a sentence of two years or more, he fell outside the jurisdiction of the province, and under the jurisdiction of the federal authorities.)

In 1969 the Ouimet Committee⁸⁾ recommended that the definite/indefinite sentences be abolished, but that all the provinces should be made responsible for parole in respect of all prisoners who were incarcerated in provincial institutions because, "(i)t seems inefficient for an offender to be under the jurisdiction of one government (the provincial) throughout his institutional career, but for another government (the federal) to be responsible for deciding whether he should be granted parole and for super=

8. Ibid., p. 283

vising him if he is granted parole."⁹⁾

It took roughly a decade for the Ouimet Committee's recommendation regarding abolishing determinate/indeterminate sentences to be implemented - in 1978 in Ontario and in 1980 in British Columbia.

Section 5.1(1) of the Parole Act now makes provision for provinces to appoint their own parole boards, to exercise parole jurisdiction in respect of inmates detained in provincial institutions, excepting offenders sentenced to life imprisonment as a minimum sentence, prisoners in respect of whom sentences of death have been commuted to life imprisonment, or inmates sentenced to detention in a prison for an indeterminate period. Nevertheless, by 1980, only three provinces had taken advantage of this new provision in the Parole Act, namely Ontario, Quebec and British Columbia, which established their own parole boards. In the case of the other provinces, which declined to assume responsibility for parole in respect of prisoners in provincial institutions, the federal authorities (i.e. the National Parole Board) continues to deal with provincial as well as federal parolees.

While supervision in respect of federal parolees is undertaken by the National Parole Service - which, as indicated

9. Ibid., p. 337

above, is independent from the National Parole Board, but linked to the prison service in the Correctional Service of Canada - supervision of provincial parolees is the responsibility of the provincial authorities.

Although the provinces may develop their own rules and regulations in order to adapt the administration of the Parole Act to their own particular needs, the provincial parole boards are bound by the provisions of the Parole Act, and by the Parole Regulations made under the Act.

7. Types of conditional release from prison

There are basically four types of conditional releases from Canadian federal penal institutions. These are temporary absence, day parole, full parole, and mandatory supervision. Each of these forms of release will be briefly discussed.

7.1 Temporary absence

The National Parole Board has authority over the granting of all unescorted temporary absences to prisoners in federal institutions. Provincial institutions have their own temporary absence programmes. Except where a prisoner is awaiting appeal, or when he has an outstanding charge against him for an indictable offence, or when he is detained in a mental hospital, or where the sentence is longer than five years, the Board delegates authority for granting unescorted temporary absence to the Director of the prison where the offender is being detained.

Temporary absences, either escorted or unescorted, may be granted for medical, humanitarian or rehabilitative reasons.

7.1.1 Medical temporary absence may be granted for medical treatment, surgery, examination by a specialist, dentistry, and for psychiatric and psychological services. While unescorted temporary absences are the responsibility of the Parole Board, the Director of an institution may authorise escorted temporary absences on medical grounds. The National Parole Board may authorise an unlimited period of time for the purpose of a medical temporary absence. In cases where the Director of a prison is the releasing authority, the maximum time of such a release is fifteen days. If more time is required, the case is referred to the Parole Board.

7.1.2 Humanitarian temporary absences cover such events as funeral services for an immediate member of the family, serious illness of an immediate member of the family, special events such as graduation or religious ceremonies "that normally call for family participation"¹⁰⁾ and court appearances in connection with, for example, appeals, divorce, custody of children, etc., where the Parole Board or the Director of the Institution is satisfied that the presence of a prisoner is necessary or desirable. The maximum period for which a humanitarian temporary absence may be granted by the Board is fifteen days. However, if the Director of the institution concerned is the releasing authority, the maximum for

10. Inmate Handbook : A Deuce or More, The Correctional Service of Canada, Prairie Region, Saskatoon, Saskatchewan, p. 57

such a temporary absence is seventy-two hours. In the event that more time is required, the matter has to be referred to the Parole Board.

- 7.1.3 Rehabilitative temporary absences may be granted for a wide variety of reasons, i.a. for visits with the family; interviews with potential employers; securing accommodation prior to release; attending educational functions, such as seminars or lectures, in connection with special studies or interests; preparing or sitting for examinations; engaging in community services projects; making arrangements in connection with personal business activities; participating in or attending socio-cultural activities such as music, art, or drama performances; participating in sports or recreational activities; and making a smooth transition from confinement to freedom.

Rehabilitative temporary absences are limited to a total of seventy-two hours every three months. If the Parole Board deems it necessary, it may grant up to forty-eight hours travel time in addition.

- 7.1.4 Temporary absences for administrative reasons. A temporary absence may be granted for the purpose of evaluating a prisoner for placement in the Community Correctional Centre - being residential centres in the community which are operated to facilitate an inmate's gradual transition from prison to the open community - and for arranging placement in a

Community Residential Centre - a half-way house run by one or other private agency.

It must be stressed that temporary absences are not granted to prisoners who would constitute an undue risk to society. Furthermore, in order to be considered for release on a temporary absence, a prisoner must have behaved himself well during his incarceration.

While on unescorted temporary absence, prisoners are subject to supervision, and supervision reports are submitted to the Parole Board.

- 7.1.5 Temporary absence in respect of prisoners serving life and indeterminate sentences must be approved by the Parole Board, and are voted on by both Board members and Community members.

Before being eligible for a programme of unescorted temporary absence, prisoners serving a definite sentence must first serve six months, or half of the time when they become eligible for full parole - whichever is longer. Thus, a prisoner with a six-year sentence becomes eligible for release on parole after two years, and for release on temporary absence after one-year.

Offenders sentenced for an indeterminate period as dangerous criminals, become eligible for release on temporary absence three years from the date of sentencing.

Prisoners serving a life sentence for a crime other than murder, become eligible for a temporary absence after four years. Those serving a life sentence for murder are eligible for such a release three years before becoming eligible for release on full parole. This depends on the order of the Court, which sets the parole date - varying between ten and twenty-five years. In case of such prisoners experiencing a medical emergency prior to the eligibility date for a temporary absence, they are escorted during their absence from prison.

A prisoner who is in prison pursuant to parole revocation, or revocation of mandatory supervision, will not be considered for an unescorted temporary absence for six months, or for one-half of the time to be served before the next parole review date - whichever is the longer time.¹¹⁾

7.2 Day parole

In a handbook for inmates,¹²⁾ the Correctional Service of Canada describes day parole as follows :

"Day Parole is a limited form of parole designed to assist you to prepare for a full parole or mandatory supervision release.

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11. The time prisoners in the various categories have to serve before becoming eligible for release on temporary absence is laid down in Sections 12 and 13 of the Parole Regulations
12. Ibid., p. 60

Usually it is granted for a specific purpose or program and for a limited period of time. While on day parole, you would at first continue living at your institution or, perhaps, a community correctional centre or a community residential centre.

Many inmates apply for a day parole to participate in work projects. Such projects enable them to earn the money they will need to start life in the community again. Others apply for day parole to take a course which is not available in the institution but which is necessary to upgrade their qualifications for employment. Others, with special problems, might apply for a day parole to participate in an alcohol or counselling seminar."

From the above description, it is obvious that day parole is a flexible temporary release procedure, which is aimed at meeting specific needs of individual inmates. In fact, as the day parolees needs and circumstances change, so the conditions of his release can be adapted to those changes. For instance, a prisoner may be released on day parole in order to upgrade his training. Once he has completed his course, he may wish to seek employment, or to spend one weekend a month with his family in order to re-establish family ties. The conditions of his day parole can be altered accordingly.

As to eligibility for day parole, the matter is rather

complicated, with different provisions applying to the various categories of prisoners.¹³⁾

Prisoners serving definite sentences of between two and twelve years are eligible for release on day parole after having served six months or one-half of the time to be served before being eligible for a full parole - whichever period is longer. Thus, a prisoner serving a definite sentence of nine years, is eligible for full parole after three years, and for day parole after eighteen months.

With a definite sentence of twelve years or more, a prisoner is eligible for day parole two years prior to his full parole eligibility date. For example, in the case of a fifteen-year prison sentence, a person is eligible for full parole after five years, and for day parole after two-and-a-half years. Where a prisoner is serving a maximum life sentence for a crime other than murder, he is eligible for day parole five years from the date of sentencing. If, on the other hand, he is serving a minimum life sentence - i.e. for the crime of murder - he is eligible for release on day parole three years prior to the eligibility date for full parole.

Prisoners sentenced to a term of preventive detention

13. The requirements governing eligibility for release on day parole are set out in Sections 9, 10 and 11 of the Parole Regulations

(indeterminate sentence) prior to 15 October 1977 - the date of amendment of the Act - are eligible for day parole after having served one year in prison. If, however, an offender received an indeterminate sentence after that date, he must serve three years before becoming eligible for release on day parole.

The purpose of day parole is described as follows in a booklet on the National Parole Board.¹⁴⁾

"Day parole helps prevent the shock and frustration of an abrupt release from the institution, without adequate plans, job, accommodation, or re-established family ties. It also gives the Board an opportunity to assess how well the inmate might do if released full time, under conditions of more intensive supervision than would apply with full parole, and under conditions which facilitate a quick return to custody if conduct deteriorates. When successfully completed, day parole may lead to full parole."

The normal duration of day parole is four months. However, upon the (fully motivated) recommendation of the Parole Service, the Board may extend the day parole programme beyond the period originally approved. The period is seldom extended beyond one year.

14. The National Parole Board, Government of Canada, Minister of Supply and Services, Canada, 1979, p. 8

7.3 Full parole

Sections 5 to 7 of the Parole Regulations lay down the period of time "ordinary" prisoners must serve before becoming eligible for parole, Section 8 determines that period in respect of violent offenders, and Section 11.1 deals with special cases. As these provisions are varied and somewhat complicated - particularly as regards the differing provisions in respect of persons who received sentences of life imprisonment before and after certain dates - the relevant sections will be quoted in their entirety :

"Term of Imprisonment an Inmate Must Serve Before Full Parole May be Granted

5. Subject to sections 6 to 8 and section 11.1 the portion of the term of imprisonment that an inmate must serve before full parole may be granted is one-third of the term of imprisonment imposed on him or seven years, whichever is the lesser.
6. The portion of the term of imprisonment that an inmate sentenced to imprisonment for life must serve before full parole may be granted is as follows :
 - (a) where the inmate is sentenced to imprisonment for life otherwise than as a minimum punishment, seven years;

- (b) where the inmate is sentenced to imprisonment for life as a minimum punishment before January 4, 1968, seven years; and
 - (c) where the inmate is sentenced to imprisonment for life as a minimum punishment on or after January 4, 1968, but before January 1, 1974, ten years, minus any time spent in custody between the day on which the inmate was arrested and taken into custody in respect of the offence for which he was sentenced to imprisonment for life and the day the sentence was imposed.
7. The portion of the term of imprisonment that an inmate in respect of whom a sentence of death was commuted to imprisonment for life before January 1, 1974, must serve before full parole may be granted is ten years minus any time spent in custody between the day on which the inmate was arrested and taken into custody in respect of the offence for which he was sentenced to death and the sentence was commuted to a sentence of imprisonment for life.

Term of Imprisonment an Inmate Must Serve in Respect of
Violent Conduct Before Full Parole may be Granted

8. (1) Subject to subsection (2), where an inmate on whom a sentence of imprisonment of five years or more has been imposed for an offence for

which he was liable to imprisonment for ten years or more and the offence involved conduct that

- (a) seriously endangered the life or safety of any person
- (b) resulted in serious bodily harm to any person, or
- (c) resulted in severe psychological damage to any person,

the portion of the term of imprisonment that the inmate serve before full parole may be granted is one-half of the term of imprisonment so imposed or seven years, whichever is the lesser.

- (2) Subsection (1) does not apply to an inmate unless the inmate has been convicted of the offence referred to in that subsection after the coming into force of these Regulations and within ten years of the expiration of a term of imprisonment imposed on that inmate of five years or more for an offence for which he was liable to imprisonment for ten years or more that involved conduct described in paragraph (1)(a), (b) or (c).

Eligibility in Special Cases

11.1 The Board may grant full parole or day parole to an

inmate, other than an inmate referred to in sections 6 to 8, paragraph 9(a) or (b) or section 10 or 11, before the inmate has served the portion of the term of imprisonment prescribed by section 5 or 9, as the case may be, if

- (a) the inmate is terminally ill;
- (b) the inmate's physical or mental health is likely to suffer serious damage if he continues to be held in confinement; or
- (c) there is a deportation order made against the inmate under the Immigration Act, 1976 and the inmate is to be detained under that Act until deported."

The parole date in respect of offenders sentenced to life imprisonment for murder on or after 1 January 1974 is set by the sentencing court to a period between ten and twenty years. If this date is more than fifteen years from the time of sentencing, the prisoner may apply for a judicial review after having served fifteen years of that sentence. A Superior Court judge and a jury then reviews the case, taking into account the prisoner's character, the nature of his offence, as well as his behaviour in prison. In order to change the eligibility date, a two-thirds vote of the jury is required. Should the jury decide against changing the eligibility date, it may set a date for another appeal. If an offender has received a sentence of 'life as a minimum' - i.e. if his death sentence had not been commuted

by the time of the abolition of capital punishment in 1976 - he has to serve twenty-five years before becoming eligible for parole.

The period of parole lasts until the end of a prisoner's sentence. In respect of persons sentenced to life imprisonment, preventive detention, or for an indeterminate period, parole lasts for the rest of their lives.

If parole is denied, the Parole Board will review the case within two years of the denial. Prisoners are notified of the review date.

In the event of parole revocation, the Board may consider another release on parole after six months from the date of revocation, but within two years.

7.3.1. Notification of eligibility dates

Within six months of his admission to a federal prison, an inmate is notified of his eligibility dates in respect of temporary absence, day parole and full parole.

With regard to inmates under provincial jurisdiction - i.e. those serving sentences of less than two years - the parole eligibility date is determined when the prisoner applies for parole.

7.4 Mandatory supervision

The forms of conditional release discussed thus far - temporary absence, day parole and full parole - are subject to the discretion of the National Parole Board. There is, however, another form of conditional release which, while essentially similar to parole, is not contingent upon the decision-making power of the Board.

Until 1970, prisoners who were not released on parole, had remission which they had earned subtracted from their sentences, and they were then released from prison unconditionally. It was often argued, however, as by the Ouimet Committee,¹⁵⁾ that prisoners who did not apply for parole, or who were refused parole, were those most in need of supervision upon release. Statistics provided by the Ouimet Committee¹⁶⁾ substantiated this. Only 35% of the 1 677 penitentiary inmates released unconditionally in the province of Quebec between 1959 and 1961 did not recidivate. By contrast, 55% of those released on parole were successful after five years. Other more recent researchers, such as Irvin Waller,¹⁷⁾ have reached similar conclusions.

As a result of this insight, it was felt that virtually all prisoners should be released before expiration of their sentences, and placed under supervision in the community.

15. Ouimet, R. (Chairman), op. cit., pp. 348-351

16. Ibid., p. 335

17. Waller, I., Men Released From Prison, University of Toronto Press, Toronto, 1974

The Parole Act was amended in order to make provision for such mandatory supervision. Section 15 of the Act provides for this form of conditional release.

Mandatory supervision basically means that, as from 1970, prisoners are no longer released unconditionally for the duration of the "good time" (remission) that they have earned. As from that date, prisoners are required to serve the time of their remission which can be as much as one third of the sentence - under the supervision of a parole officer. A prisoner can, however, elect to forfeit his earned remission, and to be released unconditionally at the end of his sentence. Should a prisoner, through bad behaviour or otherwise, lose some "good time", or fail to earn the maximum possible remission, he will only become eligible for mandatory supervision after that "lost" time has elapsed.

The Parole Act¹⁸⁾ makes the following provisions for mandatory supervision :

- "15. (1) Where an inmate is released from imprisonment, prior to the expiration of his sentence according to law, solely as a result of remission, including earned remission, and the term of such remission exceeds sixty days, he shall, notwithstanding any other Act, be subject to mandatory

18. The Parole Act, op. cit.

supervision commencing upon his release and continuing for the duration of such remission.

- (2) Paragraph 10(1)(e), section 11, section 13 and sections 16 to 21 apply to an inmate who is subject to mandatory supervision as though he were a paroled inmate on parole and as though the terms and conditions of his mandatory supervision were terms and conditions of his parole.
- (3) Notwithstanding subsection (1), an inmate who may be released subject to mandatory supervision may choose to remain in the institution to complete his sentence, but such a choice is not binding upon an inmate who subsequently chooses to be released on mandatory supervision; any subsequent choice to be released on mandatory supervision shall be respected as soon as is reasonably possible, however, the inmate may not require his release other than during the daylight hours of a normal work week.
- (4) Where an inmate subject to mandatory supervision commits an additional offence for which a consecutive sentence of imprisonment is imposed and mandatory supervision is not revoked, the period of mandatory supervision is interrupted and is not resumed until the later sentence has been served.

- (5) This section applies in respect of persons who were sentenced to imprisonment in or transferred to any class of penitentiary on and after the first day of August, 1970, R.S., c. p.2, s. 15; 1976-77, c. 53, s. 28."

Griffiths et.al.¹⁹⁾ point out that the introduction of this type of conditional release did not find favour with all inmates, many of whom had negative attitudes towards supervision. Furthermore, they point out that, because of adverse publicity resulting from crimes committed by prisoners on mandatory supervision, much public criticism was (unjustifiably) levelled at the Parole Board. Unjustifiably because mandatory release is not subject to the discretion of the Board.

8. Procedure in respect of granting, supervision and revocation of parole

8.1 The application

As has been pointed out above, all inmates in federal institutions are notified of their eligibility dates for full parole (as well as for temporary absence and for day parole) within six months of admission. When that date approaches, the inmate submits an application for release on parole to the Parole Board. As soon as possible after

19. Griffiths, C.T., et al, op. cit., p. 265

receipt of his application, a parole officer from the Parole Service is assigned to interview the inmate. The Inmate Handbook²⁰⁾ describes the initial interview as follows : "This interview is your opportunity to discuss all those things that you feel are important to support your application. The parole officer, in turn, will have questions to ask you and will want to discuss your plans for the future. He/she will be interested in learning about your family, your health and your employment prospects. Also, he/she will want to know the goals you have set for yourself and how you expect to reach them."

Based on the interview, together with other information on the prisoner's file, the Individual Program Plan Case Management Team draws up a report for the Parole Board, to consider when reviewing the case. The completed file, for consideration of the Parole Board usually contains the inmate's parole application including the parole plan; his criminal record; a police report outlining the nature and circumstances of the crime; the presentence report that had been submitted on the offender (if available); a psycho-social assessment of the inmate; institutional reports written by the various members of the prison staff - including the social worker, the workshop instructor, etc.; comments from the judicial officer involved in the case; reports from social agencies that have been involved e.g. the John Howard Society, on such matters as family back=

20. A Deuce or More : Inmate Handbook, op. cit., p. 66

ground, employment, history, etc.; the parole officer's assessment of the offender, as well as his assessment of the community to which the prisoner will return; an up-to-date police report, reflecting the views of the police on the prisoner's possible early return to the community; letters and special representations from members of the prisoner's family, potential employer, friends and others.

8.2 Review by the Parole Board

Each federal prisoner has his case reviewed within about three months of his parole eligibility date - the review must be done before that date. If, at that review, the Board denies parole it will continue to review the cases at least once every two years - until the prisoner is released on parole or on mandatory supervision. However, the prisoner may indicate in writing that he does not wish to apply for a release on parole. In that event the case is not reviewed, unless the prisoner changes his mind at some future date, when the review procedure will continue. (The provisions for reviews and hearings are outlined in Section 8 of the Parole Act, and in Sections 14 to 18 of the Parole Regulations.)

8.3 The hearing and the decision regarding parole release

Once all the relevant information has been gathered

regarding the prospective parolee, his background and his parole plans, a date for the parole hearing is set. The actual hearing at which the inmate is usually present, is preceded by a case conference of the panel members of the Parole Board, the parole officer who prepared the case, the institutional classification officer (the South African equivalent is the prison social worker) responsible for the inmate, and others involved in the case, e.g. the institutional psychologist. At the end of this conference the prisoner is brought in for the official hearing, at which he states his case, and is questioned by members of the panel. Once this has happened, the prisoner is asked to leave the room in order that the panel may confer on the case, and to vote as to whether or not to grant parole. While a simple majority (half of the members plus one) is required for a prisoner to be granted parole (or day parole, or temporary absence), a two-thirds majority is required to parole prisoners serving life sentences or indeterminate sentences.

A different number of votes are required for each type of sentence in respect of granting parole. The highest number of votes - seven - is required if the parole applicant falls into one of the following three categories of sentences : life imprisonment as a minimum (for murder), preventive detention, and an indeterminate sentence. Five votes are required for prisoners serving sentences of ten years or more, including life as a maximum. For offenders serving

sentences of between five and ten years, three votes are needed; and for those with sentences of less than five years, two votes are required.

Since, as has been pointed out above under the discussion of the National Parole Board, the regional panels of the Parole Board consist of three members, of whom two sit as full voting members, cases where more than three votes are required are referred to the Parole Board (the head office) in Ottawa, for the additional votes. That is, the Regional Board Members cast their votes at the hearing, after which the case is referred to Ottawa for the additional votes. This procedure is somewhat cumbersome and sometimes results in lengthy delays in reaching a final decision. Any such delays, from the researcher's experiences, add to the often already existing anxiety and frustration in the prisoner who applies for parole.

Except for the two provinces that have their own parole systems, parole applications from prisoners in provincial prisons are reviewed in Ottawa.

An important development in the parole decision-making process that bears repetition, is the fact that representatives of the community now act as full Board Members - having a vote equal to that of the regular Board Members. It is significant that no prisoners serving a life sentence for murder, and no habitual criminals, dangerous sexual

offenders, or those serving indeterminate sentences, are released on parole without members of the community participating in the decision. The reason for this is obviously that such prisoners pose a greater potential threat to the community, therefore representatives of the community have a say in whether or not they should be allowed to return to the community under parole supervision.

Another factor, associated with community involvement in the parole process, which led to the increased use of parole is, as Griffiths et al²¹⁾ point out, is the increased availability of transitional facilities between the prison and the community. These include public facilities - i.e. Community Corrections Centres - and the Community Residential Centres, established and operated by the private sector. Such facilities are used mainly for prisoners released on day-parole programmes which, in many cases, are a step towards the eventual release on full parole.

Griffiths et al²²⁾ compare the development of the graduated release procedures to the programme evolved by Maconochie in Australia during the 1840's. The steps in the Canadian Parole process are; first a limited, then expanded temporary absence programme; followed by a limited, then expanded day - parole programme and; finally, release on full parole.

21. Griffiths, C;T; et al, op. cit., p. 269

22. Ibid., p. 269

8.4 Parole conditions

In essence parole is a contract between the paroling authorities (the Parole Board) and the prisoner. The latter is released from prison upon his undertaking that he will abide by certain prescribed conditions - as outlined in the parole certificate.

The parole certificate contains a set of standard conditions, applicable to all parolees, as well as a number of special conditions - adapted to the specific problems and needs of each individual parolee.

The Policy and Procedures Manual²³⁾ of the National Parole Board outlines the standard conditions as follows :

- (a) To remain until expiry of sentence under the authority of the designated representative of the National Parole Board;
- (b) To proceed forthwith directly to the area as designated in the instructions and, immediately upon arrival report to the parole supervisor and as instructed by the latter thereafter;
- (c) To remain in the immediate designated area and not to leave this area without obtaining permission beforehand from the representative of the National Parole

23. Policy and Procedures Manual, National Parole Board, Government of Canada, Ottawa, 1980, p. 86

- Board, through the parole supervisor;
- (d) To endeavour to maintain steady employment and to report at once to the parole supervisor any change or termination of employment or any other change of circumstances such as accident or illness;
 - (e) To obtain approval from the representative of the National Parole Board, through the parole supervisor before;
 - (i) purchasing of motor vehicle,
 - (ii) incurring debts by borrowing money or instalment buying,
 - (iii) assuming additional responsibilities, such as marrying,
 - (iv) owning or carrying fire-arms or other weapons,
 - (f) To communicate forthwith with the parole supervisor or the representative of the National Parole Board if arrested or questioned by police regarding any offence;
 - (g) To obey the law and fulfil all legal and social responsibilities;
 - (h) To report to the police on a monthly basis or as otherwise specified by the Board.

These conditions apply to all prisoners released on day parole, full parole, and mandatory supervision.

Apart from these standard parole conditions, the Board may add special conditions to the parole certificate.

These conditions are adapted to the specific circumstances of each case. Thus, should a prisoner have problems with alcohol abuse, a condition of parole would be that he abstain from alcohol use.

The Board may, as part of the parole conditions, order that the parolee is to effect restitution to the victim of his crime. The details of such restitution are specified in the parole conditions, and any subsequent changes thereof must be approved by the Board, which also specifies the action that is to be taken if the parolee should fail to comply with the terms of restitution.

8.5 Supervision

It must be re-emphasised that it is the Parole Service, not the Parole Board, that is responsible for the supervision of parolees. However, the Parole Service often delegates supervision to private after-care agencies.

Thus, the parole officer (supervisor) may be an employee of the Correctional Services of Canada; a representative of a private aftercare organisation, such as the John Howard Society or the Salvation Army; an officer of the provincial probation service; or a volunteer in the community. In the final analysis, however, the Correctional Service of Canada has the final responsibility for the selection of parole supervisors, as well as for the supervision itself.

The Correctional Service describes the practice of supervision to potential parolees in the following simple terms²⁴⁾:

"At your first meeting after your release, you and your supervisor will work out the arrangements for future contact. At first, you will see each other frequently (perhaps once a week). If things go well for you, contacts may become less frequent.

Your supervisor has a dual role. He/she is there to help you adjust to a normal life in the community and to watch your progress ensuring that the community is protected from return to criminal activity by you.

Your supervisor will be someone with special training, contacts and a familiarity with the problems you will face. He/she is there to give you a supporting hand and offer ideas and counselling which if used by you will greatly assist your adjustment."

According to the Policy and Procedures Manual of the National Parole Board²⁵⁾, supervision entails three basic aspects. (The extent to which any of these aspects is emphasised, will depend on the circumstances of each case) :

24. Inmate Handbook : A Deuce or More, op. cit., p. 72

25. Policy and Procedures Manual, op. cit., p. 97, Italics mine

- "3.1.1 The service and assistance aspect of supervision entails the evaluation of the needs of the individual granted a release, and is primarily concerned with advising and assisting the inmate in making use of the resources and special services available in the community which will assist the individual and his family.
- 3.1.2 The treatment and support aspect of supervision includes the provision of assistance to the individual in overcoming difficulties in adapting to life in the community, and in developing methods and means of dealing with crisis situations. The individual is assisted in gaining insight into his problems without resorting to anti-social action and in obtaining specialized professional services when required.
- 3.1.3 The control and surveillance aspect of supervision requires that the supervisor monitor the individual's whereabouts, conduct and behaviour. It also involves ensuring as much as possible that the individual abides by the conditions of release, that action is taken to prevent violations of the release conditions, and that the appropriate action is taken in the event of a violation."

The Parole Service standards²⁶⁾ in respect of the minimum frequency of interviews expect that, in the 'intensive

26. Ibid., p. 98

supervision' category, parolees are interviewed at least once every fifteen days; in the 'active supervision' category, at least once every three weeks; and in the 'periodic supervision' category, at least once a month.

It is significant to note that the Parole Service standards recommend that supervisors meet parolees in their own community as much as possible, and in an office setting only "when this is more appropriate." This reflects the insight that, in order to assist the parolee in achieving a satisfactory adjustment, he must be treated in the context of his immediate social environment.

In previous years, at least until the late sixties²⁷⁾, the majority of parole interviews were conducted in the office of the supervisor.

Finally, it must be pointed out that, while the Parole Service is responsible for the supervision of parolees, the Parole Board has the authority - as was indicated under the discussion of parole conditions - to set any special conditions relating to supervision that it deems necessary. However, the Manual of the National Parole Board²⁸⁾ makes it clear that, "it is not the Board's intention to interfere

27. The researcher had experience of the Canadian parole system while he was employed by the John Howard Society of Quebec, from 1965 until the end of 1969

28. Policy and Procedures Manual, op. cit., p. 98

with the judgement of the Parole Service as to what methods of supervision are used, but rather to ensure that the authority it exercises in establishing the broad guidelines for supervision is in appropriate balance with the responsibility the Board must bear if failures in supervisory actions or procedures lead to failures in the parole process."

8.6 Violation of parole conditions

When a parolee violates any of his parole conditions, or when there are reasonable grounds to believe that his continued presence in the community pose a threat to the public, the Board, or the parole officer responsible - when given authority by the Board - can suspend the parole. That means that the parolee is immediately arrested and returned to custody, while an investigation is instigated forthwith. The Parole Act²⁹⁾ makes the following provision in this regard :

"16. (1) A member of the Board or a person designated by the Chairman, when a breach of a term or condition of parole occurs or when the Board or person is satisfied that it is necessary or desirable to do so in order to prevent a breach of any term or condition of parole or to protect society, may, by a warrant in writing signed by him,

(a) suspend any parole other than a parole that has been discharged;

29. The Parole Act, op. cit., p. 13

- (b) authorize the apprehension of a paroled inmate;
and
- (c) recommit an inmate to custody until the suspension of his parole is cancelled or his parole is revoked."

A parole officer interviews the parolee within ten days of having his parole suspended, in order to explain the reason for his suspension. Within fourteen days of his arrest, the Correctional Service will either cancel the suspension and release the parolee or, when the violation is serious, will refer the case to the Parole Board for a decision. The Board will review the case and cause such enquiries to be conducted as it deems necessary. Before revoking the parole, the offender is given an opportunity to put his case to the Board at a hearing. Once parole has been revoked, the Offender's sentence is re-calculated, and a new mandatory supervision release date is established.

Should the parolee feel that there is important information which the Board did not consider, or that there is new information which has a direct bearing on his case; or that the Board erred either in law or in fact; or that the decision of the Board is not supported by the reasons it presents for that decision, he may, within thirty days, request a re-examination of the decision. Furthermore, the chairman of the Board may order a re-examination for any special reason.

This re-examination virtually has the effect of an appeal, as it will be conducted by Board members who did not participate in the original decision.

In the event that a person's parole is revoked, he has to serve all the time remaining of his sentence when he was released on parole, minus

- "(a) anytime spent on parole after the coming into force of this subsection (i.e. after October 1977);
- (b) anytime during which his parole was suspended and he was in custody;
- (c) any remission earned after the coming into force of this subsection and applicable to a period during which his parole was suspended and he was in custody; and
- (d) any earned remission that stood to his credit upon the coming into force of this subsection."³⁰⁾

9. The extent and success of parole in Canada

9.1 Introduction

The researcher does not pretend to present a detailed analysis of the extent and success of parole in Canada. This would be far too great a task. (A study of 423 ex-prisoners released from Ontario federal penitentiaries into

30. Ibid., p. 14

Southern Ontario during 1968, filled a whole book.³¹⁾

As the most extensive and sophisticated study of parole in Canada was that by Irvin Waller, the researcher will rely heavily on Waller for a consideration of the extent and success of parole in that country.

After briefly considering Waller's findings, the researcher will glean recent parole statistics from the Annual Report of the Solicitor General of Canada for the fiscal year of April 1, 1978 to March 31, 1979.

Having stated the primary objectives of parole as being the dual aim of rehabilitation of the offender, and protection of society, Irvin Waller³²⁾ poses the fundamental composite question : 'Does it (parole) work? If so, why? If not, why not?'

From his above mentioned study, Waller concludes that, while reported statistics reflect some measure of success, his findings indicate that parole may not be as successful in terms of its primary objective - being to reduce the likelihood that the offender will engage in crime again in future.

Waller³³⁾ makes the important point that, in studying the effectiveness of parole, researchers have generally confined

31. Waller, I., Men Released from Prison, University of Toronto Press, Toronto, 1974

32. Ibid., p. 3

33. Ibid., p. 15

themselves to the criteria relating to re-arrest, and have neglected other criteria, thus presenting an incomplete picture of parole effectiveness.

It must be pointed out here that the present study will place considerable emphasis on a number of areas of parole success, other than on mere re-arrest statistics. These will include i.a. parolees' adjustment in the areas of employment, accommodation, and social adjustment generally. Nevertheless, re-arrest and reconviction remain the most important and the most tangible criteria of parole success or failure.

9.2 Transition problems

In investigating the adjustment of parolees (and unconditionally released prisoners) Waller considered i.a. their transition problems, their welcome in the community, contact with the family of origin, accommodation, employment and re-arrest.

As to welcome in the community, Waller found that most ex-prisoners are not met by anybody upon their discharge, but are left to travel to their destination by public transport alone. He concluded that this indicated both, an unaccessibility of institutions to family and friends of prisoners, and, which is dysfunctional to the ex-prisoner's adjustment in the community, a general lack of close ties with other persons in the open community.

In other words, the ex-prisoner, including the parolee, experiences a certain feeling of alienation from people in the open community. While ex-prisoners were not actively rejected by their families, they were usually left to face problems in the open community on their own. Thus Waller remarks that "the lack of interest and support by others is typified by the suggestion that the police may be the persons most actively interested in the man released from prison."³⁴)

Of the parolees in Waller's sample, 40% received no welcome in the community. Some of these would have been welcomed but avoided the persons who were there to meet them. It is not clear why some parolees reacted in this way. The explanation may be found in embarrassment, bitterness towards persons in the community, or the psychological maxim of rejecting their rejectors may have been appropriate in some cases. Those parolees who were met by someone upon discharge from prison, were usually met by their wives, common-law wives, or a member of the extended family.

It is common knowledge among criminologists that the initial period following a prisoner's discharge - whether unconditionally or on parole - presents a number of adjustment problems.

34. Ibid., p. 195

Several authors have investigated the various transition problems experienced by discharged prisoners. These include Schwartz and Skolnick (1962), Irwin (1970), Glaser (1964), Robinson (1971), etc.³⁵⁾

Waller³⁶⁾ found that, by six months from their release, 19,1% of the parolees have experienced depression; 21,4% anxiety; 13,2% difficulty communicating with people; 11,8% loneliness; 10,30% trouble in making decisions; 5,9% the feeling of looking like and 'ex-con'; 5,9% a hard time 'getting used to things', and 5,1% sleeplessness.

9.3 Marital relationship

Among the transition problems which, Waller feels, play an important role in the nature of the parolee's adjustment in the community is, what he terms, some major 'let-downs' experienced by the parolee during the initial period after his release. Possibly the most important 'let-down' relates to the married parolee's relationship with his wife. In 11% of the cases, the parolee found his wife living with another man when he returned to the community; some wives had left Canada for the U.S.A., and some were

35. Schwartz, R.D. and Skolnick, J.H., "Two studies on legal stigma," Social Problems, 10, pp. 133-138. Irwin, J. The Felon, Prentice Hall, Englewood Cliffs, N.J., 1970. Glaser, D., The Effectiveness of a Prison and Parole System, Bobb-Merrill, Indianapolis, 1964. Robinson, J., "By the Standard of his Rehabilitation; information, decision and outcome in terminations from parole : the implementation of Penal Code Section 2943," Research Report No. 39, California Department of Corrections, Sacramento, 1971

36. Waller, I., op. cit., p. 76

planning to obtain a separation or a divorce; a number of parolees (14%) reported marital problems due to unemployment, the wife being pregnant by another man, etc. 18% indicated that it had been "strange or difficult at first," but had gone better since then. Less than half of the married parolees were happy with their marital relationships and had found them as they had anticipated them before being discharged.

Two thirds of the married parolees felt that their marriages were worth-while because of love and companionship and because of family life. It appears therefore, that marriage and family life are, generally speaking, conducive of a positive social adjustment on the part of the parolees.

A person's contact with his children is an important indicator of the nature of his family life. Waller found that a fairly large number (30%) of the parolees with children, had not seen their children more than once a month since their release.

This, Waller feels, may influence such parolees' post release behaviour :

"Firstly, a child may be a link with the straight community, helping the ex-prisoner to avoid situations that might lead to arrest. Likewise, a child may be the thread that keeps

a faltering marriage together."³⁷)

9.4 Contact with the family of origin

Waller also investigated parolees' contact with their families of origin. He found that 40% were living with parents or relatives. Nearly two thirds felt that they had a close relationship with their mothers, and 25% described their relationship as 'average.' Although Waller does not indicate it, it is assumed that the remaining 9% or 10% had a poor relationship with their mothers. However, the fact that the large majority had a good or average relationship with their mothers can probably be seen as functional to their adjustment in the open community. The parolees' relationships with their fathers appeared to have been considerably less positive than those with their mothers. As Waller only reports an 'average' relationship in respect of 29% of the parolees, and a poor (or very poor) relationship in respect of 24%, it is assumed that the remaining 47% had a good relationship with their fathers. This percentage is about 13% lower than those who reported a good relationship with their mothers.

One might speculate that this is related to negative attitudes of a certain number of parolees towards authority figures.

37. Ibid, p. 108

While about 33% of the parolees were seeing their mothers at least twice a week, only 21% had contact with their fathers that frequently. Also about 21% were seeing their siblings regularly.

9.5 Friends

Concerning close friends, it is significant in terms of social adjustment that, six months after discharge, 38% of the parolees claimed not to have any close friends. By twelve months, this number had increased to 59%. This certainly does not reflect an improvement in social adjustment over a period of time under parole supervision. 5% of the parolees mentioned known criminals as their best friends, 10% mentioned co-workers, 8% girlfriends, and 3% mentioned their parole officers. Of those who had friends (not necessarily 'close friends'), 40% mentioned 'ordinary citizens' and neighbours as friends.

9.6 Accommodation

Living arrangements are, in the researcher's opinion - based mainly on experience as parole supervisor in Canada from 1965 to 1969 - an important indicator of the nature of the parolee's adjustment in the community. Waller³⁸⁾ found that only half of the married parolees returned to live with their wives upon release. However, after one year on parole, nearly 50% of the parolees had set up new marriages or were living in common-law unions.

38. Ibid, p. 106

Accommodation for parolees was usually found through personal relationships rather than state or voluntary agencies. More than one third of the parolees obtained accommodation through their own effort. Such sources as prisoners' aid agencies found accommodation in only 13% of the cases. The prison is not mentioned at all as assisting parolees or ex-prisoners in finding accommodation.

9.7 Employment

As far as employment was concerned, Waller³⁹⁾ found that it was not stigmatisation which was the greatest obstacle for parolees in finding employment, but rather the lack of skills among the majority of ex-prisoners, as well as their inability to present relevant and satisfactory references to prospective employers, and also their irregular work history prior to their imprisonment.

In applying for employment, 5,8% of the parolees either were not asked to provide information about their criminal record, or had not completed application forms. A number gave false information, such as having been hospitalised for an extended period, having been self-employed or having worked for a relative. Others presented fictitious employers in remote areas, etc. Waller found that most persons who lied about their employment history, did so in a transparent or clumsy way - thus increasing the likelihood of being found out and

39. Ibid, pp. 79-81 and 91-101

being rejected. Of the parolees who did inform prospective employers of their criminal records, 32% were rejected outright. Waller stresses, however, as have previous writers, that ex-prisoners are often less employable than the average applicant without a criminal record.

As to the methods of finding employment, 47,5% of the parolees found employment on their own, 22,7% through Manpower (the equivalent to the Department of Manpower Utilization in South Africa), 5,7% through social agencies, 9,2% were assisted by friends and 14,9% were assisted by parents, siblings and relatives.

As far as employment stability is concerned, after one year from the date of release, just over 50% of the parolees had held three or more jobs. Nearly 10% had held seven or more jobs. More than one third (35%) held their first jobs for less than a week.

9.8 Re-arrest

Instead of using re-conviction as a criterion for parole failure, Waller uses re-arrest. His reasons for this are i.a. that recidivism rates are used inaccurately to show the greater effectiveness of parole than imprisonment. He points out that those who oppose imprisonment, have advanced an 80% recidivism rate. At the same time parole authorities have claimed only a 10% failure rate. He feels that these figures are not comparable, and that such comparisons

are meaningless. In his view selection for a particular penological measure rather than the measure itself, may account for the difference in recidivism rates. Thus parole is a selective procedure - the prisoner decides whether or not to apply for parole. In fact, of the unconditionally released prisoners in Waller's study, about half did not apply for parole at all. It is these prisoners, in his view, who do not apply for parole, who cause comparative statistics regarding the effectiveness of parole as opposed to the effectiveness of imprisonment to be an illusion.

Furthermore, of those who apply for parole, the Parole Board only releases a certain proportion - which, as we have shown, varies from year to year. Waller points out that in 1968 (when he conducted his study), only one third of those who were eligible, were granted parole. Of those who applied 47% were granted parole.

As the Parole Board generally tends to select the prisoners who are most likely to succeed in society, it is not reasonable to compare the recidivism rates of those ex-prisoners with those of the ex-prisoners who had been denied parole, or did not apply for parole.

In order to achieve greater validity in comparing penal measures, one has to, as Waller points out, use a strictly defined criterion for a controlled period of time. He uses

arrest as recorded in police files.

Waller argues that, whether a person was re-arrested or re-convicted was empirically the same for his sample. Furthermore, he points out the conclusions of some early prediction analyses carried out on both arrest and conviction appeared to be the same. He concludes, therefore, that, as a criterion, re-arrest is the same as re-conviction.

While the researcher agrees with Waller regarding the inadvisability of using re-conviction rates on their own as a criterion for comparing the correctional effectiveness of prison and parole respectively, nevertheless he feels that arrest is an arbitrary and inadequate criterion for measuring parole failure. From his experience as parole supervisor in Canada - for five years, from 1965 to 1969 - it would appear that, when an offence is committed in a particular area, the persons most likely to be suspected are those who have a criminal record, which includes parolees. Therefore, there is probably a greater likelihood of the average parolee being falsely arrested than the average citizen. Nevertheless, Waller's findings regarding re-arrest of parolees will be briefly considered below.

While 68% of the unconditionally discharged ex-prisoners were re-arrested at least once in connection with an indictable offence within two years of their release, only

44% of those on parole were re-arrested or had their paroles revoked during that period. 16% of the parolees and 41% of the 'non-parolees' were arrested for a second time within the two-year period. It appears therefore that the parolees had a 24% lower rate of re-arrest than those prisoners not released on parole.

Of those parolees who were re-arrested within two years, Waller found a considerably higher proportion to be single than for the total population of parolees. Similarly, the proportion of those married and living with their wives was about 10% less.⁴⁰⁾

Employment, Waller found, also had an important bearing on the rate of re-arrest. While the arrest rate for unemployed parolees within twelve months of release was 43%, that of employed parolees was only 29%.

Contrary to the popular notion that ex-prisoners (including parolees) who recidivate, do so within the first few weeks or months of their discharge from prison, Waller found that very few persons were re-arrested during their first few months in the community. However, between three and six months, the proportion of arrests rose drastically, peaking at four months - with 6%. From the seventh to the twenty-fourth month the rate of arrests remained constant at

40, Ibid., p. 106

about 3% per month.⁴¹)

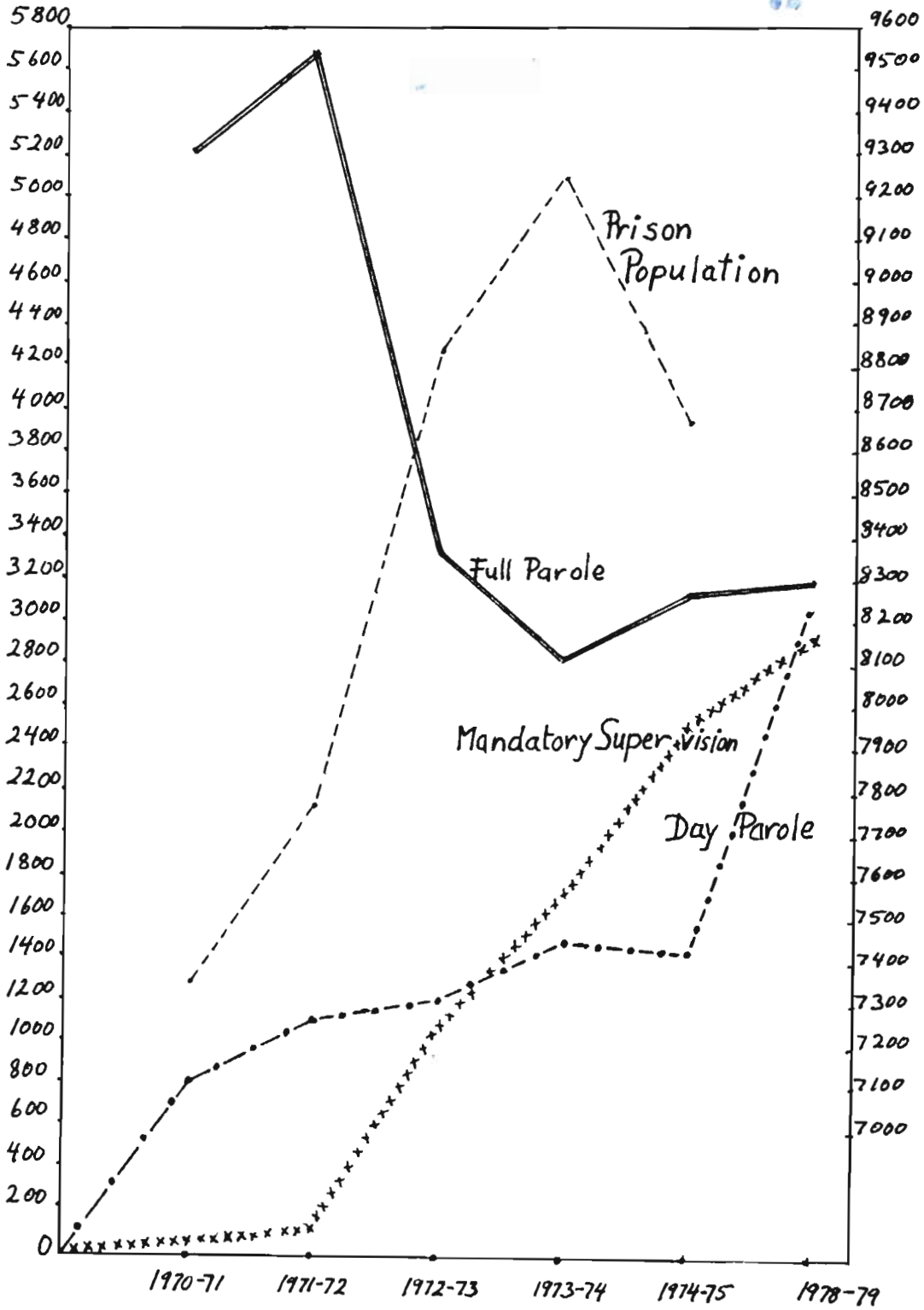
10. Recent parole statistics

Figure 1 reflects the trends of release on full parole, day parole, and mandatory supervision from 1970 to 1979. Contrasted with this is the fluctuation of the total population of all federal penitentiaries between 1970 and 1975. (Later statistics were not available to the researcher.)

41. See Waller, I., op. cit., figure 9:1 and discussion on pp. 149-151

Figure 1

Releases from prison on full parole, day parole and mandatory supervision
 Prison population (federal penitentiaries)



As long as one realises that they are not the only criteria of effectiveness, the Canadian parole statistics⁴²⁾ show an interesting pattern. During the first twelve years, from the inception of the National Parole Board in 1959, until 1971, there was a drastic increase in the release of inmates on parole. In 1959, 2 038 prisoners were released on parole-being 42% of all persons who applied for parole. By 1971 this figure had increased to 6 278 - being 66% of all parole applicants. It would appear therefore, that during the late sixties and early seventies, the Canadian Parole Board had adopted a relatively liberal policy in respect of releasing prisoners on parole. However, during the same period, there was a corresponding increase in parole violations and revocations. In 1959, 5,8% (118 persons) of those who had been granted parole, forfeited their parole. Ten years later (in 1969), the percentage of those who forfeited their parole had virtually doubled - being 10,80% (551 persons). Three years later in 1971-72, the percentage had risen to 26,3% (1 513 parolees).

The higher rate of parole violations resulted in considerable press criticism and public disapproval. The turning point came in 1972-73, when only 3 376 persons were released on parole - being 41% less than in the previous year. While

42. Hugessen, J.K., Report : Task Force on Release of Inmates Information Canada, Ottawa, 1973, and Annual Reports of the Solicitor General of Canada for the years 1971-72, 1972-73, 1973-74, 1974-75 and 78-79

during the previous year 63% of those who applied were released on parole, in 1972-73, only 45% of the applicants were released. In 1978-79 (the most recent statistical report available to the researcher), even less prisoners were released on parole, namely, 3 195 - being 43,7% of all applicants. From these figures it is clear that, as from 1972, there was a reversal in parole policy, in that the Board adopted a more conservative approach in the matter of releasing prisoners on parole. From 1971 to 1979, the number of revocations decreased from 1 345 persons (25,6% of those released on parole) to 510 (16% of parole releases.) It appears, therefore, that the more conservative policy in respect of parole releases paid dividends in terms of a considerably lower rate of forfeitures.

It is, however, not simply a matter of adopting a more conservative stance on the matter of parole. What really happened was that fundamental changes were brought about in the whole parole system. Generally speaking these changes amount to a different system of conditional release, rather than less early conditional release. In essence, it is a matter of releasing prisoners in stages. The first stage being temporary absence, which enables the prisoner to spend brief periods in the community, and to re-establish family and other social ties.

The next step is day parole, which allows greater freedom than the temporary absence programme, but is more restricted

than full parole. The final step is release on full parole.

Another important development in the field of conditional release of prisoners is the application of mandatory supervision which, together with the above-mentioned release procedures, was discussed in detail earlier on.

As can be seen from Figure 1, while there was a considerable reduction in the number of prisoners released on full parole between 1972 and 1979, the opposite was true for day parole and, particularly, for mandatory supervision. The former increased from 1 186 in 1971-72 to 3 014 in 1978-79 (i.e. by 154%), and the latter from 255 in 1971-72 to 2 919 in 1978-79 (by 1045%).

In 1971-72, the total number of persons released from prison on day parole, full parole and mandatory supervision together was 7 155. Then came a transitional period of two years during which there was a decline of the total numbers of prisoners thus released. In 1972-73 the number of prisoners released on full parole, day-parole and mandatory supervision was 1 494 (21% less than during the previous year) 1973-74 saw an increased of 401 persons (7%), and 1974-75 saw an increase of 1 067 (i.e. 17,6%). During the most recent year for which the researcher has statistics (i.e. 1978-79), the total number of prisoners released on full parole, day parole and mandatory supervision was 9 128. This is 27,6% more than the figure for 1971-72. Of those prisoners

released on full parole during 1978-79, 510 (16%) violated. 965 (33%) had their mandatory supervision revoked.

In addition, a large number of prisoners are allowed to spend brief periods of time in the community on temporary absence programmes. In 1978-79 the National Parole Board granted 7 756 unescorted temporary absences. Of these 116 (1,5%) failed to return at the appointed time. Furthermore, a large number of prisoners were granted escorted temporary absences.

From the above figures it is clear that the National Parole Board, instead of simply releasing a large number of prisoners on full parole, has adopted a more diversified approach, and has placed more emphasis on gradual release. Furthermore, the institution of mandatory supervision - which in essence, means that prisoners who are not released on parole, spend their "good time" (remission) under supervision of a parole officer - reflects the view that, for the protection of society, and in the interest of their own satisfactory adjustment in the community, all prisoners require supervision during the initial period after their release from prison. A prisoner may decline to be released on mandatory supervision, but in that event he has to serve his full sentence, without receiving any remission.

A comprehensive system of conditional release, as described in this chapter, requires considerable resources. The

National Parole Service, which provides the field service - i.e. pre-parole investigations and parole supervision - operated 58 parole offices across Canada in 1977-78, and had 818 staff in its employ during 1978.⁴³⁾ To operate so many offices and to maintain such a large staff establishment requires a large budget. However, it costs far more to incarcerate offenders, and to maintain them in prison. Waller points out that, in 1968, it cost ten times more to maintain an inmate in prison than to keep him on parole :

"Apart from vast capital expenditure in 1968, the Canadian Federal Penitentiary Service was spending on average more than \$5 000 a year on each of its approximate 7 000 inmates without any knowledge of their progress after release, beyond the fact that some were sentenced to penitentiary again and some were not. Within the same federal department, the National Parole Service was spending an average of \$500 to keep a man on parole."⁴⁴⁾

11. Summary

Canada was probably one of the first countries to promulgate parole legislation - in the form of the 1899 Act to Provide for the Conditional Liberation of Convicts. However, due to the vastness and sparse population of the country, it

43. National Task Force on the Administration of Justice : Justice Services in Canada, 1977-78

44. Waller, I., op. cit., p. XIV-XV

was difficult to implement an effective programme of parole supervision.

The important role that parole already played at an early stage in the history of the administration of criminal justice in Canada is reflected in the establishment in 1913 of a governmental agency - the Remission Branch of the Department of Justice - to deal with the conditional release of prisoners.

An important characteristic of parole in Canada is the role played by the private sector, in the form of the prisoners' aid agency. Although the state has assumed increasing control over the parole process, the voluntary agency still plays a vital role in the parole service, which is delivered in partnership between the federal government, provincial authorities and private initiative.

A milestone in the development of parole in Canada was the promulgation of the Parole Act in 1959, which provided for the establishment of the National Parole Board - which was effected during the same year.

The development of parole in Canada was characterised by considerable public opposition and criticism which, in turn, led to a decreased use of parole during the 1970's and, at the same time, to the development of a diversified approach to the conditional release of prisoners. This

included the development of temporary absence programmes, day parole, and mandatory supervision. These programmes are flexible and are geared to meet the diverse needs of various prisoners.

An interesting - if complicating - feature of the Canadian parole system is relative autonomy of the provinces in the matter of parole, and the fact that only a few provinces operate their own parole systems - while the others rely on the federal government to administer parole in their jurisdictions.

Another significant aspect is the multi-disciplinary composition of the National Parole Board, which is comprised of criminologists, psychologists, social workers, prison officials, former politicians, a journalist, and an ex-prisoner.

Equally significant is the fact that members of the community (other than members of the Parole Board) have a say in authorising the release on parole of potentially dangerous criminals - i.e. habitual criminals, dangerous sex offenders, persons serving indeterminate sentences, and prisoners serving life sentences for murder.

As far as parole success is concerned, Irvin Waller, in his study entitled Men Released from Prison, found that the official interpretation was too optimistic. He

concluded that the long-term success of parolees was poorer than it was generally thought to be.

Waller found that parolees experienced considerable problems in their transition from the prison to the community. These included feelings of alienation, depression, anxiety and rejection by the community generally. He also found a relatively high degree of alienation among parolees, as characterised by infrequent contacts with parents and siblings, and by a lack of close friendships.

Regarding employment, Waller found that it was the lack of skills among the majority of ex-prisoners, rather than stigmatisation that proved to be the greatest obstacle to the securing of employment by parolees.

Waller used re-arrest rather than conviction as criterion of parole failure. He found that considerably more unconditionally released prisoners than parolees were re-arrested, and that employed parolees were much less likely to be arrested than unemployed parolees. Furthermore, single parolees had a higher incidence of arrest than married parolees.

From these findings it appears that marriage and employment tend to have a positive influence on the adjustment of parolees in the community.

12. The relevance of the Canadian parole system for South Africa

12.1 Parole legislation

The first lesson to be learnt from the Canadian experience with parole is that in order to establish and operate a comprehensive and effective parole system, it is necessary to devote legislation specifically to the matter of parole, that is, to frame a parole act and regulations. It is not sufficient to devote a few sections of a prisons act to the matter of parole.

There is a need for parole legislation and parole regulations to govern all aspects of parole, including the nature and powers of parole releasing authorities - i.e. parole board(s), parole policies, the procedure regarding parole release, parole conditions, the nature of supervision and surveillance, and revocation of parole.

12.2 A diversified system of conditional release

Possibly the most valuable contribution of the Canadian system of conditional release is the diversity of its release procedures, adapted to a variety of prisoners' needs, and aimed at facilitating the transition of prisoners to the community over a wide front.

The negative effects of isolating offenders in prison on their ability to achieve a satisfactory adjustment in the community are well known and need no further elaboration other than what has been said in Chapter V . The Canadian system of diversified conditional release procedures should therefore, be welcomed as a means to mitigate these negative effects.

It is felt that the various temporary absence programmes - medical, humanitarian, rehabilitative, and administrative - could be fruitfully applied in South Africa. This would decrease the destructive effects on both the prisoner and his family by the almost absolute isolation of the prisoner from the community. It would also enhance the prisoner's chances of achieving a satisfactory adjustment in the community.

While day parole is used to a limited extent in South Africa, it is felt that it could be greatly extended, particularly as a means to prepare prisoners for release on full parole. The only indication of the application of day parole that the researcher could find in the most recent available report of the Commissioner of Prisons (for the period 1 July 1978 to 30 June 1979 par. 7.2.4 R.P. 36/1980) was that on 25 April 1979 the first certified White psychopath was released on day parole. The table (table 17 on page 27) which presents an analysis of parole releases, gives no indication of any releases on

day parole.

The flexibility in meeting a variety of needs of prisoners - for specialised training, seeking employment, special treatment, reestablishing family ties, etc. which is afforded by day parole, makes it a valuable penological measure.

12.3 Parole and its administration

In comparison with the South African provisions for the release of prisoners on parole, the Canadian provisions appear to be considerably more complicated. This is especially true for the provisions governing the term of imprisonment an inmate must serve before full parole may be granted - as laid down by sections 5 to 8 of the Canadian Parole Regulations. (See section 7.3 of this Chapter.) What complicates the situation in particular is that different provisions apply to prisoners who were sentenced at different times. That is, before and after new provisions came into force. This is an approach which South Africa would do well not to emulate. The same applies to the situation regarding the various provinces, and to the relationship between the federal government and the provinces in the matter of parole administration.

As the Canadian provinces have a greater extent of autonomy than the South African provinces in a number of areas,

including the administration of criminal justice, a complex and, to the outsider, a somewhat confusing situation has developed regarding the administration of parole. While some provinces - Ontario, British Columbia and Quebec - have their own provincial parole systems, others depend on the federal government for the administration of parole. Furthermore, those provinces who operate their own parole services, only deal with provincial prisoners, and generally not with prisoners in federal institutions within the province. (See sections 4 and 5 of this chapter for a discussion of the jurisdiction of the provinces and the federal government in the matter of parole.)

It is important for administrative efficiency that South Africa maintains a uniform and uncomplicated parole system. Nevertheless, it could benefit from considering some of the aspects of the Canadian parole system. This is particularly true to the structure and function of the National Parole Board, which is independent of the prison service. The researcher regards it as desirable that the decision to release prisoners conditionally should not rest with the prison authorities but with an autonomous body, that is, a body separate from the prison service.

The most important lesson, in the researcher's view, that can be learnt from the Canadian parole administration is the involvement of a variety of citizens on a regional basis

in the decision-making process. This is achieved by means of Regional Community Boards, which comprise representatives from community associations, trade unions, professional organisations, local government, and the police force. These boards do not merely advise the Minister, as is the case with the recently established Advisory Release Board in South Africa, but actually make decisions regarding the release on parole of prisoners who may pose a threat to the community.

As the community has to receive prisoners released on parole, it is important that citizens from that community have a direct say in the release on parole of potentially dangerous prisoners.

Citizens other than members of the civil service, are also involved in the highest level of decision-making by being eligible for appointment to the National Parole Board, whose members include criminologists, psychologists, social workers, a journalist, former police and prison officials, and an ex-offender. The researcher feels that it would be in the interest of an effective and popularly accepted parole system, for South Africa to consider adopting a similar approach to the Canadian one in respect of the administration of parole.

12.4 Mandatory supervision

In view of what has been said in section 1 of chapter V regarding the effect of imprisonment on prisoners generally, there is little doubt that most, if not all, prisoners to a greater or lesser degree require some kind of assistance with adjusting in the community after their release from prison. At the same time, the community requires a degree of surveillance for its own protection in respect of offenders released from prison. In Canada these needs have been met by the establishment of a system of mandatory supervision. (See section 7.4 of this chapter.) The present situation in South Africa, is that prisoners with a poor prognosis for socially acceptable behaviour in the community after release are generally not released on parole. It is those person who often require supervision most in order to achieve a satisfactory adjustment, and where the community requires the protection afforded by surveillance under parole. Therefore, it may be advantageous for South Africa to consider the Canadian experience in this regard, and to develop a system of mandatory release which would meet the needs of this racially heterogeneous society.

In general the Canadian parole system is a sophisticated one, which has been continually refined during the past few decades. Although the somewhat complicated relations between the various provinces and the federal government render the application of parole somewhat cumbersome, the

system contains a great deal that is worthy of emulation.

CHAPTER VIII

MAIN FINDINGS AND RECOMMENDATIONS1. Main findings

From a study of the origin of parole, it appears that it grew out of a number of different sources, and that it is not clear exactly what role each of the sources played in the evolution of the modern penological concept of parole. However, it would appear that the two sources which played the leading role in the development of parole as it is known today were the ticket-of-leave system, introduced into the Norfolk penal colony by Maconochie, and the 'progressive stage' release on license developed by the Irish prison administrator, Sir Walter Crofton.

The English-speaking world, particularly Ireland, England, the United States and, more recently Canada, took the lead in establishing comprehensive parole systems. The parole systems of most other countries, particularly the European countries, developed under the influence of the parole practices in the English-speaking world.

Just as parole does not have a clearly identifiable beginning or a systematic development, there is also no universal agreement as to its exact nature and objectives. As a result, it is difficult to provide a single, comprehensive and generally acceptable definition of parole. Nevertheless, most penologists

would agree that, in broad terms, parole is an early release of selected inmates from a penal institution, subject to specified conditions and under the supervision and control of a specific organisation or person.

Basically, the objectives of parole are two-fold, namely, the rehabilitation of the individual prisoner and the protection of the community.

As far as parole in South Africa is concerned, it made a rather late appearance on the penological scene. Statutory provision was made in the Cape Colony for the conditional release of first offenders in 1906, and the Prisons and Reformatories Act of 1911 made provision for the establishment of a Prison Board of Visitors; in essence a forerunner of the present Release Board, which made recommendations regarding the conditional release of prisoners on 'probation' (which, in practice, was really parole). Under the 1911 Act, provision was also made for the appointment of probation officers, and for supervision of conditionally released prisoners. However, it was only about forty years after the promulgation of this Act that parole started coming into its own.

Although the Prisons and Reformatories Act contained some far-seeing and enlightened provisions regarding conditional release of prisoners, they were not really implemented. This was mainly as a result of the disrupting effects of the two world wars and of the depression.

It was only in the early 1950's that fundamental changes took place in the South African penal policy. These included the establishment of a Central Prison Board and the development of a proper parole system. The new developments were due mainly to the findings of the Penal and Prison Reform Commission, which reported in 1947. Furthermore, the exposure of senior South African prison officials to international penological thinking, and the establishment of a degree course in criminology at the University of Pretoria also played an important role in bringing about these changes in penal policy.

The new direction in penological thinking was formalised in the Prisons Act, No. 8 of 1959, which heralded a new approach in penal treatment, and increased emphasis on the rehabilitation of prisoners. Prison Boards superseded the Boards of Control under Act 13 of 1911. These Boards were responsible for the treatment of prisoners, and made recommendations as to the release of prisoners on parole, which became more structured. However, proper parole supervision - as exercised mainly by NICRO - operated virtually exclusively in respect of White long-term prisoners. To date, parole supervision in respect of non-White parolees, particularly Black parolees, leaves much to be desired.

With the view of streamlining the penological procedure in respect of both, treatment and release of prisoners, it was decided in 1980 to separate these two functions - previously

both the responsibility of the prison boards - and to vest the responsibility for treatment in the recently established institutional committees, and the responsibility for the release of prisoners in the newly created release boards.

Another body was recently (in March 1982) added to the two, responsible for the treatment and release of prisoners respectively. This is the Advisory Release Board which was established in order to advise the Minister of Prisons, if he so requires, as to policy in connection with the release of prisoners, remission of sentence, and recommendations of the release board in particular cases. The main reason for the establishment of this additional board was to give the judiciary and other institutions a say - in an advisory capacity - in the release policy in respect of prisoners.

Although the advisory release board was established in pursuance of the recommendation by the Commission of Inquiry into the Penal System of the Republic of South Africa, namely that a national parole board consisting, inter alia, of a judge, a chief magistrate and a criminologist should be established, it would appear that the function of the advisory release board does not really concord with the function the Commission of Inquiry had in mind. While the Commission of Inquiry had a board in mind which would actually consider the release of prisoners on parole, the advisory release board serves in a purely advisory capacity to the Minister, who decides whether or not he requires its advice. However, what

the Commission appears to have had in mind is that the judiciary and the discipline of criminology should be involved in the work that is currently performed by the release board.

At present selection for parole is performed entirely from within the Department of Prison. That is, by the release board, whose members are employees of the Department.

Basically only prisoners who do not present a serious threat to the security of the state, and those who do not present a direct threat to the life, body, possessions, security and honour of citizens in the open community are considered for release on parole. Certain categories of prisoners are specifically excluded from consideration for release on parole, namely illegal immigrants, foreign migratory labourers who have absconded from the mines, and dealers in illegal habit forming and dangerous substances.

A number of criteria operate in the selection of prisoners for parole. Basically these aim at identifying prisoners who present the least risk of recidivating, and releasing them on parole.

Ironically this selection procedure tends to eliminate those from parole release who, by virtue of their emotional, psychological and social problems require aftercare and supervision most. At the same time society does not receive the protection of the surveillance afforded by parole, which it would require to a greater extent in respect of these

prisoners than in respect of those with a better prognosis for achieving a satisfactory social adjustment.

While the treatment of prisoners and their release - conditional as well as unconditional - is the responsibility of the Department of Prisons, the supervision of prisoners who have been released on parole is usually performed by a private welfare organisation, such as NICRO, which supervises the bulk of parolees that are placed under the care of a private agency. Nevertheless, even though a parolee may be under the supervision of a private welfare organisation, he remains the responsibility of the Department of Prisons until his parole has expired. Thus, the supervisory agency has to submit regular progress reports on the parolee's adjustment to the Department of Prisons.

The investigation in respect of the selection, preparation and release of parolees revealed that the partnership between the Department of Prisons and NICRO - the only specialised private prison aftercare agency in the Republic - does not operate entirely satisfactorily. When the theory of this partnership, as expressed in the agreement of co-operation between the Department of Prisons, the Department of Health and Welfare, and NICRO, is compared with the practical application of parole, then it becomes apparent that there is a discrepancy between the theory and the practice.

The survey on the role of the prisoners' aid agency in the

preparation of prisoners for release on parole found that, in general, there is inadequate liaison between the Department of Prisons and NICRO. Social Workers of the Institute were involved in the pre-release preparation of only a small number (15,3%) of prospective parolees, and only 11,6% of such prisoners were actually interviewed in prison by NICRO prior to their release on parole. In fact, the paucity of liaison between the Department of Prisons and NICRO in respect of preparation and release of prisoners on parole, has been mentioned by NICRO social workers as a major reason for the inadequacy of parole supervision generally. In many cases NICRO is expected to assume parole supervision without adequate - or without any information on the parolee. Yet, in the agreement of co-operation mentioned above, it was stated that, where cases have been referred to NICRO for aftercare services, pre-release preparation will, as far as possible, be undertaken in consultation with the NICRO social worker.

It can be expected that this lack of adequate involvement of NICRO in the pre-release preparation in respect of prisoners to be released under its parole supervision, together with the fact that in many cases (41,1%) of parolees under NICRO's supervision the agency was not informed of parole conditions, will have a negative effect on the rendering of effective parole supervision generally.

As to parole supervision, the survey on the nature and extent

of supervision carried out in respect of the prisoners' aid agency revealed that, in terms of contacts and communication between the supervisor and the parolee, supervision was rather superficial. It emerged for instance that, in 20% of the parole cases, no interviews were conducted during the first month of parole, and in 38% of the cases, only one interview was conducted during that period. One third of the parolees were not interviewed at all during the following three months, and 22% were interviewed once. Similarly, other contacts with and on behalf of parolees, in the form of home visits, telephone calls and letters were also infrequent. Thus half of the parolees received no home visits at all, 21% received only one visit, and only 11% received visits to the place of employment. However, as visits to the parolee's work may jeopardise his employment, a lack of such visits may reflect considerations other than inadequate parole supervision. The number of telephone calls (in only 40% of the cases calls were made to or received from the parolees) and letters (51% of the cases no letters were written to or received from parolees), also reflect a low incidence of communication between the supervisor and the parolee. Communication on behalf of the parolee between the supervisor and other persons such as members of his family was also very limited.

From explanations given by NICRO social workers, as well as from the findings of the survey of NICRO's involvement in the pre-release preparation of prospective parolees, it would appear that there are some important factors beyond NICRO's

control which contribute to the state of inadequate parole supervision, as carried out by NICRO. These factors include inadequate preparation of prisoners for release on parole, especially as far as non-White prisoners are concerned.

This is particularly true in respect of preparing prisoners to accept supervision by NICRO, and to abide by their conditions of parole. It would appear that parolees, particularly Black parolees, are often uninformed as to the nature and purpose of parole supervision, and as to the function of the aftercare agency in the parole process. Parolees are often unmotivated to co-operate with the supervising agency, of which many have a false conception and unrealistic expectations. As a result, many parolees merely maintain contact with NICRO until their material needs have been met, and then break contact. These misconceptions and unrealistic expectations can probably be related, to a large extent, to inadequate preparation for release on parole.

Other important reasons for the generally inadequate state of parole supervision, particularly as far as Black parolees are concerned, are that the latter can often not be located in the sprawling Black townships. Furthermore, Black parolees and, to a lesser extent parolees of the other groups, tend to be highly mobile - many being unattached. (The survey found 53% of the sample of parolees to be single and 10% to be divorced.)

In spite of the researcher's finding that certain factors beyond the control of NICRO probably play a role in the inadequate supervision of parolees, he assumes that, to some extent, this state of affairs is due to shortcomings related to the work of the organisation itself. From the findings of the surveys conducted in respect of this study, it is, however, not possible to pinpoint the exact causes of the inadequate state of parole supervision generally.

As can be expected from a parole system which has serious shortcomings, the major indicators of parole success reflected a relatively poor rate of success. The survey found, for instance, that only 28% of the parolees were employed for the entire period of the study - i.e. for six months. Of those who worked, only one third did not change their employment during the six months in question. Only 37% of the parolees were known to be employed at the end of the survey. A further indicator of relatively poor parole success lies in the nature of parolee's accommodational stability. Less than half of the parolees in the sample lived at the same address for the duration of the survey (six months).

An indicator of inadequate parole supervision - whether the reason lies within or outside the control of NICRO - is the fact that, in about one-third of the parole cases, their employment situation was unknown.

The fact that in the case of many parolees it was not known whether or not they were employed, nor what the relationship of parolees with employers and fellow-employees was, also reflects poorly on the quality of parole supervision. This is underlined by the fact that in 22% of the parole cases, supervisors were unable to make a prognosis as to future adjustment.

It was found that only 20% of the parolees received adequate emotional support from the family, and that, in 42% of the cases such support was assessed as being reasonable. It appears, therefore, that in many cases parolees receive inadequate emotional support from their families, which does not augur well for their general adjustment in the community.

Another indicator of a generally inadequate social integration of parolees into community life was their marginal involvement in cultural, recreational and religious activities. For instance, only 6% of the parolees participated in cultural and recreational activities on a regular basis, and 11% on an occasional basis. In addition, parole supervisors made a negative prognosis in 30% of the cases in respect of potential for successful adjustment. In 24% of the cases the prognosis was good, and in only 6% it was excellent.

A more positive picture emerged from the follow-up study conducted eighteen months after completion of the survey. It emerged from the study that 52,7% had completed their parole,

10,8% were still on parole, and 36,5% had violated their parole. However, as the findings in respect of the parolee's poor integration into community activities indicates, merely not violating parole conditions is not an adequate reflection of parole success. Furthermore, the fact that parole supervisors had no knowledge in respect of many aspects of the parolees' adjustment might mean that many more incidents of parole violations than came to the attention of the supervisors may have occurred. In order to determine parole success in a reliable way, the quality of a parolee's adjustment in the community has to be considered - not merely non-violation of conditions, or non-imprisonment.

From the findings regarding parolees' lack of marital unions (63% being single or divorced), limited participation in cultural, recreational and religious activities, as well as lack of emotional support provided by members of the family, one would have to assume that, generally speaking, the rate of parole success was low.

The negative picture in respect of adequacy of parole preparation, the quality of parole supervision, and parole success concords with the attitudes and opinions held by persons who are involved in the criminal justice system generally, and in the administration of parole specifically. From the attitude survey among judicial officers, prison personnel and NICRO social workers, it emerged that these persons generally did not have much confidence in the parole system

as it operated at the time of the survey.

Although the large majority of all respondents (83%) saw parole in its accepted penological sense, namely as an early but conditional release involving supervision in the community, a fairly large number of respondents viewed it differently. It is significant that many persons - just over one-third of the judges and prison board members, and 27% of the magistrates - saw parole as an expression of leniency.

What emerged most clearly from the survey is that magistrates in particular are generally discontented with the parole system. More than half of the magistrates regarded parole as being an interference with the judicial decision.

The large measure in which magistrates hold negative attitudes towards parole, is reflected by the fact that more than half of the magistrates (51%) saw parole as an interference with the judicial decision, that nearly half (48%) saw the purpose of parole as being to reduce the prison population, and that 53% felt that there is a need for major changes to the parole system.

The fact that magistrates, in particular, feel strongly about the parole system, is reflected by the large number of comments they made in addition to completing the parole attitude questionnaire. From their comments it is clear that magistrates generally do not only have little confidence

in the parole system, but many regard it as having dysfunctional consequences for the administration of justice generally.

Many respondents felt that prisoners are not being adequately prepared for release on parole; that prisoners are often too readily released on parole; that certain categories of prisoners such as violent offenders, recidivists, and sexual offenders should not be released on parole; and that parole release, particularly in respect of short-term prisoners, is often used merely to reduce the prison population. But the issue which elicited most response from all the categories of respondents was that of inadequate or totally lacking supervision, which was regarded as the major weakness of the parole system.

An aspect of the South African parole practice which elicited considerable criticism from the judiciary over the years, is the large-scale release of short-term prisoners on 'parole' within a short time of their admission to prison - usually within twenty-four hours. Several judges have publicly attacked this practice, numerous magistrates have criticised it in their comments submitted with the parole attitude questionnaire, and the Commission of Inquiry into the Penal System of the Republic of South Africa has also expressed strong opposition to the virtually immediate release of large numbers of short-term prisoners.

As this type of release does not involve any of the important elements of parole - that is, proper selection, adequate pre-release preparation, and effective supervision, it cannot be regarded as parole, in the penological sense of the word. It is regarded as a means of reducing the prison population and reducing overcrowding. Therefore, while this practice is unacceptable, as it makes a mockery of the administration of criminal justice, it represents a somewhat desperate attempt to neutralise the practice of particularly lower courts of flooding the prison system with masses of short-term offenders. The answer to this problem does not lie in building more prisons, or in releasing short-term prisoners virtually immediately upon admission, but in sending far less minor and technical offenders to prison.

It was felt by many judicial officers, particularly by magistrates, that members of the judiciary should be directly involved in the decision to release prisoners on parole, and the judicial officers who sentence an offender should be consulted when the release on parole of that offender is being considered.

South Africa is not the only country in which the parole system has been subject to considerable criticism. A study of parole in Canada reveals that, over the years, the Canadian parole system has frequently been criticised. As a result parole in that country has undergone considerable

change, particularly during the past decade or so. In view of the fact that Canada has one of the most sophisticated parole systems in the Western World, it was decided to analyse the system, with the view of determining whether aspects of that system could be profitably applied in South Africa.

The first significant aspect of the Canadian parole system is that it is governed by its own specific legislation, the Parole Act of 1959, as amended. But the three most important implications for the South African parole system, in the researcher's view, are firstly, the diversified system of conditional release procedures which has been developed in Canada; secondly, the involvement of non-prison employees, particularly private citizens, in the administration of the parole system; and thirdly, the implementation of a programme of mandatory release.

With its various temporary absence programmes - rehabilitative, humanitarian, medical and administrative - the Canadian system can meet the diversity of needs of prisoners in achieving a satisfactory transition from prison to the community. These programmes are extensively used, not just in isolated cases. Day parole, as a form of limited parole designed to assist prisoners to prepare for full parole or mandatory supervision, is also used extensively, with more than 8 200 prisoners having been thus released in 1978-79. Day parole is usually granted for a specific purpose or pro=

gramme, and is granted for a limited period of time - usually for about four months.

As virtually all prisoners require some assistance upon release, and as the community requires the protection afforded by supervision, the mandatory release under supervision of all prisoners who are not released on regular parole, is a measure worthy of emulation.

Finally, a consideration of the extent of parole in South Africa reveals that, during the statistical year ending 30 June 1979, 123 196 persons were released on parole. This is about 45% of the prison population (sentenced prisoners.) Compared to prison admissions during the above year, a considerably higher proportion of long-term prisoners (80%) than short-term prisoners (42%) were released on parole. It appeared that a higher percentage of Blacks and Coloureds are released on short-term parole than Whites and Asians. Blacks are by far most heavily represented in the category of those released virtually immediately after their admission to prison.

With Whites the opposite is true. While they are least heavily represented in the category of short-term parole releases, they are most heavily represented in the long-term category.

Of the short-term parolees released, 18 873, or just over 17% violated parole conditions, and 3 985 or 3,7% were re-

imprisoned. By contrast, 1 862 (11%) long-term parolees violated parole conditions, and 1 757 (10%) were re-imprisoned. From these figures it appears, firstly, that relatively few parolees violate parole conditions, and that even fewer are re-imprisoned; and, secondly, that violations by long-term parolees are regarded in a more serious light. While there is a considerable discrepancy between the rate of re-imprisonment, (with the latter being much lower) in respect of short-term parolees, there is hardly any discrepancy in respect of long-term parolees. In other words, nearly as many long-term parolees are re-imprisoned as those who violate parole conditions.

2. Recommendations

2.1 Introduction

From the findings of this study it is apparent that the South African parole system has many shortcomings, and that there is a need for a number of fundamental changes in order to render parole in this country more effective. The researcher does not pretend to have all the solutions to the problems that beset our parole system. However, a number of recommendations that are likely to improve the parole system will be made.

Due to the fact that the researcher was unable to obtain full details regarding the role of the Department of Prisons in the operation of the parole system, it may happen that

certain recommendations, or aspects thereof, are already applied, or partially applied, or occasionally applied by the Department.

2.2 Promulgation of a parole act and parole regulations

There is a need for independent parole legislation to govern all aspects of parole, including the nature, functions, composition and powers of the parole board; the procedures governing the operation of the parole board; the various conditional release procedures; the nature of supervision and surveillance; and all matters related to the suspension and revocation of parole.

2.3 Establishment of a National Parole Board

Instead of having two boards, a release board and an advisory release board, a single national parole board should be established. The membership of this board should be representative of the judiciary; the South African Police; the Department of Prisons; NICRO, as the only specialised private aftercare agency; the discipline of Criminology; and commerce and industry, as employers of parolees. The researcher would recommend the following composition of the National Parole Board, being similar to the composition of the board envisaged by the Commission of Inquiry into the Penal System of the Republic of South Africa, and to the actual composition of the Advisory Release Board : a judge of the Supreme Court as Chairman; a regional magistrate as vice-chairman; a senior police officer; a senior member

of the treatment staff of the Department of Prisons; a senior member of the custodial staff of the Department of Prisons; a senior professional staff member of NICRO; a criminologist; and a senior representative from commerce and industry.

It is envisaged that the National Parole Board would be an independent body, falling under the control of the Minister of Justice. The Board would be located in Pretoria and would have regional offices at each of the major urban areas. The regional offices would be staffed by professional parole officers, who would interview prisoners who apply for parole, and gather social background data on such prisoners - which would be done with the assistance of and in co-operation with such private welfare organisations as NICRO. Information thus gathered will be placed before the National Parole Board, which will decide on the release or otherwise of the parole applicant. The Board will also draw up the conditions under which a prisoner is to be released prior to expiration of his sentence.

It is further envisaged that the National Parole Board will be responsible only for the conditional release of long-term prisoners - that is those serving sentences of two years or longer. The Department of Prisons would be responsible for all types of conditional release in respect of short-term prisoners - that is, prisoners serving sentences of up to, but excluding two years, including temporary absence programmes,

day parole and full parole.

2.4 Selection of prisoners for conditional release

All categories of prisoners should be eligible for release on parole and for other types of conditional release.

The criterion of selection for conditional release should not be the crime in respect of which the prisoner has been convicted and imprisoned, but rather the offender as a person. In other words, release on parole and on temporary absence programmes should be individualised - each case being treated on its own merits. While a violent prisoner could be refused parole because a thorough investigation has revealed that he poses a serious threat to the community, he would not be automatically disqualified from consideration for release on parole because of the nature of the crime in respect of which he was imprisoned.

As, in practice, parole actually means that part of the offender's sentence is served elsewhere (in the community) to the place determined by the court (prison), the researcher feels that the judicial officer who passed sentence should be consulted regarding the intended release on parole of the prisoner concerned. This, together with involving judicial officers in parole decision-making, by way of their membership on the parole board, would go a long way in dispelling the mistrust-in some cases even antipathy - that many judicial officers feel for the parole system, as it currently operates.

When selecting prisoners for release on parole, it should be kept in mind that, if they are not released conditionally, ultimately the vast majority of prisoners will be released unconditionally - without the surveillance, control and assistance provided under a plan of parole supervision.

2.5 Preparation of prisoners for release on parole

All prisoners of all population groups who are to be released on parole, both long-term and short-term, as well as those to be released conditionally under other programmes, should be thoroughly prepared for their release. Adequate pre-release preparation minimises the risk of failure after release.

It is imperative for the smooth transition from the prison to the community that the agency or person who will be responsible for parole supervision is meaningfully involved in the pre-release preparation of the prisoner. While this principle is embodied in the agreement of co-operation between the Department of Prisons, the Department of Health and Welfare, and NICRO, it is rarely properly applied in practice.

The supervising agency must be drawn into the pre-release programme early enough for it to be able to establish rapport with the prisoner, and to prepare the family and significant others in the community for his return. This, as well as securing employment and accommodation, usually requires at least two or three months, depending on the nature of the case.

In preparing prisoners for release on parole, care must be taken that he knows exactly what parole entails - what his obligations are, the extent of surveillance and supervision, the nature of assistance he can expect, and the role of the supervising agency.

2.6 Release of prisoners on parole

When the state deprives a citizen of his freedom for a period of time, of sufficient length in order to disrupt his life, and to interfere with his means of subsistence - even though legitimately and rightly - it has the duty, that is, if it wishes him to lead a life which is in harmony with its norms - to enable him to lead such a life.

This basically means that he should have adequate clothing, the means to obtain accommodation and food, and to meet his immediate basic material needs upon release from prison.

Upon release from prison, no prisoner should bear handicaps which seriously inhibit his chances of achieving a satisfactory adjustment.

This is, however, what happens in the case of many Black prisoners who are released without the necessary documents to enable them to reside in the area to which they are released and to secure employment there. In many cases, after going through the often frustrating procedure of securing the necessary documents after release, they are

endorsed out of the area, which probably leads to considerable bitterness.

It is, therefore, recommended that all prisoners, particularly Black prisoners, should be supplied with all the documents necessary to live and work in the area to which they are released - this would include, inter alia, discharge documents, a declaration of exemption from income tax, certificates obtained during imprisonment, identity documents, and any documents necessary to reside and work in a particular area.

2.7 Supervision of parolees

All prisoners released on parole should be released under the supervision of an agency or person competent to fulfil the requirements of proper parole supervision, namely, adequate surveillance of the parolee's activities, and guidance and assistance to the parolee and his family.

Parole supervision should involve sufficiently regular contacts and communication between the parole supervisor and the parolee, as well as between the supervisor and persons close to the parolee, such as his wife, and/or his parents. While the intensity of supervision must be adapted to the needs and circumstances of each case, generally a parolee should be seen once a week during the first month or two of his parole. After that, depending on the nature of the parolee's adjustment, contacts can be gradually decreased

to once a month. It is hardly possible to carry out proper supervision with less frequent contacts. It is also important that parole supervisors conduct occasional home visits in respect of parolees - the frequency of such visits depending on their practicability and the needs of each case.

It is important that more parole supervision is carried out in the physical and social milieu of the parolee, rather than in the clinical setting of the supervisor's office.

In the interest of a more effective parole system, it is essential that the quality of supervision rendered by the aftercare agency be improved. This includes adequate supervision by senior professional staff of the work of parole supervisors. Furthermore, it is recommended that serious attempts be made to improve the quality of parole supervision in respect of non-White - particularly Black parolees. This would presuppose improving pre-release preparation in respect of non-White prospective parolees.

2.8 Parole conditions

Parole conditions should be individualised in respect of all parolees. They should be realistic, enforcable and humane. A few general conditions, such as an injunction to refrain from breaking the law, are really of little value in terms of surveillance and supervision. Parole conditions should also lay down the parolee's obligations to the supervising agency, which should be specifically named.

The prospective parole supervising agency or person should be consulted in framing parole conditions in respect of

parolees which are to be under its/his supervision. This is recommended as, if there is a proper programme of pre-release preparation, involving the parole supervisor, the latter will be aware of the parolee's circumstances in the community, and of his specific problems. Furthermore, the parole supervisor should be present when the conditions of his release are explained to the prospective parolee. Provision was made for this in the agreement of co-operation between the Department of Prisons, the Department of Health and Welfare, and NICRO, but it would appear that in practice it never occurs.

2.9 Suspension and revocation of parole

For a parole system to operate efficiently, it has to be sustained by effective sanctions. If discipline in respect of violation of parole conditions is lax, then parole becomes ineffective as a penological measure. It is, therefore, imperative that serious violations of parole conditions are promptly visited by sanctions. Otherwise it will soon become known among prisoners that parole is 'toothless', and they will lose respect for the parole system. This will make the task of the supervisor a difficult one.

When the parole supervisor reports a violation to the parole authorities, it is important that they act swiftly in investigating the matter and in taking action. If the supervisor regards the violation as serious, it is advisable that parole is suspended immediately, and that an investigation is carried out swiftly, as undue delay may jeopardise the parolee's employment and his social adjustment generally. Where there is a

clear deterioration in a parolee's behaviour, it would be advisable to suspend parole for a period of time, as a form of 'shock therapy.'

If it appears, however, that the parolee poses a threat to the community, or that he is unwilling to co-operate in the programme of parole supervision, his parole should be revoked and he should be returned to prison. It should be pointed out, however, that sanctions can only be effective if the whole parole system is operating properly. It is also imperative that there should be proper checks and balances, in order to avoid the abuse of power by parole supervisors. These would include adequate supervision by senior professional staff members of the work of parole supervisors, and, in turn, adequate checks by paroling authorities on the work of the supervising agency.

2.10 Adequate professional staff

In order to implement an effective parole system, there is a need for sufficient and well trained staff. It is imperative, therefore, that the Treasury makes provision for the appointment of adequate professional staff of all population groups - mainly social workers - at all prisons from which prisoners are released on parole.

It is equally imperative that private aftercare agencies, particularly NICRO, be enabled to appoint sufficient numbers of social workers at the various centres where they render parole service.

It is also recommended that, in centres where there is a need for parole services, but where there is no prison aftercare agency, NICRO, as the only specialised private prison aftercare agency, be financially assisted by the relevant state department to make provision for such services.

Apart from ensuring that there are adequate numbers of professionally trained staff to perform the various aspects of parole effectively, it is imperative that meaningful efforts be made to induce more male social workers, to enter the field of corrections, that is, prison social work and social work in prison aftercare. In terms of the general type of clients that it deals with, correctional social work is without doubt one of the most difficult and demanding fields of social work. Generally speaking, its clients have a higher incidence of aggressiveness, manipulateness, character disorders, and social, emotional and psychological problems than clients in other fields of social work.

The researcher feels that it requires a social worker with considerable maturity and life experience to deal with such clients.

As the vast majority of social workers in the field of corrections are young females, there is a high degree of staff turn-over in the field. Most young female social workers leave their employment once they have married and started a family. Male social workers, if the conditions of service were sufficiently attractive, could be expected to remain in the field of corrections for a longer period than their female counterparts. Furthermore, it is submitted that, generally

speaking, a male social worker would be better able to deal with the average offender - both inside and outside prison - than the female social worker, particularly when she lacks maturity and life experience.

It is imperative, for the sake of improving parole in respect of non-White prisoners, that special efforts be made to attract more non-Whites, particularly Blacks, into the field of correctional social work. In this regard parity of salaries and conditions of employment in respect of all population groups is essential.

If the Treasury is unwilling to provide the funds necessary for the establishment of an adequately staffed and effective parole system, then there is no point having a parole system, as it will only be what many persons, particularly judicial officers, have described as 'a farce.'

It must be kept in mind that the cost of imprisonment - in material as well as social and psychological terms - is infinitely greater than that attached to parole.

Finally, in view of the fact that large numbers of prisoners are released on parole, it is doubtful that there will ever be adequate professionally trained manpower to operate the parole system effectively. It is, therefore, recommended that a system of volunteer assistants be established, under which large numbers of

suitably selected and trained volunteers of all population groups would function - under the guidance and supervision of professional parole officers.

2.11 Liaison between all those involved in the parole system

The Commission of Inquiry into the Penal System of the Republic of South Africa has stressed the necessity for liaison between the prison authorities, the judiciary and the police. As this recommendation does not appear to have been implemented to any noticeable degree, it is recommended that the matter receives serious attention. The parole system cannot operate effectively if the prison authorities, the judiciary, the police, and private initiative concerned with parole supervision do not liaise closely and regularly.

Apart from involving representatives from all these bodies in parole decision-making (in the proposed National Parole Board), there should be liaison in the form of mutual consultation, exchange of information regarding parole, and holding regular conferences at which thoughts are shared regarding parole policy and practice.

It is recommended that, as a first step in the process of liaison, the prison authorities draw up an information booklet in which the nature, purpose and application of parole are fully explained. Copies of the booklet should be distributed to all judges, magistrates, prison personnel,

police stations, and to interested members of the public.

Furthermore, the proposed Parole Board and the Department of Prisons should issue regular (annual) and comprehensive reports on the operation of the parole system, and on the extent and success of parole and other conditional release procedures.

In the absence of adequate liaison and information in respect of parole, the judiciary, the police and members of the public will continue to harbour misgivings and suspicions regarding the parole system.

2.12 The immediate release of short-term prisoners should not be called 'parole'

Although it is conceded that the release of large numbers of minor offenders within twenty-four hours of admission is, in part, a measure to alleviate large-scale overcrowding of prisons, it detracts from parole generally if such a measure is referred to as parole. It is, therefore, recommended that the concept of parole should only be applied to the conditional release of prisoners, (having been properly prepared), under proper professional supervision.

Nevertheless, short-term prisoners (with sentences of less than six months) and medium-term prisoners (with sentences of between six months and two years) should be

released on parole. But such parole should involve proper pre-release preparation and, particularly, proper supervision.

2.13 Mandatory supervision

It is recommended that the feasibility of establishing a system of mandatory supervision, along the lines as that which exists in Canada, but adapted to the South African circumstances, be investigated.

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PRISONS AMENDMENT ACT (Act 65 of 1982)

HANSARD, No. 8, 24 March 1982

PAROLE ACT (of Canada), R.S., c. P-2, 1979

PAROLE REGULATIONS, P.C. 1978-1528, as amended

ANNEXURE 1

TABLE 6: RACIAL DISTRIBUTION

	White	Coloured	Black	Asian	Total
Numbers	52	48	39	9	100
Percentage of total	35	33	26	6	100

TABLE 7 : AGE DISTRIBUTION (IN YEARS)

	0-20 %		21-30 %		31-40 %		40+ %		Total %	
Whites	0	0	12	23	17	33	23	44	52	100
Coloureds	0	0	21	44	16	33	11	23	48	100
Blacks	0	0	9	23	16	41	14	35	39	100
Asians	0	0	3	33	4	45	2	22	9	100
TOTAL	0	0	45	30	53	36	50	34	148	100

TABLE 8 : MARITAL STATUS

	Marri= ed %		Sing= le %		Divorc= ed %		Widow= ed %		Living % toge= ther		Unknown %		Total %	
Whites	18	35	18	35	12	23	1	2	3	5	0	0	52	100
Coloureds	11	23	28	58	2	4	2	4	3	6	2	4	48	100
Blacks	4	10	31	79	0	0	0	0	3	8	1	3	39	100
Asians	7	78	2	22	0	0	0	0	0	0	0	0	9	100
TOTAL	40	27	79	53	14	10	3	2	9	6	3	2	148	100

TABLE 9 : LENGTH OF PAROLE PERIOD (IN MONTHS)

	0-6 %		7-12 %		13-24 %		25+ %		Unknown %		Total %	
Whites	9	17	6	12	7	13	29	56	1	2	52	100
Coloureds	6	12	8	17	9	19	25	52	0	0	48	100
Blacks	3	8	7	18	5	13	24	61	0	0	39	100
Asians	0	0	1	11	6	67	2	22	0	0	9	100
TOTAL	18	12	22	15	27	18	80	54	1	1	148	100

TABLE 10: NUMBER OF INTERVIEWS WITH EACH PAROLEE : 9/11/79 - 10/5/80

	0	%	1	%	2	%	3	%	4	%	5	%	6	%	7	%	8	%	9	%	10+	%	Total	%
Whites	13	25	5	10	7	13	6	11	4	8	3	6	1	2	6	11	3	6	1	2	3	6	52	100
Coloureds	21	44	8	17	3	6	2	4	5	11	2	4	2	4	1	2	1	2	0		3	6	48	100
Blacks	17	44	6	15	2	5	3	8	2	5	0	0	1	2	1	2	3	8	2	5	2	5	39	100
Asians	0	0	1	11	2	22	3	33	1	11	1	11	0	0	1	11	0		0		0		9	100
TOTAL	51	35	20	14	14	9	14	9	12	8	6	4	4	3	9	6	7	5	3	2	8	5	148	100

TABLE 11: FREQUENCY OF INTERVIEWS DURING THE FIRST MONTH ON PAROLE

	0 %	1 %	2 %	3 %	4 %	5 %	6+ %	Tot.
Whites	7 13	16 31	17 33	7 13	3 6	2 4	0 0	52
Coloureds	16 33	20 42	5 11	3 6	3 6	1 2	0 0	48
Blacks	6 15	15 38	5 13	9 23	2 5	1 3	1 3	39
Asians	0 0	5 56	1 11	3 33	0 0	0 0	0 0	9
TOTAL	29 20	56 38	28 19	22 15	8 5	4 3	1 0	148

TABLE 12: FREQUENCY OF INTERVIEWS DURING THE SECOND, THIRD AND FOURTH MONTHS ON PAROLE

	0 %	1 %	2 %	3 %	4 %	5 %	6+ %	Tot.
Whites	14 27	8 15	10 19	14 27	2 4	2 4	2 4	52
Coloureds	17 35	12 25	8 17	5 11	3 6	1 2	2 4	48
Blacks	17 44	10 26	3 8	4 10	1 2	2 2	2 5	39
Asians	1 11	3 33	1 11	2 22	1 11	1 11	0 0	9
TOTAL	49 33	33 22	22 15	25 17	7 5	6 4	6 4	148

TABLE 13: FREQUENCY OF INTERVIEWS DURING THE FIFTH AND SIXTH MONTH OF PAROLE

	0 %	1 %	2 %	3 %	4 %	5 %	6+ %	Tot.
Whites	24 46	8 16	9 17	4 8	4 7	1 2	2 4	52
Coloureds	31 65	8 17	4 8	2 4	1 2	1 2	1 2	48
Blacks	18 46	13 33	4 10	1 3	1 3	1 3	1 3	39
Asians	2 22	3 33	3 33	1 11	0 0	0 0	0 0	9
TOTAL	75 51	32 22	20 13	8 5	6 4	3 2	4 3	148

TABLE 14: AVERAGE LENGTH OF INTERVIEWS

	1Hour + %		30min-1hr %		30min %		15min % or less		Un- known %		Tot. %	
Whites	6	12	26	50	10	19	2	4	8	15	52	100
Coloureds	2	4	17	35	17	35	2	4	10	21	48	100
Blacks	5	13	16	41	11	28	4	10	3	8	39	100
Asians	0	0	4	44	5	56	0	0	0	0	9	100
TOTAL	13	9	63	43	43	29	8	5	21	14	148	100

TABLE 15 : VISITS TO/IN CONNECTION WITH PAROLEES TO THE HOME (9 NOVEMBER 1979 - 10 MAY 1980)

	0 %		1 %		2 %		3 %		4+ %		Unknown %		Tot. %	
Whites	35	67	9	17	4	8	0	0	1	2	3	6	52	100
Coloureds	23	48	12	25	6	13	4	0	1	2	2	4	48	100
Blacks	16	41	7	18	5	13	4	10	6	15	1	3	39	100
Asians	0	0	3	33	2	22	3	33	1	11	0	0	9	100
TOTAL	74	50	31	21	17	12	11	7	9	6	6	4	148	100

TABLE 16 : VISITS TO/IN CONNECTION WITH PAROLEES TO PLACE OF EMPLOYMENT
(9 NOVEMBER 1979 - 10 MAY 1980)

	0 %		1 %		2 %		3 %		4+ %		Unknown %		Tot. %	
Whites	42	80	4	8	2	4	1	2	0	0	3	6	52	100
Coloureds	46	96	0	0	0	0	0	0	0	0	2	4	48	100
Blacks	35	90	2	5	0		1	2	0	0	1	2	39	100
Asians	8	89	0	0	1	11	0		0		0		9	100
TOTAL	131	89	6	4	3	2	2	1	0		6	4	148	100

TABLE 17 : VISITS TO/IN CONNECTION WITH PAROLEES ELSEWHERE (9 NOVEMBER 1979 - 10 MAY 1980)

	0 %	1 %	2 %	3 %	4+ %	Unknown %	Tot. %
Whites	33 63	14 27	2 4	1 2	0 0	2 4	52 100
Coloureds	35 73	7 15	2 4	3 6	1 2	0 0	48 100
Blacks	30 77	5 13	3 8	0 0	0 0	1 2	39 100
Asians	5 56	3 33	1 11	0 0	0 0	0 0	9 100
TOTAL	103 70	29 20	8 5	4 3	1 0	3 2	148 100

TABLE 18 : TELEPHONE CALLS TO AND FROM PAROLEE (9 NOVEMBER 1979 - 10 MAY 1980)

	0 %	1 %	2 %	3 %	4 %	5+ %	Unknown %	Tot. %
Whites	12 23	3 6	15 29	12 23	3 6	5 10	2 3	52 100
Coloureds	36 75	2 4	3 6	3 6	2 4	1 2	1 2	48 100
Blacks	36 92	2 5	1 3	0 0	0 0	0 0	0 0	39 100
Asians	5 56	2 22	1 11	1 11	0 0	0 0	0 0	9 100
TOTAL	89 60	9 6	20 14	16 11	5 3	6 4	2 2	148 100

TABLE 19 : TELEPHONE CALLS TO AND FROM WIFE/PARENTS/RELATIVES/EMPLOYER/FRIENDS

	0 %	1 %	2 %	3 %	4 %	5+ %	Unknown %	Tot. %
Whites	15 29	9 17	6 11	12 23	3 6	5 10	2 4	52 100
Coloureds	24 50	15 32	1 2	2 4	3 6	2 4	1 2	48 100
Blacks	26 67	1 3	2 5	1 3	3 7	5 12	1 3	39 100
Asians	7 78	0 0	1 11	1 11	0 0	0 0	0 0	9 100
TOTAL	72 48	25 17	10 7	16 11	9 6	12 8	4 3	148 100

TABLE 20 : LETTERS TO AND FROM PAROLEE (9 NOVEMBER 1979 - 10 MAY 1980)

	0 %		1 %		2 %		3 %		4 %		5+ %		Unknown %		Tot. %	
Whites	25	48	9	17	10	19	6	12	0	0	0	0	2	4	52	100
Coloureds	16	34	14	29	9	19	3	6	3	6	2	4	1	2	48	100
Blacks	32	82	5	12	0		0	0	0	0	1	3	1	3	39	100
Asians	3	33	3	33	3	33	0	0	0	0	0	0	0	0	9	100
TOTAL	76	51	31	21	22	15	9	6	3	2	3	2	4	3	148	100

TABLE 21 : LETTERS TO AND FROM WIFE/PARENTS/RELATIVES/EMPLOYER/FRIENDS
(9 NOVEMBER 1979 - 10 MAY 1980)

	0 %		1 %		2 %		3 %		4 %		5+ %		Unknown %		Tot. %	
Whites	11	21	15	29	13	25	6	12	4	5	2	4	2	4	52	100
Coloureds	22	45	13	27	5	10	2	4	1	2	4	8	1	2	48	100
Blacks	21	54	4	10	6	15	3	8	0	0	4	10	1	3	39	100
Asians	5	56	2	22	2	22	0	0	0		0		0	0	9	100
TOTAL	59	40	34	23	26	17	11	7	4	3	10	7	4		148	100

TABLE 22 : VIOLATIONS OF PAROLE CONDITIONS

	Yes %		No %		Unknown %		Total %	
Whites	28	54	21	40	3	6	52	100
Coloureds	13	27	31	65	4	8	48	100
Blacks	5	13	26	67	8	20	39	100
Asians	4	44	5	56	0		9	100
TOTAL	50	34	83	56	15	10	148	100

TABLE 23 : PAROLE REVOCATION

	Revocation % requested by NICRO		Parole % revoked		Unknown whether revoked		Revoca= tion of parole not re= quested		Tot. %	
Whites	13	25	11	21	6	11	33	64	52	100
Coloureds	3	6	2	4	4	8	41	86	48	100
Blacks	1	3	1	3	1	3	37	94	39	100
Asians	0	0	0	0	0	0	9	100	9	100
TOTAL	17	11	14	9	11	8	120	81	148	100

TABLE 24 : ARREST AND RE-IMPRISONMENT

	Within 1 month of release		After 1 month, but within 3 months		After 3 months, but within 6 months		Not arrest= ed and re-im= prisoned		Tot. %	
Whites	2	4	0	0	3	6	47	90	52	100
Coloureds	1	2	1	2	4	8	42	88	48	100
Blacks	0	0	0	0	1	3	38	97	39	100
Asians	0	0	0	0	0	0	9	100	9	100
TOTAL	3	2	1	1	8	5	136	92	148	100

TABLE 25 : BETWEEN 9 NOVEMBER 1979 AND 10 MAY 1980, THE PAROLEE WAS EMPLOYED FOR (IN MONTHS)

	6m %		5m %		4m %		3m %		2m %		1m %		0m %		Un= known		Tot. %	
Whites	16	31	1	2	6	12	1	2	8	15	7	13	1	2	12	23	52	100
Coloureds	15	31	1	2	2	4	2	4	3	7	0	0	9	19	16	33	48	100
Blacks	7	18	1	3	1	3	3	7	1	3	2	5	1	3	23	58	39	100
Asians	4	45	3	33	1	11	1	11	0	0	0	0	0	0	0	0	9	100
TOTAL	42	28	3	4	10	7	7	5	12	8	9	6	11	8	51	34	148	100

TABLE 26 : BETWEEN 9 NOVEMBER 1979 AND 10 MAY 1980, THE PAROLEE HAS CHANGED HIS EMPLOYMENT

	0x %	1x %	2x %	3x %	4x %	5x %	Un- known %	Tot. %
Whites	17 33	11 21	6 11	3 6	2 4	1 2	12 23	52 100
Coloureds	17 36	3 6	3 6	2 4	0 0	0 0	23 48	48 100
Blacks	9 23	4 10	2 5	1 3	0	0	23 59	39 100
Asians	5 56	2 22	2 22	0 0	0 0	0 0	0 0	9 100
TOTAL	48 32	20 14	13 9	6 4	2 1	1 1	58 39	148 100

TABLE 27 : PRESENT EMPLOYMENT STATUS

	Employ= ed %	Unemploy= ed %	Unknown %	Total %
Whites	21 40	6 12	25 48	52 100
Coloureds	17 35	13 27	18 38	48 100
Blacks	10 26	11 28	18 46	39 100
Asians	7 78	0 0	2 22	9 100
TOTAL	55 37	30 20	63 43	148 100

TABLE 28 : PROGNOSIS FOR STABLE FUTURE EMPLOYMENT

	Good %	Reasonable %	Poor %	Unknown %	Total %
Whites	15 29	10 19	20 38	7 14	52 100
Coloureds	12 25	4 8	13 27	19 40	48 100
Blacks	4 10	11 28	10 26	14 36	39 100
Asians	2 22	7 78	0 0	0 0	9 100
TOTAL	33 22	32 22	43 29	40 27	148 100

TABLE 29 : ACCOMMODATION BETWEEN 9 NOVEMBER 1979 AND 10 MAY 1980; THE PAROLEE HAS LIVED AT ONE ADDRESS FOR (IN MONTHS)

	6m %	5m %	4m %	3m %	2m %	1m %	0m %	Un= known %	Tot. %
Whites	19 36	5 10	2 4	5 10	5 10	7 13	0 0	9 17	52 100
Coloureds	25 52	1 2	2 4	1 2	0 0	1 2	2 4	16 34	48 100
Blacks	16 40	1 3	1 3	1 3	1 3	1 3	1 3	17 42	39 100
Asians	7 78	0 0	1 11	1 11	0	0	0	0 0	9 100
TOTAL	67 45	7 5	6 4	8 6	6 4	9 6	3 2	42 28	148 100

TABLE 30 : BETWEEN 9 NOVEMBER 1979 AND 10 MAY 1980, THE PAROLEE HAS CHANGED HIS ADDRESS

	0x %	1x %	2x %	3x %	4x %	5x %	6x %	Un= known %	Tot. %
Whites	17 33	10 19	7 13	6 12	2 4	1 2	1 2	8 15	52 100
Coloureds	25 52	5 11	4 8	1 2	0 0	0 0	0 0	13 27	48 100
Blacks	16 41	3 8	4 10	1 3	0 0	0 0	0 0	15 38	39 100
Asians	5 56	2 22	1 11	0 0	0 0	0 0	0 0	1 11	9 100
TOTAL	63 43	20 13	16 11	8 5	2 1	1 1	1 1	37 25	148 100

TABLE 31 : PROGNOSIS FOR STABLE FUTURE ACCOMMODATION

	Good %	Reasonable %	Poor %	Unknown %	Total %
Whites	15 29	11 21	20 38	6 12	52 100
Coloureds	18 38	9 19	4 8	17 35	48 100
Blacks	10 26	5 13	8 20	16 41	39 100
Asians	5 56	3 33	1 11	0 0	9 100
TOTAL	48 33	28 19	33 22	39 26	148 100

TABLE 32: PARTICIPATION IN CULTURAL AND EDUCATIONAL ACTIVITIES

	Regu- larly	%	Fairly regu- larly	%	Occasional= ly	%	Not at all	%	Un= known	%	Total	%
Whites	3	6	5	10	10	19	18	34	16	31	52	100
Coloureds	0	0	0	0	3	6	20	42	25	52	48	100
Blacks	0	0	0	0	1	2	19	49	19	49	39	100
Asians	0	0	1	12	2	22	3	33	3	33	9	100
TOTAL	3	2	6	4	16	11	60	41	63	42	148	100

TABLE 33: PARTICIPATION IN SPORTS AND RECREATIONAL ACTIVITIES

	Regu- larly	%	Fair- ly re= gular= ly	%	Occasional= ly	%	Not at all	%	Un= known	%	Total	%
Whites	4	8	3	6	11	21	21	40	13	25	52	100
Coloureds	0	0	0	0	5	11	16	33	27	56	48	100
Blacks	1	2	0	0	5	13	14	36	19	49	39	100
Asians	1	11	0	0	2	22	2	22	4	45	9	100
TOTAL	6	4	3	2	23	15	53	36	63	43		100

TABLE 34: PARTICIPATION IN RELIGIOUS ACTIVITIES

	Regu- larly	%	Fair- ly re= gular= ly	%	Occasional= ly	%	Not at all	%	Un= known	%	Total	%
Whites	6	12	6	12	6	12	16	30	18	34	52	100
Coloureds	1	2	2	4	5	10	9	19	31	65	48	100
Blacks	0	0	0	0	6	15	16	41	17	44	39	100
Asians	1	11	2	23	0	0	3	33	3	33	9	100
TOTAL	8	5	10	7	17	11	44	30	69	47	148	100

TABLE 35 : THE PAROLEE LIVES WITH HIS WIFE/PARENTS/SIBLINGS

	Yes %	No %	Unknown %	Total %
Whites	26 50	18 35	8 15	52 100
Coloureds	31 65	7 15	10 20	48 100
Blacks	17 44	8 21	14 35	39 100
Asians	9 100	0 0	0 0	9 100
TOTAL	83 56	33 22	32 22	148 100

TABLE 36 : THE MARRIED PAROLEE ACTIVELY PARTICIPATES IN FAMILY FUNCTIONS

	Yes %	No %	Unknown %	Total
Whites	15 80	2 10	2 10	19
Coloureds	10 59	4 23	3 18	17
Blacks	5 45	0 0	6 55	11
Asians	3 38	1 12	4 50	8
TOTAL	33 60	7 13	15 27	55

TABLE 37 : THE SINGLE PAROLEE HAS FREQUENT CONTACT AND COMMUNICATION WITH RELATIVES AND FRIENDS

	Yes %	No %	Unknown %	Total
Whites	13 39	13 39	7 22	33
Coloureds	15 48	5 16	11 36	31
Blacks	12 44	8 29	8 29	28
Asians	1 100	0 0	0 0	1
TOTAL	41 44	26 28	26 28	93

TABLE 38 : MEMBERS OF THE FAMILY PROVIDE EMOTIONAL SUPPORT TO THE PAROLEE

	Adequate= % ly		Reason= % ably		None %		Un= % known		Total %	
Whites	14	27	23	44	9	17	6	12	52	100
Coloureds	8	17	24	50	4	8	12	25	48	100
Blacks	5	13	9	23	9	23	16	41	39	100
Asians	3	33	6	67	0	0	0	0	9	100
TOTAL	30	20	62	42	22	15	34	23	148	100

TABLE 39 : RELATIONSHIP WITH EMPLOYER AND EMPLOYEES

	Good %		Reasonable %		Poor %		Unknown %		Total %	
Whites	15	29	12	23	13	25	12	23	52	100
Coloureds	9	19	5	10	4	8	30	63	48	100
Blacks	2	5	7	18	4	10	26	67	39	100
Asians	1	11	6	67	1	11	1	11	9	100
TOTAL	27	18	30	20	22	15	69	47	148	100

TABLE 40 : PROGNOSIS FOR ACHIEVING A SATISFACTORY SOCIAL ADJUSTMENT IN THE COMMUNITY

	Good %		Mediochre %		Poor %		Unknown %		Total %	
Whites	14	27	12	23	21	40	5	10	52	100
Coloureds	13	27	10	21	12	25	13	27	48	100
Blacks	3	8	11	28	11	28	14	36	39	100
Asians	5	56	2	22	1	11	1	11	9	100
TOTAL	35	24	35	24	45	30	33	22	148	100

TABLE 41 : CO-OPERATION OF THE PAROLEE WITH NICRO

	Good %		Reasonable %		Poor %		Unknown %		Total %	
Whites	18	34	13	25	17	33	4	8	52	100
Coloureds	7	15	17	35	21	44	3	6	48	100
Blacks	4	10	10	26	14	36	11	28	39	100
Asians	1	12	4	44	4	44	0	0	9	100
TOTAL	30	20	44	30	56	38	18	12	148	100

TABLE 42 : DEGREE OF SUCCESS ACHIEVED BY PAROLEES IN THEIR ADJUSTMENT IN THE COMMUNITY

	Excel= % lent		Satisfac= % tory		Unsatis= % factory		Very % Poor		Un= % known		Total %	
Whites	6	12	21	40	9	17	13	25	3	6	52	100
Coloureds	1	2	24	50	10	21	8	17	5	10	48	100
Blacks	1	3	14	36	6	15	12	31	6	15	39	100
Asians	1	11	7	78	1	11	0	0	0	0	9	100
TOTAL	9	6	66	45	26	18	33	22	14	9	148	100

PAROLE SURVEY : QUESTIONNAIRE "A"

C1-3 Nicro File No.: C4-5 Response No.:

C6 Race:

W	C	B	A
1	2	3	4

C7 Age in years:

0-20	21-30	31-40	40+
1	2	3	4

C8 Sex:

M	F
1	2

C9 Length of parole period in months:

0-6	7-12	13-24	25+
1	2	3	4

PREPARATION FOR PAROLE

C10 NICRO was involved in the pre-release preparation of the parolee

Yes	No
1	2

C11 NICRO interviewed the prospective parolee in prison prior to release

Yes	No
1	2

C12 NICRO prepared the prospective parolee's family for his/her release on parole

Yes	No
1	2

C13 The family was visited for the purpose of parole preparation

Yes	No
1	2

C14 A member/members of the family came to the office of NICRO in order to discuss his/her forthcoming release on parole

Yes	No
1	2

C15 NICRO has contact with relatives/friends/other persons in the community in connection with the prospective parolee's release on parole

Yes	No
1	2

C16 EMPLOYMENT ARRANGEMENTS

NICRO secured employment for the prospective parolee prior to his/her release

1

The Department of Prisons secured employment for the parolee prior to his/her release

2

The family/relatives/friends secured employment for the parolee prior to his/her release

3

The parolee found employment on his/her own prior to his/her release

4

NICRO secured employment for the parolee after his/her release

5

C17 ACCOMMODATION ARRANGEMENTS

NICRO arranged for accommodation for the prospective parolee prior to his/her release

1

The Department of Prisons arranged for accommodation for the prospective parolee prior to his/her release

2

The family/relatives/friends arranged for accommodation for the prospective parolee prior to his/her release

3

The prospective parolee found accommodation on his/her own prior to his/her release

4

NICRO secured accommodation for the parolee after his/her release

5

C18 LIAISON WITH THE DEPARTMENT OF PRISONS

DIRECT LIAISON: NICRO was advised by the Department of the prospective parolee's forthcoming release on parole

Two months or longer before his/her actual date of release

1

Less than 2 months before his/her actual date of release

2

NICRO was not advised of the prospective parolee's forthcoming release

3

C19 CANALISATION: NICRO was advised by the Department of Social Welfare/Coloured Affairs/Indian Affairs/Co-operation and Development of the prospective parolee's forthcoming release on parole

Two months or longer before his actual date of release

1

Less than 2 months before his actual date of release

2

NICRO received no notification of the prisoner's forthcoming release on parole before he/she was released

3

NICRO was only notified of the parolee's release after he/she had already been released

4

C20 NICRO had contact with the prison social worker or other members of the prison staff (regarding preparation of the prospective parolee for release on parole, or regarding preparation of his/her family for his/her discharge on parole)

Yes	No
1	2

PAROLE CONDITIONS

C21 NICRO was supplied with written parole conditions
(before release, or when the parolee first reported)

Yes	No
1	2

C22 List the written parole conditions supplied to the
parolee and/or NICRO

.....

.....

.....

.....

.....

.....

C23 NICRO had made recommendations regarding parole
conditions to the Department of Prisons

Yes	No
1	2

C24 These recommendations were accepted

Yes	No
1	2

PAROLE SURVEY : QUESTIONNAIRE "B"

PAROLE SUPERVISION AND SUCCESS

C1-3 Micro File No.: C4-5 Response No.:

C6 Race

W	C	B	A
1	2	3	4

C7 Age in years:

0-20	21-30	31-40	40+
1	2	3	4

C8 Sex

M	F
1	2

C9 Marital

Married	1
Single (never married)	2
Divorced	3
Widowed	4
Living together	5

C10 Length of parole period in months

0-6	7-12	13-14	25+
1	2	3	4

PAROLE SUPERVISION

C11 Number of interviews with the parolee during the period 9 November 1979 to 10 May 1980

Frequency of interviews (Indicate how frequently seen):

C12 (i) During the first month on parole times

C13 (ii) During the following 3 months times

C14 (iii) During the remaining 2 months times

C15 Average length of interviews (Mark appropriate space X)

(i) An hour or more	1
(ii) More than half an hour	2
(iii) Half an hour	3
(iv) Fifteen minutes or less	4

Visits (9 November 1979 - 10 May 1980)

C16 (i) Number of home visits

C17 (ii) Number of visits to place of employment

C18 (iii) Number of visits to parolee elsewhere or in connection with the parolee

Telephone calls (9 November 1979 - 10 May 1980)

C19 (i) Number to/from parolee

C20 (ii) Number to/from the wife/parents/relatives/friends of parolee/employer/other persons, on behalf of parolee

Letters (9 November 1979 - 10 May 1980)

C21 (i) Number to/from parolee

C22 (ii) Number to/from other persons concerning the parolee

PAROLE RESULTS (success or failure) as on 10 May 1980

- C23 The parolee violated one or more of his parole conditions ("technical" violation)

Yes	No
-----	----
- C24 NICRO had, because of a particular violation, requested the prison officials (eg. Prison Board or internal social worker) to revoke the parolee's parole.

Yes	No
-----	----
- C25 The Prison Board revoked parole as a result of NICRO's request (only respond if your answer was "Yes" under C23)

Yes	No
-----	----
- C26 The parolee was arrested and imprisoned (after being convicted of a further offence).
- (i) Within 1 month of his release

1

- (ii) After 1 month, but within 3 months of his release

2

- (iii) After 3 months, but within 6 months of his release

3

Employment

- C27 (i) During the period of 9 November 1979 to 10 May 1980, the parolee was employed for (to the nearest month)

6m	5m	4m	3m	2m	1m	0m	Don't know
1	2	3	4	5	6	7	8

- C28 (ii) During the period in question the parolee has changed his employment

0x	1x	2x	3x	4x	5x	6x	Don't know
1	2	3	4	5	6	7	8

- C29 (iii) The parolee is at present employed

Yes	No	Don't know
1	2	3

- C30 (iv) Prognosis for stable future employment

Good	Reasonable	Poor	Don't know
1	2	3	4

Accommodation

- C31 (i) During the period of 9 November 1979 to 10 May 1980, the parolee has lived at one address (the one where he spent the longest period) for

6m	5m	4m	3m	2m	1m	0m	Don't know
1	2	3	4	5	6	7	8

- C32 (ii) The parolee has changed his address

0x	1x	2x	3x	4x	5x	6x	Don't know
1	2	3	4	5	6	7	8

- C33 (iii) Prognosis for stable future accommodation

Good	Reasonable	Poor	Don't know
1	2	3	4

Social Adjustment

C34 (i) The parolee participates in cultural and educational activities:

- (a) on a regular basis (at least once a week)
- (b) on a fairly regular basis (once in 2 weeks)
- (c) occassionally (once a month)
- (d) not at all
- (e) don't know

1
2
3
4
5

C35 (ii) The parolee participates in sports and recreational activities:

- (a) on a regular basis (at least once a week)
- (b) on a fairly regular basis (once in 2 weeks)
- (c) occassionally (once a month)
- (d) not at all
- (e) don't know

1
2
3
4
5

C36 (iii) The parolee participates in religious activities:

- (a) on a regular basis (at least once a week)
- (b) on a fairly regular basis (once in 2 weeks)
- (c) occassionally (once a month)
- (d) not at all
- (e) don't know

1
2
3
4
5

(iv) Family relationships

C37 (a) The parolee lives with his wife/parents/siblings

Yes	No	Don't know
1	2	3

C38 (b) The married parolee actively participates in family functions with his wife and children, eg. going out together, receiving visitors, etc.

Yes	No.	Don't know
1	2	3

(c) The single parolee has frequent contact and communication with relatives and friends, eg. having meals together, going out together, visiting etc.

Yes	No	Don't know
4	5	6

C39 (d) Members of the family (wife/parents/siblings/,relatives and friends) provide emotional supports to the parolee, eg. they take an interest in his work, his recreation, etc.

adequately	reasonably	none	don't know
1	2	3	4

C40 (e) The parolee's general adjustment as member of his family and/or other people close to him is:

good	reasonable	poor	don't know
1	2	3	4

C41 (v) Relationships with employer and employees

The parolee is:

- (a) well adjusted at his place of employment
- (b) reasonably well adjusted at his place of employment
- (c) poorly adjusted at his place of employment
- (d) don't know

1
2
3
4

C42 (vi) The parolee's prognosis for achieving a satisfactory social adjustment in the community is

good	mediocre	poor	don't know
1	2	3	4

C43 The general co-operation of the parolee with NICRO is

good	reasonably	poor	don't know
1	2	3	4

C44 Degree of success

- (i) The parolee has achieved an excellent adjustment in the community
- (ii) The parolee has achieved a fairly satisfactory adjustment in the community
- (iii) The parolee has achieved an unsatisfactory adjustment in the community
- (iv) The parolee has achieved a very poor adjustment in the community

1
2
3
4

C45. General comments

.....

.....

.....

.....

.....

Signature of Social Worker

Date

ANNEXURE 5

PAROLE ATTITUDE QUESTIONNAIRE

1. Parole is, in your opinion (please mark the appropriate space(s) :

- | | | |
|-------|--|--------------------------|
| (i) | A form of amnesty | <input type="checkbox"/> |
| (ii) | Unconditional discharge | <input type="checkbox"/> |
| (iii) | Amelioration of punishment (i.e. leniency or clemency) | <input type="checkbox"/> |
| (iv) | An early, but conditional release, involving supervision in the community | <input type="checkbox"/> |
| (v) | Part of the punitive process (because it imposes restrictions and controls on the released prisoner) | <input type="checkbox"/> |
| (vi) | Other (please specify, if any)..... | <input type="checkbox"/> |
| (vii) | I do not know what parole is | <input type="checkbox"/> |

2. Purpose(s) of Parole (as you see it. Please mark the appropriate space(s) :

- | | | |
|-------|---|--------------------------|
| (i) | To reward prisoners for good behaviour | <input type="checkbox"/> |
| (ii) | To protect the community (by keeping the released prisoner under surveillance and control | <input type="checkbox"/> |
| (iii) | To mitigate punishment (i.e. to reduce the heavy sentences imposed by the courts) | <input type="checkbox"/> |
| (iv) | To strive for the rehabilitation of prisoners by providing guidance and assistance | <input type="checkbox"/> |
| (v) | To reduce the prison population | <input type="checkbox"/> |
| (vi) | Other (Please specify, if any) | <input type="checkbox"/> |

3. Practical implications of parole, in your opinion. Please mark the appropriate space(s) :

- | | | |
|-------|---|--------------------------|
| (i) | Parole mitigates the negative effects that may result from continuous imprisonment | <input type="checkbox"/> |
| (ii) | Parole helps discharged prisoners to achieve a more satisfactory adjustment in the community | <input type="checkbox"/> |
| (iii) | As prisoners who are released on parole serve only part of the sentence imposed by the courts, parole represents an interference with the judicial decision | <input type="checkbox"/> |
| (iv) | Other (please specify, in any) | <input type="checkbox"/> |

4. Do you think that (please mark the appropriate space(s) :

- (i) Parole, as it operates at present in this country, is effective?
- (ii) There is no need for a parole system?
- (iii) Parole is a valuable aspect of the penological process?
- (iv) There is a need for some important changes to the parole system in order to render it more effective?

If so, please give your suggestions :

.....

.....

.....

.....



PRISON SERVICE

CONDITIONS OF RELEASE *

(Annexure to form G374)

BOARD No. 3/1759 NAME Tim Kumalo

1. You will be on *parole/probation from 1982 06 15 19 to 1985 06 14 19

2. The Commissioner of Prisons may at any time suspend your *parole/probation period if he is satisfied that you have, before the expiration of the period of release on *parole/probation, failed to observe one or more of the conditions of release mentioned hereunder, and issue a warrant of apprehension whereupon you shall be liable to be detained in prison until lawfully discharged or released therefrom and if at large, you shall be deemed to be unlawfully at large.

You will:

a) for the duration of your parole period be under the control of the Head of the Prison Durban

b) report to the South African Police Durban in person not later than 1982 06 21 19

c) upon release be handed over to N/A pending your denotation to N/A;

d) return to the Republic of *Bophuthatswana/Venda N/A within 2 days after your release;

e) not return to the Republic of South Africa or South West Africa during your period of probation;

f) report for duty with Administration Board, Durban not later than 1982 06 21 19; (name and business address of employer)

g) report to N/A (employment placing authority) not later than N/A 19 for purposes of employment;

h) not change your employer and/or work address without explicit prior approval by N/A (after-care body/Head of the Prison).

i) not sell, pawn or in any other manner alienate the possession of the tools which were issued to you upon your release from prison;

j) reside at Umlazi (residential and not postal address) for the duration of your parole period;

k) not change your residential address without explicit prior approval by Durban (after-care body or Head of the Prison);

l) report to N/A (after-care body) (street address) (tel. no.) in person for purposes of after-care within 7 days after your release;

m) for purposes of your after-care, give your whole hearted co-operation to N/A (name of person or body responsible for after-care) and comply with all requests and instructions in respect of your after-care for the duration of your parole;

n) for purposes of treatment, report at prescribe times to N/A (name of person or body who administers treatment) and comply with all requests and instructions with regard to such treatment;

o) not commit any offence or render yourself guilty of any form of misconduct whatsoever for the duration of your *parole/probation period;

p) _____

3. A Head of the Prison may at any time alter/cancel any of the set conditions or make applicable any of the conditions (a) to (o) not originally put.

Head of the Prison

Date Stamp

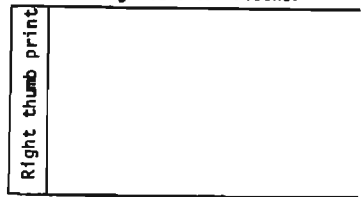
UNDERTAKING BY PRISONER

I fully understand the conditions of my release, accept them and understand that, should I violate any one of the said conditions, I subject myself to immediate rearrest.

Witnesses: 1. _____
2. _____

Signature or Prisoner

Official date stamp



*Delete whichever is not applicable.

* Only the name and identifying details have been changed.

nimro

ANNEXURE 7

VAKKUNDIGE VERSLAG
PROFESSIONAL REPORT

micro

Suid-Afrikaanse

South African

Nasionale Instituut insake Misdaadvoorkoming
en Rehabilitasie van Oortreders (W.O. 313)

National Institute for Crime Prevention
and Rehabilitation of Offenders (W.O. 313)

TAK/BRANCH..... Verw/Ref:..... Datum/Date.....

PAROOLSUPERVISIEVORDERINGSVERSLAG PAROLE SUPERVISION PROGRESS REPORT

1. Naam/Name..... Ras/Race.....
 Gevangenisraad/Prison Board..... Raadsnommer/Board number.....
 Datum van ontslag/Date of release..... Datum waarop Parool eindig/
 Date of termination of Parole.....

2. Huisvesting: Client continues to reside with his mother. He is happy with
 Accommodation: accommodation and contributes towards it by paying his mother
 monthly board money.

3. Werk: Client is now working as a free lance building renovator. The
 Employment: reason for this change was because client's former employer,
 no longer had sufficient work for client to do. At present
 client is involved in two respective jobs: (1) building an
 outside ramp and a flight of stairs and (2) building a laundry
 for an acquaintance of his. Client's monthly income varies according
 to the kind of work that he has done. Client is presently financially
 stable.

4. Probleme: Client is at present experiencing no problems.
 Problems:

5. Maatskaplike Verhoudings: Client appears to be very fond of his mother with whom he has
 Social Relationships: a very close relationship. Client is an active member of the
 Church, and has consequently made friends with many of the
 other members. At present client has no serious relationship
 with any woman.

6. Vordering: The two major problems in client's life, since his release from prison
 Progress: in January 1979, have been (a) his excessive alcohol intake and
 (b) a homosexual problem. With regard to (a) client had made good
 progress in this respect, in that he has not had a drink since early
 February. It appears that the Church has had an important influence
 here. Client feels that his religion and religious activities have
 now taken the place of alcohol. Further than this, client seems to
 have a very determined and positive attitude towards no further
 intake of alcohol. With regard to (b) client indicates that his
 homosexual relationships stopped when he stopped drinking. He no
 longer regards this as a problem, as he never feels tempted to have
 a homosexual relationship anymore. He is unable to explain this
 tendency other than to indicate that he was not born a homosexual
 but began having such relationships while in prison due to the lack
 of female company.

7. Algemeen: Client has been found to be fairly intelligent, religious and
 General: optimistic person. He co-operates well with regard to social work
 supervision.

* The above information has been transcribed from an actual progress report.

Indien nodig gebruik keersy.
If necessary continue over page.

Maatskaplike Werker
Social Worker