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FINAL REPORT
ON
PAROLE DECISION-MAKING PROJECT
SUBMITTED TO
N.Y.S. DEPARTMENT OF CORRECTIONAL
SERVICES

BY
VERA INSTITUTE OF
JUSTICE
30 EAST 39TH STREET
NEW YORK, N.Y. 10016

INTRODUCTION

This document describes the tasks performed and the research undertaken by the Vera Institute of Justice under a "Parole Decision-Making" contract (C#125234) with the State Department of Correctional Services (DOCS). It is submitted as Vera's Final Report under that contract.

This contract, covering the period February 1, 1977 through January 31, 1978, called for Vera to perform a number of tasks designed to assist staff of the Division of Parole in developing decision-making guidelines for Parole Board use in making Minimum Period of Imprisonment (MPI) and parole release decisions. Responsibility for developing the guidelines was retained by Parole staff. Vera assisted by performing the following tasks:

- measuring the Board member's perceptions of the relative seriousness of the criminal offenses considered by it and developing offense seriousness scales reflective of those perceptions;
- conducting a simulated decision-making exercise and using the results to develop a preliminary set of guidelines for rendering MPI decisions;
- conducting a study of the Board's past practices in setting MPI's;
- conducting a study of the Board's past practice in granting release on parole;

- studying the Board's use during November 1977, of a preliminary set of MPI decision-making guidelines to determine how the first 300 decisions were distributed inside and outside the time ranges recommended by the guidelines;
- assisting Parole staff to define data elements that could be used for monitoring the Board's use of guidelines, and for preparing management reports and research reports on matters not directly related to guidelines use. In this regard, Vera also developed appropriate data collection forms, instructions and coding manuals; and
- preparing an Inmate Manual, in both English and Spanish, which explains the policies and procedures of the Parole Board as they apply to the setting of MPI's, the parole release decision, and the inmate's access to materials contained in Parole files;

Each of these tasks is reported on in the sections and attached appendices that follow. In addition to these tasks, which were required by the contract, Vera conducted a regression analysis on the data generated in the parole release study to obtain an estimate of the relative importance of various factors that appear to influence the length of time served before release on parole. This analysis is reported on in Section V.

Each section of this report is essentially a discrete entity which describes how one of the above-listed tasks was performed and sets forth the conclusions derived. Thus, the sections do not build naturally on one another to produce a single coherent product regarding the parole decision-making process. In this regard, the report reflects the fragmented character of the tasks assigned to Vera under the contract. The Parole staff and Board followed their own course in developing their decision-making guidelines. To assist, Vera performed somewhat discrete research tasks at Parole's direction.

As a result of this fragmentation, some questions which arise about parole decision-making are not addressed here. For example, the report does not deal at all with the decision to grant or deny parole. This is because the sample which Vera was directed to draw for the release study (Section IV) included only those cases in which the Board granted parole release. As a further consequence of these sample limitations, the conclusions reached regarding the length of time served and the factors influencing it cannot be extended to the general population of those released from DOCS facilities. While parole represents the most common form of release, Department statistics suggest that approximately 30% of the inmates released in a given year leave the institutions on conditional release (i.e., on a date which represents the completion of their maximum, less the inmate's earned "good time"), or upon completion of their maximum sentences. The absence of any such people from the release study sample means that the findings of that study apply only to those who are released on parole.

Despite some of these frustrating limitations, the research reported on here does identify some interesting aspects of the decision-making process and does point to some questions that ought to be studied further.

Section I reports on two different approaches which Vera staff used to measure Board perceptions of offense seriousness. Both approaches indicate that a fair degree of consensus existed among the members with respect to the relative seriousness of the majority of criminal offenses.

Section II reports on a decision simulation exercise in which Board members were presented with narrative descriptions of hypothetical offenses and offenders and then asked to provide their subjective assessments of the seriousness of the offense and the prior criminal record. In addition, the members were asked to define an MPI time range which they felt was appropriate, and indicate the specific MPI they would set in each hypothetical case.

The results of the exercise are interesting on several levels. The exercise indicates that there is a reasonable amount of consensus among Board members regarding the relative seriousness of various offenses, as well as a fair degree of consensus on the relative seriousness of different types of prior criminal record.

That consensus, however, breaks down when the Board members specify appropriate time ranges for MPI's. The exercise suggests that Board members clearly disagree on the appropriate length of an MPI, even when they agree on the seriousness of the offense and

prior record involved. It is possible, however, that the artificial nature of the exercise accounts for at least part of the variation in recommended MPI's.

The MPI study, reported on in Section III, confirms the expectation that the length of the MPI increases as the seriousness of the offense increases. On the other hand, the seriousness of the prior record, by itself, does not influence significantly the length of the MPI. However, when the seriousness of the offense is held constant, some relationship between length of MPI and prior history is discernible, at least with respect to the more serious felony classes. Specifically, among Class B felonies, the MPI increases as the prior criminal record gets worse, but among Class D & E felonies, the MPI's are approximately the same regardless of prior record.

The MPI study also reveals considerable variation in the length of the MPI imposed on cases in which the felony class of offense and prior criminal history appear to be the same. Additional data indicate considerable variation in MPI, and in the maximum sentence imposed by the court, for the same offense of conviction. Finally, the data from the MPI study also suggest that there is a fairly strong relationship between the MPI imposed by the Parole Board and the maximum sentence imposed by the court.

Many of these findings were confirmed by the Parole Release Study, which is described in Section IV. Here, however, the dependent variable was the time served prior to parole release, rather than the MPI set by the Board. This study suggests a

strong relationship between time served, MPI, and the maximum term. However, the data presented in this section also suggest that the amount of variation in time served by inmates sentenced for the same offense who carry similar prior records, increases as offense seriousness increases. This finding, in turn, suggests that the Parole Board and the court make more distinctions among the more serious felony cases than they do among Class D & E felonies.

The regression analysis described in Section V is a methodologically rigorous effort to sort out the factors which influence the length of time served by those ultimately released on parole. The analysis shows that, for this sample, the MPI imposed in the case is by far the most influential factor related to time served. Indeed, the strength of the correlation suggests that for most such cases, the MPI served as a presumptive release date.

The regression analysis also shows that the maximum term imposed by the court is clearly the second most influential factor related to time served. And, as suggested in other sections of the report, there exists a very strong correlation between the maximum term set by the court and the MPI imposed by the Board.

In addition, the regression analysis shows prior criminal record to be a factor of less than major influence on the time served prior to parole release. However, Section V raises several cautionary points regarding the apparent impact of prior record on time served. These points relate to the sample parameters, the nature of the prior criminal record indicators, and the limitation of regression analysis techniques applied to this data.

In sum, there is much in this report to illuminate the parole decision-making process, while raising new questions and more sharply focusing old questions for further research. It is hoped that such questions will be pursued by the staff at the Division of Parole in the months and years to come.

Section I: Offense Seriousness Scaling

Introduction

Work was begun on this project with a review of several sets of guidelines used for parole decision-making in other jurisdictions. This effort was designed to assist Parole staff in assessing the applicability of various models to New York State and to determine how others have attempted to measure offense seriousness for inclusion in a decision-structuring mechanism. ⁽¹⁾ Considerable attention was focussed on the guidelines developed for the United States Parole Commission, a paroling authority which operates within a sentencing and parole structure comparable to the New York Board. The procedures, methods, and samples used to generate these guidelines were reviewed in depth and are briefly summarized here.

The Federal Guidelines

As shown in Figure 1, these guidelines consist of a two-dimensional matrix in which the range of time to be served before parole release is primarily a function of the seriousness

¹The guidelines developed by the parole boards of Washington State, Minnesota, and North Carolina were reviewed with the parole staff. The Washington State and Minnesota guidelines are very similar to the federal guidelines. The North Carolina guidelines reflect a "screening" or branching network model rather than a matrix model. These guidelines do not include an offense seriousness scale. It was agreed that the screening model could not be generalized to New York. For a discussion of these models, and the methods used to derive them, see Don M. Gottfredson and Colleen Cosgrove, Leslie T. Wilkins, Jane Wallerstein and Carol Rauh. Classification for Parole Decision Policy (Albany, New York: Criminal Justice Research Center, March 1977).

of the offense and the probability of recidivism as measured by the Salient Factor Score.⁽²⁾ The Salient Factor Score is a prediction device based on seven weighted items. A score for each item is calculated and the subject is assigned to one of the four risk categories based on the total score. The lower the score, the higher the probability of recidivism (Figure 2 shows the items and their scores). This base expectancy scale was derived from an extensive empirical study of the prior criminal record, socio-economic, and demographic factors associated with the various recidivism rates for inmates released from federal correctional facilities.⁽³⁾

In order to promote consistency in assessing the seriousness of the offense, simulation exercises were conducted to determine Board Member and Hearing Examiner consensus concerning the comparative seriousness of a number of offenses. The participants were asked to sort 65 index cards containing brief offense descriptions, into seven levels of seriousness ranging from the least to the most serious. By averaging the scores assigned for each offense, it was possible to group these offense descriptions into the six levels of seriousness reflected in the offense severity scale.⁽⁴⁾

²The United States Parole Commission actually uses three sets of guidelines, one for each of the three acts under which a defendant may be sentenced. (Adult Corrections, Youth Corrections, and Narcotic Addict Rehabilitation). Although these guidelines are based on the offense seriousness scale and the salient factor score, the time ranges vary.

³Peter B. Hoffman, and James L. Beck, "Parole Decision-Making: A Salient Factor Scale", Journal of Criminal Justice, Vol. 2 pp. 1975-206 (1974).

⁴Peter B. Hoffman, The Practical Application of a Severity Scale, Parole Decision-Making Project, Report 13 (Davis, California: National Council on Crime and Delinquency Research Center, 1973).

FIGURE I-1

Guidelines for Decision-Making*

Offense Characteristics- Examples of severity of offense behavior	Salient Factor Score (reflects esti- mated probability of recidivism)			
	Very good (11-9)	Good (8-6)	Fair (5-4)	Poor (3-0)

Low:

Escape

Marijuana or soft drugs,
simple possessionProperty offenses (theft
or simple possession of
stolen property) less
than \$1,000

6-10

8-12

10-14

12-18

Low Moderate:

Alcohol law violations

Counterfeit currency
(passing/possession less
than \$1,000)Immigration law violations
Income tax evasion (less than
\$10,000)

8-12

12-16

16-20

20-28

Property offenses (forgery/
fraud/theft from mail/em-
bezzlement/interstate trans-
portation of stolen property
with intent to resell) less
than \$1,000

Selective Service Act violations

Moderate:

Bribery of a public official
(offering or accepting)Counterfeit currency (passing/
possession \$1,000 to \$19,999)

Drugs:

Marijuana possession with intent
to distribute/sell (small scale,
e.g., less than 50 lbs.)"Soft drugs", possession with
intent to distribute/sell (less
than \$500)Firearms Act, possession/purchase/
sale (single weapon: not sawed-
off shotgun or machine gun)

Income tax evasion (\$10,000 - \$50,000)

Mailing threatening communication(s)

*Excerpted from the
FEDERAL REGISTER, Vol.
42, No. 151, Friday,
August 5, 1977

Figure I-1 (continued)

Offense Characteristics	Very Good (11-9)	Good (8-6)	Fair (5-4)	Poor (3-0)
Moderate:				
Misprison of felony				
Property offense (theft/ forgery/fraud/embezzle- ment/interstate trans- portation of stolen or forged securities/re- ceiving stolen property) \$1,000 to \$19,999	12-16	16-20	20-24	24-32
Smuggling/transporting of alien(s)				
Theft of motor vehicle (not multiple theft or for resale)				
High:				
Counterfeit currency (passing/possession \$20,000 to \$100,000)				
Counterfeiting (manufac- turing)				
Drugs:	16-20	20-26	26-34	34-44
Marijuana, possession with intent to distribute/ sell (\$500 to \$5,000)				
"Soft drugs", possession with intent to distribute/ sell (\$500 to \$5,000)				
Explosives, possession/ transportation				
Firearms Act, possession/ purchase/sale (sawed- off shotgun(s), machine gun(s), or multiple weapons)				
Mann Act (no force - commercial purposes)				
Theft of motor vehicle for resale				
Property offenses (theft/ forgery/fraud/embezzlement/ interstate transportation of stolen or forged securities/receiving stolen property) \$20,000 to \$100,000				

*Excerpted from the FEDERAL REGISTER
Vol. 42, No. 151, Friday,
August 5, 1977

Figure I-1 (continued)

Offense Characteristics	Very Good (11-9)	Good (8-6)	Fair (5-4)	Poor (3-0)
Very High:				
Robbery (weapon or threat)				
Breaking and entering (bank or post office-entry or attempted entry to vault)	16-20	20-26	26-34	34-44
Drugs:				
Marijuana, possession with intent to distribute/sell (large scale (e.g., 2,000 lbs. or more)				
"Soft drugs", possession with intent to distribute/sell (over \$5,000)				
"Hard drugs", possession with intent to distribute/sell (not exceeding \$100,000)				
Extortion				
Mann Act (force)				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) over \$100,000, but not exceeding \$500,000				
Sexual act (force)				
Greatest:				
Aggravated felony (e.g., robbery, sexual act, aggravated assault) -weapon fired or personal injury				Greater than above-however, specific ranges are not given, due to the limited number of cases and the extreme variation in severity possible within the category.
Aircraft hijacking				
Drugs:				
"Hard drugs", possession with intent to distribute/sell (in excess of \$100,000)				
Espionage				
Explosives (detonation)				
Kidnapping				
Willful homicide				

FIGURE I-2

SALIENT FACTOR SCORE

Case Name-----

Register No. -----

Item A-----

No Prior convictions (adult or juvenile) = 3
1 prior conviction = 2
2 or 3 prior convictions = 1
4 or more prior convictions = 0

Item B-----

No prior incarceration(adult or juvenile) = 2
1 or 2 prior incarcerations = 1
3 or more prior incarcerations = 0

Item C-----

Age at first commitment (adult or juvenile):
26 or older = 2
18 - 25 = 1
17 or younger = 0

Item D-----

Commitment offense did not involve auto theft or check(s) (forgery/larceny) =
Commitment offense involved auto theft or check(s) = 0

Item E-----

Never had parole revoked or been committed for new offense while on parole, and
not a probation violator this time = 1
Has had parole revoked or been committed for a new offense while on parole, or
is a probation violator this time = 0

Item F-----

No history of heroin or opiate dependence = 1
Otherwise = 0

Item G-----

Verified employment (or full-time school attendance)for a total of at
least 6 months during the last 2 years in the community = 1
Otherwise = 0

TOTAL SCORE-----

To determine the time ranges associated with each combination of offense seriousness and Salient Factor Score, an empirical study of past Board decisions was conducted.

The median time served for each severity/risk level was (then)...tabulated for a large sample of final decision (parole/mandatory release/expiration)... "Smoothing," based on agreement by two Project staff members after visual inspection, increased the consistency of these medians, although no attempt was made to force uniform or linear increments. Each median was bracketed (plus or minus months) to provide a "discretion range" -- the guideline table -- The size of the appropriate range was determined after informal discussions with several Board Members and hearing Examiners, and, while arbitrary, is to some extent proportional to the size of the median.⁵

These materials, as well as others describing guidelines used in other jurisdictions were presented to the Parole Board members. After considerable discussion the Board directed Vera staff to concentrate on developing an offense severity scale for eventual incorporation into decision-making guidelines. The Board members also expressed reservations about using a predictive component in their final guidelines and suggested a point system based entirely on prior criminal history items as a substitute for the federal system's Salient Factor Score. Thus, they envisioned guidelines in the form of a two-dimensional matrix with the Y-axis consisting of an offense severity scale and the X-axis a prior record score.

⁵Don M. Gottfredson, Peter B. Hoffman, et.al., "Making Paroling Policy Explicit", Crime and Delinquency, pp. 34-44 (January, 1975).

The Card Sort Design for Scaling Offense Seriousness

Although a number of techniques are available for use in developing offense severity scales, card-sorting procedures are probably the simplest and most efficient method. Early in the project, it was agreed that a card-sorting routine similar to the one used in the federal study would be appropriate. Then, two approaches toward defining the contents of the offense descriptions were outlined. On the one hand, the offense descriptions could be confined to the penal law definitions of various offenses and offense elements. Alternatively, the descriptions could be prepared to reflect mitigating and aggravating factors not specifically mentioned in the penal code.

The parole staff expressed a definite preference for the latter strategy.

The two criteria employed for selecting offenses for inclusion in this exercise were the frequency of the offense and the seriousness of the offense. Thus, the exercise was designed to include offenses that were representative of those frequently encountered in actual decision-making (e.g., homicide, robbery, etc.), as well as those that are relatively rare but serious offenses (e.g., kidnapping). Using these criteria, a number of felonies were eliminated from consideration (e.g., bigamy, various types of fraudulent stock or bond transactions).

In order to determine the frequency of various offense behaviors that resulted in prison terms, a number of publications produced by state criminal justice agencies were consulted.

Table I-1, Columns A and B, shows the proportionate distribution of indictment and conviction offenses for inmates sentenced to the

Department of Correctional Services between January 1, and December 31, 1975. The source for the information presented in these columns was the Division of Criminal Justice Services.⁽⁶⁾

This table also includes admissions data for the same time period for persons received at correctional facilities under the jurisdiction of the Department of Correctional Services.⁽⁷⁾ It is clear from a consideration of the cumulative percentages (Col.A) that nine general offense categories accounted for 95% of the offenses in each of the three distributions (indictments, convictions and new commitments). Indeed, the concentration of offenses is so marked that four offense categories, Robbery, Drugs, Burglary and Murder/Homicide, together account for almost 71% of the new commitments, 74% of the convictions and 79% of the indictments.

Based on this data, a number of the most frequently occurring offense categories were selected for inclusion in the card sort exercise. The penal code description of these offenses was then modified with the addition of various aggravating and mitigating factors. Additional sources were consulted to determine which of these factors were appropriate for inclusion in this exercise. For example, project staff reviewed 160 pre-parole summaries written by institutional parole officers for use by the Board Members at hearings. This study provided the staff with an intuitive understanding of the number and types of mitigating and

⁶ _____, New York State Felony Processing, Quarterly Report, Indictment Through Disposition January-December 1975 (Albany, New York: New York State Department of Criminal Justice Services, January, 1976).

⁷ _____, Annual Statistical Report: Inmate and Parole Populations, 1975 Data (Albany, New York: Department of Correctional Services).

TABLE I - 1

FREQUENCY DISTRIBUTION OF INDICTMENT, CONVICTION, COMMITMENT AND SENTENCING OFFENSES FOR SUBJECTS SENTENCED TO AND/OR RECEIVED BY THE DEPARTMENT OF CORRECTIONAL SERVICES

January - December 1975

A INDICTMENTS	%	Cf	B CONVICTIONS	%	Cf	C NEW COMMITMENTS	%	Cf
<u>Offenses</u>			<u>Offenses</u>			<u>Offenses</u>		
Robbery	38.4	38.4	Robbery	37.9	37.9	Kobbery	35.2	35.2
Burglary	14.6	53.0	Burglary	13.7	51.6	Drugs	12.5	47.7
Murder and Homicide	13.1	66.1	Drugs	12.1	63.7	Burglary	11.8	59.5
Drugs	12.4	78.5	Murder and Homicide	9.8	73.5	Murder&Homicide	11.3	70.8
Rape-Sex	4.8	83.3	Weapons	5.8	79.3	Youthful Offndrs.	6.4	77.2
Weapons	4.6	87.9	Assault	5.5	84.8	Felonious Assault	5.2	82.4
Assault	3.7	91.6	Rape-Sex	4.4	89.2	Dangerous Weapons	4.9	87.3
Larceny	2.3	93.9	Larceny	4.1	93.3	Kape-Sex	4.2	91.5
Forgery	1.7	95.6	Crim.Poss.Stol.Prop.	1.6	94.9	Grand Larceny	3.1	94.6
Crim.Poss.Stol.Prop.	1.1	96.7	Forgery	1.5	96.4	Forgery	1.3	95.9
Escape	0.9	97.6	Escape	0.9	97.3	Crim.Pos.Stol.Prop	1.3	97.2
Arson&Explosives	0.6	98.2	Arson & Explosives	0.6	97.9	All Other Felonies	1.3	98.5
Kidnapping	0.6	98.8	Kidnapping	0.4	98.3	Arson	0.5	99.0
Judicial	0.3	99.1	Judicial	0.3	98.6	Kidnapping	0.3	99.3
Conspiracy	0.3	99.4	Bribery	0.3	98.9	Misdemeanors.&Viols	0.3	99.6
Bribery	0.2	99.6	Conspiracy	0.3	99.2	Juvenile Delins.	0.3	99.9
Vehicle&Traff.Law Fels.	0.1	99.7	Other Penal Law Chrgs.	0.2	99.4	Fraud	0.0	
Gambling	0.1	99.8	Vehicle&Traff. Law Chrgs.	0.1	99.5			
Other Penal Law Fels.	0.1	99.9	Criminal Mischief	0.1	99.6			
Criminal Mischief	0.0		Gambling	0.1	99.7			
Tax Felonies	0.0							

aggravating factors that are available in these reports. A study conducted at Coxsackie prison indicated that guns and knives accounted for most of the weapons used or threatened in robberies;⁽⁸⁾ therefore, the offense descriptions included a specific reference to the type of weapon involved. Vera's recently published study of felony dispositions in New York City indicated that, for a variety of offenses, including assault, robbery and manslaughter,⁽⁹⁾ a prior relationship between the offender and the victim was frequently present, and that this factor significantly reduced the severity of the sentence imposed. Thus, a "prior relationship" modifier was included in the offense descriptions.

Card-Sort 1: Trial-Run Exercise

The first card-sort exercise was designed as a pre-test to identify offense descriptions that were vague or otherwise in need of modification, as well as to familiarize the Board Members with card-sort procedures. Following the procedures used in the Federal study, each participant was asked to quickly sort 94 index cards containing offense descriptions into six levels of seriousness ranging from "low moderate" to "greatest" seriousness. If the decision-maker encountered difficulty in classifying the offense, he or she was directed to place the offense description in a seventh category labelled "questionable."

⁸ Michael DePietro, Memorandum: "Survey of Coxsackie Correctional Facility Population According to Criminal Offenses Committed", 1975.

⁹ _____, Felony Arrests: Their Prosecution and Disposition in New York City's Courts (New York: Vera Institute of Justice, 1977).

After completing this exercise, each Board Member was asked to rank ten drugs into four categories of "harmfulness." When this task was completed, each participant was interviewed and the sorting procedures and offense descriptions were discussed.

In general, the Board Members encountered little difficulty in performing this task. During the interviews, each of the Board Members made suggestions on how the offense descriptions could be modified to reduce ambiguity, and to increase the relevance of the modifiers. Several recommended that the relatively infrequent offenses be eliminated from the second card-sort.

To determine the degree of consensus on the appropriate severity level for each offense, the mean (average) ranking was calculated for each offense description. The findings indicated that there was considerable agreement regarding the relative seriousness of the offenses. (See Appendix A for a description of the offenses, and the means for each description.)

Overall, 77% of the rankings for each offense description were within one point of the mean for that description. This finding indicates that for each description, the range of the rankings among the Board members was rather narrow. When the descriptions were grouped according to whether they concerned a "drug" or "non-drug" offense, 69.9% of the former and 80.5% of the latter were within one point of the individual offense description mean. This suggests that there was more variability in the offense severity levels assigned to each drug offense description than to "non-drug" offenses. This variability, in turn, reflects differences among the Board members in their perceptions of the relative harmfulness of various drugs. For

example, as Table I-2 indicates, the members were unanimous in judging heroin to be the most and marijuana to be the least harmful of the ten drugs they were asked to consider. Consensus on the other drugs, however, was far less obvious. The rankings for cocaine, for example, were quite disparate, with scores clustering at both extremes of the scale.

TABLE I-2

RANKING OF DRUG HARMFULNESS: FREQUENCY AND MEANS OF RANKS GIVEN

Most..... Least

DRUG TYPE	4	3	2	1	MEAN	
Heroin	11				4.0	} Most Harmful
Methamphetamine	2	4	5		2.7	} Second Most Harmful
Cocaine	3	5		3	2.7	
Methadone	3	2	5	1	2.6	
Hallucinogens	2	4	4	1	2.6	
Barbiturates	1	4	5	1	2.5	
Stimulants		5	4	2	2.3	} Third Most Harmful
Tranquilizers		3	5	3	2.0	
Hashish			3	8	1.3	} Least Harmful
Marijuana				11	1.0	

The results of this trial-run were used to improve the clarity of the offense descriptions and to reflect changes suggested by the Board members. After these modifications were made, eighty-eight offense descriptions (23 "drug" and 65 "non-drug") were prepared for use in the second card sort.

Second Card-Sort Exercise

The directions for this exercise differed somewhat from those used for the trial-run. In the latter exercise, the Board members were encouraged to sort the cards quickly so that their judgments reflected their initial, immediate response to the offense description. In the second exercise the participants were asked to carefully consider the offenses' descriptions because these rankings would influence the contents of the final severity scale. The instructions were as follows:

Begin by placing the blue offense category cards in front of you in the order: GREATEST, VERY HIGH, HIGH, HIGH MODERATE, LOW MODERATE and QUESTIONABLE. Then, sort through the offense description cards and find one or two good examples for the Greatest and Low Moderate categories. Next, begin placing the cards in the categories which, in your judgment, best indicate the severity of the offense behavior listed. Arrange the cards as you go so that you can see all simultaneously, much as you would if playing solitaire. Please take time to deliberate on each choice. Re-check your choices and make as many changes as you wish. Once having completed the sort, put the cards aside and come back later. If possible, spread the work over a couple of days. Then, re-check your cards for a final time. Please indicate the severity level for each by placing a check mark in the appropriate box on the bottom of the card.

When the Board Members had completed this task, the results were tabulated and a summary of the findings was returned to the participants (See Appendix A, Table 2).

The results of the second card-sort were similar to those of the first, in that both exercises showed a high degree of consensus concerning the seriousness of the offenses. Overall, 79% of the rankings were within one point of the mean for the individual offenses. For the drug offenses, the figure was 67% and for the non-drug offenses, it was 83%. In addition, the offense des-

criptions used seem reliable. Specifically, for 26 offense descriptions which were essentially unchanged from the trial run, the mean ranks for these offenses were virtually identical in the two exercises ($r = .98$).

Consolidating the Offense Descriptions
and Reviewing the Ratings

A special meeting of the Board was held in April, 1977 to review the results of these card-sorting exercises, and to develop offense descriptions appropriate for inclusion in decision-making guidelines. In this regard, it was noted that certain factors which may influence seriousness judgments on a case level are too specific for inclusion in decision-making guidelines. For example, while the presence of a weapon may be used appropriately to distinguish between broad categories of offense seriousness, the type of weapon (e.g., sawed-off shotgun) involved is too specific a factor for inclusion in guideline offense definitions. In order to accommodate the fact that such a specific element may influence the decision in certain cases, the guidelines may incorporate time ranges for each seriousness category. The use of time ranges permits the decision-maker to set an MPI that will reflect mitigating or aggravating factors in the case.

This constraint on guideline development was considered at the April meeting when the Board reviewed and discussed each offense description. When consensus was reached as to the elements to be included in a description, a vote was taken to determine Board consensus concerning the seriousness level to be assigned to this revised offense description.

The six-level offense seriousness scale that emerged from

this meeting is shown in Figure I - 3. By consolidating a number of offense descriptions used in the card-sort exercises and deleting a number of modifiers, the Board Members reduced the 65 non-drug descriptions to 33. For example, all robbery descriptions were collapsed into descriptions closely resembling those in the Penal Law, and all descriptions involving prior relationships as mitigating factors were eliminated. Interestingly, there is a fair degree of correspondence between the Board's offense severity categories and the felony classes of the Penal Law. The "Low Moderate" category roughly corresponds to Felony Class E, "Moderate" and "High Moderate" categories and to Class D, "High" to Class C. In a somewhat more general way the offense included in the "Very High" and "Greatest" categories correspond to Felony Classes A and B. It will be noted that the drug offenses are not included in this scale. Although considerable discussion focussed on the appropriate severity levels for these offenses, it was not possible to obtain consensus at the meeting. The Board members believed that they needed information on the pharmacological effects of these drugs and the court processing of these cases before a severity level could be assigned.

In response to the Board's request, the Vera staff arranged for two experts in the drug area to conduct a seminar with the Board. On July 19, 1977, Mr. Charles Heffernan, Executive Assistant District Attorney, Special Drug Prosecutor's Office, and Mr. Anthony Jaffa, Director of the ABA Committee on Drug Law Evaluation, met with the Parole Board to explain the 1973 drug laws and to describe the impact of these laws on plea-bargaining and

OFFENSE SERIOUSNESS SCALE OF APRIL 22 SPECIAL PAROLE BOARD MEETING

<u>PENAL LAW CLASS</u>	<u>BOARD RANKING</u>
	<u>LOW MODERATE</u>
D	Forgery/Fraud: Under \$1500
E	Larceny: Under \$1500
E-D	Possession of Stolen Property: Under \$5000
E-D	Theft of Motor Vehicle: Not multiple or for resale
	<u>MODERATE</u>
D	Burglary: Not dwelling
E-B	Bribery/Rewarding: Received for public official misconduct
D	Forgery/Fraud: Over \$1500
D	Larceny: Over \$1500
D	Possession of stolen property: Over \$5000
E	Larceny: Purse snatching
	<u>HIGH MODERATE</u>
D	Theft of motor vehicle: Multiple or for resale
D	Burglary: In a dwelling
D	Robbery: Forcibly stole property (threatened immediate use of physical force on a person to take or keep property)
	<u>HIGH</u>
C	Arson: Intentionally set fire to empty dwelling or commercial building
C	Burglary: Armed with weapon or in a dwelling at night
D	Assault: Intentionally caused serious physical injury or intentionally caused physical injury with a weapon
C	Extortion: Threat of property damage or physical injury
C	Robbery: Forcibly stole property with accomplices or caused physical injury, or displayed what appeared to be a weapon
E	Criminally Negligent Homicide: Failed to perceive risk of death and death not intended
	<u>VERY HIGH</u>
C	Homicide (Reckless Manslaughter): Perceived risk resulting in death and death not intended; intended non-serious injury, but caused death
C/B	Burglary: Caused serious physical injury
B	Robbery: Caused serious physical injury
A-Misdemeanor	Sexual Abuse: Adult to child under 11 yrs.; no force
B	Rape/Sodomy: Force
A	Explosion: Sufficient to cause injury where persons may be present
	<u>GREATEST</u>
B	Arson: Intentionally set fire to building or vehicle knowing persons could be present
D	Sexual Abuse: Adult to child under 11 yrs. old; force
B	Rape/Sodomy: Serious physical injury
B	Homicide: Intended serious injury but caused death
A	Homicide: Intentional

sentencing patterns. The Vera staff also provided the Board with a number of publications which described the pharmacological effects of various drugs. (10)

Penal Law Offense Seriousness Scaling

In order to examine more systematically the degree to which the Board members' assessments of offense seriousness corresponded to the gradations of seriousness reflected in the five felony classes of the Penal Law, Vera staff agreed to design a seriousness scaling exercise that would be based entirely on the Penal Law offense descriptions (see Appendix B for instructions, forms and tally sheets used in this exercise).

The New York Penal Law is divided into five felony classes, or gradations, of offense seriousness. As the offense seriousness increases, as reflected in the felony class of the offense, the maximum penalties that may be imposed for a conviction increase. For the lowest seriousness level (Class E), the maximum sentence is four years; for the most serious offenses, Class A, the maximum penalty is life. It should be noted that as the offense seriousness increases, the degree of specificity involved in the offense description increases. For example, the Penal Law definition of Robbery-3, as Class D felony, is: "A person is guilty of robbery in the third degree when he forcibly steals property." (Article 160.05), a rather broad offense description. On the other hand, Robbery-1, a Class B felony, includes four offense elements, and is defined as follows:

¹⁰Each Board member was provided with a copy of Edward Brecher's Licit and Illicit Drugs (Mount Vernon, New York: Consumers Union, 1972) and two articles by L. Grinspoon and J. Bakalar, "Cocaine: A Social History" and "A Kick from Cocaine" from Cocaine A Drug and Its Social Evolution (New York: Basic Books, 1976).

A person is guilty of robbery in the first degree when he forcibly steals property and when, in the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime:

1. Causes serious physical injury to any person who is not a participant in the crime; or
2. Is armed with a deadly weapon; or
3. Uses or threatens the immediate use of a dangerous instrument; or
4. Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

(Article 160.15)

In view of the complexity and the scope of the penal law, it was necessary to edit the descriptions of the various offenses and to limit the exercise to the most frequently occurring and the most serious offenses. Furthermore, it was decided that the Board members should not feel compelled to draw distinctions they do not usually draw in their actual decision-making process. For this reason, a very open-ended design was used, imposing no a priori limits on the number of distinctions a Board member could make among offenses.

The Board members were asked to consider the offenses in each felony class and to rank them in terms of relative seriousness within that class. When this task was completed, the Board members were asked to make comparisons between the five felony classes. So, for example, if a Board member felt that a particular Class C felony was more serious than the other Class C felonies, he could reclassify that offense as a Class B felony.

The structure of this exercise differed substantially from that of the card-sorting exercise. In the latter exercise, the Board members were asked to accord seriousness scores to discreet

offense descriptions. A classification system was then created by statistically synthesizing the scores given by all the members. The members were not constrained by existing classification systems. In the Penal Law exercise, however, the Board members were asked to accept the basic classification scheme, but to reconsider the ordering of specific offenses within it.

In conducting this exercise, staff expected that some Board members would make numerous distinctions among offense categories within each felony class. The tally sheets presented in Appendix B generally confirm this expectation. Most Board members drew some distinctions among the offenses within felony Classes B and C, and almost all members subdivided the offenses in felony Class D and Class E into three or more levels of seriousness. Indeed, one member suggested 11 separate seriousness levels within felony Class E. Nonetheless, the distinctions within felony classes were of less interest to the staff than were the Board members suggestions for recategorizing offenses among felony classes.

Table I-3 shows the mean ranking for each offense contained in felony Classes B through E. (see Appendix B for procedures used to compute these mean scores.) Class A offenses are not listed in the table because all the participating Board members agreed that the selected Class A offenses were of equal seriousness and appropriately categorized as Class A felonies.

The table shows that, except for Rape-3 and Sodomy-3, there were no important differences between the Penal Law offense classifications and those made by the Board members in the exercise. This generalization obtains despite the fact that individual Board members did occasionally recommend the reclassification of specific offenses. (See tally sheets in Appendix B for examples.) Rape-3 and Sodomy-3, which are Class E felonies according to the Penal Law, should be treated as Class D offenses, according to the Board members (i.e., they have mean scores of 1.8).

These findings suggest that a five-level offense seriousness scale, corresponding rather closely to the Penal Law classifications, might be used for guidelines purposes.

Offense Seriousness Scaling: An Overview

In summary, two very different approaches were used for developing a preliminary offense seriousness scale: card-sorting using offense descriptions developed by the Vera staff, and an open-ended exercise based on the offense descriptions and gradations of seriousness reflected in the Penal Law.

A "Composite Offense Seriousness Scale" was developed by Vera staff, based on the findings of card-sorting and Penal Law exercises and interviews with the Board members. (See Figure I-4.) This severity scale consists of six offense seriousness levels, and with the exception of Level II (Very High Seriousness), the offense groupings in this scale closely correspond to the Penal Law classes. Level II was designed to cover what may be termed, "aggravated felonies", that is, offenses involving a combination of the aggravating factors specified in the Penal Law.

TABLE I-3

OFFENSE SERIOUSNESS SCORE DERIVED FROM THE PENAL LAW OFFENSE SERIOUSNESS SCALING EXERCISE

Felony Class B	Score	Felony Class C	Score	Felony Class D	Score	Felony Class E	Score
Manslaughter-1	4.1	Manslaughter-2	3.3	Assault-2	2.3	Criminally Negligent Homicide	1.5
Rape-1	4.0	Assault-1	3.1	Reckless Endangerment	2.3	Sodomy-3	1.8
Sodomy-1	4.0	Arson-3	3.0	Sodomy-2	2.4	Rape-3	1.8
Kidnapping-2	4.0	Burglary-2	2.9	Sexual Abuse-1	2.3	Arson-4	1.4
Arson-2	4.0	Grand Larceny-1	3.0	Criminal Possession of a Weapon-2	2.0	Grand Larceny-3	1.4
Robbery-1	3.9	Robbery-2	3.0	Criminal Trespass-1	2.1	Criminal Possession of Stolen Property	1.2
Burglary-1	3.9	Criminal Possession of a Weapon-2	3.0	Robbery-3	1.9		1.2
Criminal Possession of a Dangerous Weapon-1	3.9			Burglary-3	1.9		2.2
				Grand Larceny-2	1.9		
				Criminal Possession of Stolen Property	1.8		

Both approaches used in this research began with lengthy and detailed offense listings, but the end product sets forth broader offense descriptions. The synthesizing of these descriptions is required so that the seriousness scale can be used as part of a decision-making guideline. Such a guideline cannot take specific cognizance of every offense element or a large number of mitigating or aggravating factors. However, the influence of these factors can be provided for through the use of time ranges rather than fixed time periods for various offense and prior record combinations.

Figure I-4: COMPOSITE OFFENSE SERIOUSNESS SCALE DERIVED FROM
THE PENAL LAW CARD SORTING EXERCISE

Level I: Greatest Seriousness

Homicide: Intentionally caused death
 Arson: Intentionally damages a building or vehicle by means of an explosion,
 knowing that persons could be present
 Felony Murder
 Kidnapping: Forcible abduction for ransom and/or causes the death of the
 victim

Level II: Very High Seriousness

Rape/Sodomy: Forcible and caused serious physical injury
 Homicide: Intended serious physical injury, but caused death
 Robbery: Armed with a deadly weapon or dangerous instrument and caused
 serious physical injury
 Arson: Intentionally damages a building or vehicle by means of fire, knowing
 that persons could be present
 Burglary: Armed with a deadly weapon or dangerous instrument and caused
 serious physical injury
 Kidnapping: Forcible abduction resulting in serious physical injury

Level III: High Seriousness

Homicide: Caused death while acting under extreme emotional disturbance
 Rape/Sodomy: Forcible
 Robbery: Armed with a deadly weapon or dangerous instrument or caused serious
 physical injury
 Burglary: Armed with a deadly weapon or dangerous instrument or caused serious
 physical injury
 Kidnapping: Forcible abduction

Level IV: High Moderate Seriousness

Homicide: Recklessly caused death; perceived risk resulting in death and
 death not intentional
 Robbery: With accomplices, or caused physical injury, or armed with what
 appeared to be a weapon
 Assault: Intentionally caused serious physical injury or caused physical
 injury by means of a deadly weapon or dangerous instrument
 Burglary: Caused physical injury
 Extortion: Theft of property by instilling fear of property damage of physical
 injury
 Sexual Abuse: Forcible sexual contact with a child under the age of 11

Level V: Moderate Seriousness

Homicide: Criminally negligent homicide; failed to perceive the risk of death,
 and death not intended
 Robbery: Forcible theft of property
 Burglary: In a dwelling
 Possession of Stolen Property: \$5000 or over
 Grand Larceny: \$1500 or over
 Fraud/Forgery: \$1500 or over
 Bribery/Rewarding: Received for official misconduct
 Theft of Motor Vehicle: Multiple of for resale
 Rape/Sodomy: consensual, victim under 14

Level VI: Low Moderate Seriousness

Burglary: Not a dwelling
 Possession of Stolen Property: Under \$5000
 Grand Larceny: Under \$1500
 Theft of Motor Vehicle: Not multiple or for resale

Section II: Developing Preliminary Guidelines through a Decision-Simulation Exercise

There are several possible strategies for the development of parole decision-making guidelines. The archival approach generally involves selecting a sample of cases which the Board acted on in the past and culling from the case files data regarding the dependent variables (i.e., the MPI and/or time served as of date of release) and indicators of selected independent variables (e.g., offense seriousness, prior criminal history, institutional adjustment).

The means of measuring the variables are defined by the researcher and then imposed on the information recorded in the file. These measures are said to be "objective" in that they use external scales to measure selected variables uniformly across cases.

The relationships between the dependent and independent variables and combinations of independent variables are then analyzed. The dependent variable, such as length of the MPI is then expressed as a function of various combinations of independent variables, such as offense seriousness and seriousness of prior criminal record. The data reveal prior patterns of Board decision-making and permit the Board to adapt or modify these patterns as guidelines for their future decision-making.

The Vera staff undertook two pieces of archival research at the request of Parole, and these research efforts are reported on in the next two sections of this report.

Patterns of decision-making may also be revealed by studying the relationship between the Board members' subjective assessment of selected independent variables (e.g., offense seriousness, prior criminal history) and the MPI imposed by the Board in cases actually appearing before it. Again, the patterns of decision-making may then be described and explained to the Board and the Board may adapt or modify those patterns as guidelines for its future decision-making.⁽¹¹⁾ Although this strategy is effective, it requires a considerable expenditure of time and resources by both Board members and researchers. It was decided, therefore, that it was not a feasible strategy to use in this project. Nevertheless, Parole staff remained interested in the use of a subjective ratings strategy.

It was suggested that subjective ratings could be explored in a decision-simulation exercise, and that the results of such an exercise could be used to develop preliminary decision-making guidelines.⁽¹²⁾ This strategy would involve the Board in assessing offense seriousness and the seriousness of prior criminal history, as well as setting specific MPI's for a series of hypothetical cases. In addition to providing another measure of offense seriousness it was believed that this exercise could result in the rapid production of preliminary guidelines. For these reasons, Vera staff agreed to undertake the exercise.

¹¹ See, for example, Don M. Gottfredson, Colleen A. Cosgrove et.al., Classification for Parole Decision Policy, (Albany, New York: Criminal Justice Research Center, March, 1977)

¹² The suggestion was offered by Mr. Peter Hoffman, the Research Director of the U.S. Parole Commission, who served as a consultant to the project.

The Board members were presented with 24 hypothetical case descriptions and asked to answer specific questions regarding each case. In total, an estimated 30-45 minutes of a Board member's time was required to complete the exercise. (see Appendix C for the Board instructions, case narratives and tally sheets used in the exercise.)

The Board members were asked to set an MPI based on information related to two basic factors - offense seriousness and prior criminal record. A number of mitigating and aggravating factors which may influence the Board members' decision in actual practice (e.g., employment history, parole plan, etc.) were excluded from the hypothetical case descriptions. The use of a relatively small number of cases precluded the possibility of using detailed factorial design because it would not be possible to systematically vary a large number of factors. It was decided, therefore, that the case descriptions would reflect only variations in offense and prior record items.

The participating members ⁽¹³⁾ were instructed to rate the seriousness of the offense using five levels ranging from low-moderate seriousness to very high seriousness. Similarly, they were told to evaluate the seriousness of the prior criminal record using the following five categories: none, minor, moderate, serious, and very serious. After making these judg-

¹³Nine out of 12 Board members participated in this exercise. One member was on vacation; another refused to assist in the development of any set of guidelines; and a third lost the materials.

ments, they were directed to set a "likely" MPI term. In view of the fact that the information presented in this exercise was not as complete as that which would normally be available to the Board, the members were asked to set a range for the MPI which would permit the influence of any additional mitigating or aggravating factors that might be present in an actual case.

The tally sheets included in Appendix C present the seriousness rating, prior criminal record rating, likely MPI, and the upper and lower limits of the MPI range accorded to each of the 24 hypothetical cases by each of the 9 participating members. In addition, the median and mean scores for each of these dimensions is presented.

A review of the data presented in these tally sheets indicates that there was a fairly high degree of consensus among the Board members concerning the relative seriousness of the hypothetical offenses. In 20 of the 24 cases, at least 7 of the 9 ratings fell into two categories of seriousness. In the remaining four cases (#1, 9, 12, and 20) the scores were somewhat more disparate.

The degree of consensus is even greater among the Board members with respect to their assessments of the relative seriousness of prior criminal records. In 4 cases the hypothetical offender had no prior record. In all the remaining 20 cases at least 7 of the 9 ratings fell into two categories.

However, when asked to convert these assessments into specific MPI's and MPI ranges, the Board members evidence a con-

siderable lack of consensus. Even when the members clearly agree on the seriousness of the offense and prior record, they would impose widely disparate MPI's. For example, in Case #3, all the members scored the offense as being of either high or very high seriousness and the prior history as serious or very serious. Nevertheless, the likely MPI's set in this case ranged from 42 to 96 months. The lower limit of the MPI range itself ranged from 30 to 90 months, while the upper limit ranged from 60 to 120 months.

By working with the mean scores for offense seriousness and prior record, staff developed a guideline matrix which accounted for the MPI's set in 21, or 88%, of the cases. The guidelines consist of four offense seriousness levels and three prior criminal history categories which, when combined, form twelve cell matrix. The following chart summarizes the guidelines:

TABLE II-1

<u>Offense Seriousness Level</u>			
IV - Very High Seriousness	36-48	42-54	48-60
III - High Seriousness	24-36	30-42	36-48
II - High Moderate Seriousness	18-30	24-36	30-42
I - Moderate Seriousness	12-24 (None-Minor)	18-30 (Moderate)	24-36 (Serious)
	<u>Prior Criminal History Rating</u>		

This matrix was developed by first plotting all the cases according to their average offense seriousness and prior criminal history ratings. Categories of offense seriousness and prior criminal history that contained no cases, or very few cases, were then merged with other categories. For example, there were no cases in which the members rated the offense to be of "low moderate" seriousness; i.e., the lowest seriousness category. Therefore, that category was dropped entirely.

This process reduced the number of offense seriousness levels to four and the prior criminal history categories to three. The score ranges for the offense seriousness levels were varied in order to develop a matrix which satisfied the following criteria: (a) established reasonably limited MPI ranges for each cell; (b) established floors and ceilings on the MPI ranges which reflect proportionate increases in the seriousness of the offense and the prior criminal record; and (c) accounted for approximately 80% of the MPI decisions. The matrix presented in Table II-1 met all of these criteria.

Table II-2 summarizes the results of this effort to develop tentative guidelines through a decision-simulation exercise. This rather detailed table shows the distribution of the cases according to their average offense and prior criminal history ratings. For each case in a "cell" the median for the lower limit of the decision range, and median "likely" MPI is presented. Cases which are "outside" the guidelines, that is, cases where the median "likely" MPI did not fall within the suggested ranges, are indicated by an asterisk.

All of the ranges are twelve months long, and with the exception of Level IV, there is a six-month increment for each unit increase in either offense or prior record seriousness. The increment between offense levels III and IV is twelve months.

While it was possible to generate tentative guidelines from this exercise, their reliability is not clear. The degree of correspondence between the simulated decisions and those made by the Board in actual cases was not tested. Moreover, the exercise was somewhat artificial in several respects. As previously indicated, the information provided in the case descriptions was substantially less extensive and detailed than that presented to the Board members for actual case decisions. In addition, the members were not able to discuss the case with staff in order to clarify a point or get additional information. Finally, the members did not have an opportunity to discuss the cases among themselves before rendering a decision. It is possible, therefore, that the artificial nature of the exercise accounts for part of the variation in the lengths of the MPI's set by the Board members.

GUIDELINES DERIVED FROM THE RESULTS OF THE NARRATIVE EXERCISE

Offense Seriousness										
Level	Case #	M-1	M-2	Case #	M-1	M-2	Case #	M-1	M-2	
IV Very High Seriousness (4.5-5.0)	17	36	48				3	36	51	
							24*	60	63	
	(36-48)			(42-54)			(48-60)			
III High Seriousness (3.5-4.3)	5	27	36	2	30	36	1	27	36	
							6	30	42	
							7	36	42	
							10	36	42	
							22	33	36	
	(24-36)			(30-42)			(36-48)			
II High Moderate Seriousness (3.0-3.4)	14*	30	36	9	30	36	20	36	42	
				15	24	32				
				18	24	32				
				21	24	36				
	(18-30)			(24-36)			(30-42)			
I Moderate Seriousness (2.0-2.9)	4	18	20	23	24	24	11	30	36	
	16	12	24				13	24	36	
	12	19	24				19	30	33	
	8*	24	30							
	(12-24)			(18-30)			(24-36)			
	None-Minor (1.0-2.5)			Moderate (2.6-3.5)			Serious (3.6-5.0)			

Prior Criminal History Rating

M-1 represents the median for the lower limits of the decision range.

M-2 represents the median for the "likely" MPI.

The numbers in parenthesis are the guideline ranges derived from the distribution of the cases.

Section III: The MPI Study

One of the archival research efforts which Vera staff undertook as part of this project was a study of Minimum Periods of Incarceration terms (MPI's) set by the Parole Board between January 1, 1977 and June 30, 1977. The research was initiated in response to a request from the Board, and was designed to provide three types of information, as follows: 1) basic, descriptive data on the frequency of various offense and prior criminal record combinations; 2) a data base for an analysis of the relationships among the offense of conviction, prior criminal record factors, and the length of the MPI imposed; and 3) data on the completeness of the records, including the quality and the quantity of the information contained in the case files.

Vera staff drew a simple random sample of 345 cases representing 20% of the approximately 1700 MPI determinations made during that period. Data related to the present offense (e.g., the felony class of the indictment and conviction offenses, as well as the specific offense of conviction), prior criminal record (e.g., number of prior convictions, prior prison terms, etc.), and the MPI imposed were collected and analyzed. (See Appendix D for a description of the factors, variables and definitions used in the study).

Offense and Prior Record Characteristics of the Sample

Tables III-1 and III-2 summarize the prior criminal history characteristics of those included in the MPI sample.

TABLE III-1
 DISTRIBUTION OF PRIOR ARRESTS AND CONVICTIONS
 IN MPI SAMPLE

Number of Arrests or Convictions	Prior Arrests		Prior Convictions	
	# of Sample Members	% of Sample	# of Sample Members	% of Sample
0	49	14.2	117	33.9
1	42	12.2	83	24.0
2	42	12.2	48	13.9
3	38	11.0	31	9.0
4	38	11.0	24	7.0
5 of more	<u>136</u>	<u>39.4</u>	<u>42</u>	<u>12.2</u>
	345	100.0	345	100.0

This table indicates that, while only 14.2% of the sample cases had never been arrested before, almost 34% had never been convicted of a criminal offense other than the one for which the MPI was set. Indeed, only 42% of the sample had two or more prior convictions. These figures refer to both misdemeanor and felony⁽¹⁴⁾ arrests and convictions, and they depict a pattern of prior criminal history that is somewhat less severe than one might expect among a segment of the felony inmate population.

¹⁴ In New York State a felony is a crime from which the maximum penalty is a year or more of incarceration, while a misdemeanor cannot be punished by more than a year's incarceration. In fact, this particular sample included very few cases with prior felony convictions, because the State's second felony offender law requires that such cases have their MPI set by the Court rather than the Parole Board. This law and its relation to this sample are discussed more fully in the pages that follow.

TABLE III - 2

DISTRIBUTION OF PRIOR JAIL AND
PRISON TERMS IN THE MPI SAMPLE

No. of Jail & Prison Terms	Prior Jail Terms		Prior Prison Terms	
	# of Sample Members	%	# of Sample Members	%
0	221	64.1	304	88.1
1	56	16.2	36	10.4
2 or more	68	19.7	5	1.5
	345	100.0	345	100.0

Table III-2 shows the number of sample members who had been incarcerated prior to the instant sentence. In New York State, a "jail" is defined as local or county correctional facility. The maximum sentence that may be imposed for a Class 4 misdemeanor is one year. In other words, all incarcerative sentences for misdemeanor convictions must be served in jails. In general, if a person is convicted of certain C, D, or E felonies, the judge may impose probation, a jail term not exceeding one year, or a prison term where the maximum sentence must be at least three years. In short, pursuant to a felony conviction it is possible to receive a jail sentence. From Table III-2, it is clear that only 41 of the cases in the sample involved both prior felony convictions and prior prison sentences. Furthermore only 124 had served a jail term. Again these incarcerations may have been imposed for either a felony or misdemeanor conviction. However, in view of the distribution presented in Table III-1, it is probable that the jail was the result of a misdemeanor conviction.

Admissions data on 1971-75 new commitments to the Department of Correctional Services indicates that 45.5% of the subjects had no prior state or local commitments; 27.2% had local commitments only; and 27.3% had served one or more state or federal prison terms.⁽¹⁵⁾ A comparison of these distributions with those for the MPI sample suggests that the prior criminal records of the subjects in the MPI sample were somewhat less serious than those for the overall admissions population. This difference seems attributable to the impact of the State's second felony offender law.

Section 70.06 of the New York State Penal Law, sometimes referred to as the predicate felony provision, requires the Court to impose a minimum as well as a maximum sentence of imprisonment on anyone convicted of a felony" ...after having previously been subjected to one or more predicate felony convictions..." In general, a prior conviction is a predicate felony conviction if it was for a felony in New York, or a crime of equal seriousness in another State, and if, the sentence for that crime was imposed not more than 10 years before the commission of the instant offense. The statute excludes periods of incarceration in tolling the ten-year period.

The section specifies the lowest permissible maximum sentences which must be imposed by the Court upon the second felony conviction. These maxima vary with the class of the second felony conviction (e.g., at least 9 years for a Class B felony; at least 3 years for a Class E felony). Finally, the section also requires the Court to impose a minimum sentence and mandates that the minimum be set at one-half the maximum.

¹⁵ _____, Annual Statistical Report: Inmate and Parole Populations, 1975 Data (Albany, N.Y.: N.Y.S. Department of Correctional Services).

TABLE III - 3

DISTRIBUTION OF MPI TERMS BY FELONY CLASS OF
CONVICTION AND NUMBER OF PRIOR CONVICTIONS

FELONY CLASS OF CONVICTION	No. of Prior Convictions	No. of Cases	MPI		
			\bar{X}	sd	Mdn
B (29.3%)	0	41	34	13.7	32
	1	17	39	16.9	35
	2 or 3	19	41	21.8	36
	4 or More	13	42	9.2	37
C (29.0%)	0	31	23	10.0	19
	1	27	25	9.2	24
	2 or 3	19	27	9.6	25
	4 or More	12	33	10.4	35
D (31.6%)	0	21	21	6.7	21
	1	23	20	6.4	18
	2 or 3	26	22	7.8	18
	4 or More	27	22	7.4	24
E (10.1%)	0	4	21	10.4	18
	1	7	17	4.1	17
	2 or 3	11	21	6.2	22
	4 or More	9	17	3.6	17

100%

TOTAL:

307*

*35 individuals convicted as Youthful Offenders (YO's) are not included here because the YO status is not actually a measure of offense seriousness, as in a felony class. Rather, the status reflects considerations relating to both offense and offender. In addition, 3 other cases were dropped from this analysis because they were inappropriately coded as Class A felonies.

TABLE III - 4

DISTRIBUTION OF MPI TERM (IN MONTHS) BY FELONY CLASS OF INDICTMENT AND NUMBER OF PRIOR CONVICTIONS

FELONY CLASS OF INDICTMENT	NO. OF Prior Convictions	No. of Cases	MPI		
			\bar{X}	sd	Mdn
A (14.5%)	0	25	32	14.9	35
	1	11	39	23.9	37
	2 or 3	8	41	19.0	36
	4 or More	4	48	9.8	48
B (48.8%)	0	63	25	10.6	24
	1	42	25	8.5	24
	2 or 3	32	29	17.3	24
	4 or More	24	31	11.9	35
C (16.7%)	0	11	22	8.5	20
	1	14	21	7.4	20
	2 or 3	14	27	10.3	24
	4 or More	16	26	9.1	24
D (16.7%)	0	13	19	4.2	18
	1	13	18	4.3	18
	2 or 3	17	20	6.5	21
	4 or More	12	20	6.9	21
E (3.3%)	0	1	24	0.0	24
	1	3	18	6.0	18
	2 or 3	2	24	0.0	24
	4 or More	5	19	2.7	19

100%

TOTAL

330*

*Indictment information was missing on 15 cases.

TABLE III - 5

DISTRIBUTION OF MPI TERM (IN MONTHS) BY FELONY CLASS OF CONVICTION AND PRIOR CRIMINAL RECORD

FELONY CLASS OF CONVICTION	Prior Criminal Record	No. of Cases	MPI		
			\bar{X}	sd	Mdn
B (29.3%)	None (9,8)	41	34	13.7	32
	Minor(7,6,5)	39	41	18.8	36
	Moderate(4,3)	6	39	7.3	37
	Serious (2,1,0)	4	43	11.5	40
C (29.0%)	None	31	23	10.0	19
	Minor	49	26	9.8	24
	Moderate	8	36	5.6	35
	Serious	1	36	0.0	36
D (31.6%)	None	20	21	6.6	20
	Minor	49	21	7.4	18
	Moderate	22	22	7.0	23
	Serious	6	19	4.5	19
E (10.1%)	None	4	19	11.4	15
	Minor	21	19	5.0	19
	Moderate	5	17	2.2	16
	Serious	1	18	0.0	18

100%

TOTAL

307 *

Weighting Scheme:

No Convictions = 3

One Conviction = 2

2 or 3 Convictions = 1

4 or More Convictions = 0

No Jail Terms = 2

1 or Two Jail Terms = 1

3 or More Jail Terms = 0

No Prison Term = 4

One Prison Term = 2

2 or 3 Prison Terms =

4 or More

Prison Terms = 0

*35 individuals convicted as Youthful Offenders (YO's) are not included here because the YO status is not actually a measure of offense seriousness, as in a felony class. Rather, the status reflects considerations relating to both offense and offender. In addition, 3 other cases were dropped from this analysis because they were inappropriately coded as Class A felonies.

Prior criminal history was also measured in two ways. In Tables III-3 and III-4, it is measured in terms of the specific number of prior convictions, ranging from 0 to 4 or more. In Table III-5, however, the prior history measurement is in the form of an index which takes into account the number of prior convictions, the number of prior jail terms, and the number of prior prison terms.

Each of these tables shows the mean and median MPI's, as well as the standard deviation from the mean in terms of months for each felony class and each prior history category within the felony class.

Despite these differences in measurement, the general patterns of relations are similar in all the tables. Those patterns are as follows:

1) As the seriousness of the offense increased, the length of the MPI increased. For example, in Table III-3, using the offense of conviction, the mean MPI for Class E felonies was 18.9 mos. compared to a median of 37.6 for Class B felonies. Similarly, in Table III-4, using the offense of indictment, the mean for Class E felonies was 20.0, compared with 36.4 for Class A offenses.

2) The seriousness of the prior record, by itself, did not strongly influence the length of the MPI. For example, when prior criminal history was measured solely in terms of the number of prior convictions as in Table III-3, the mean MPI's for each conviction category were as follows: 0 Convictions = 27.1 mos.; 1 Conviction = 25.9 mos.; 4 or more = 27.7. In this distribution,

the range of time between the least and the most serious categories is only 6 tenths of a month, or 2 1/2 weeks.

When the index of prior criminal history was used, as in Table III-5, the results were not markedly different. In this instance, the mean MPI's for each prior record category were as follows: None = 27.1; Minor = 27.2; Moderate = 26.6; and Serious = 28.3. In the distribution, the difference in time between the least and most serious categories of prior record was 1.2 mos., or approximately 5 weeks.

In sum, the relationship between prior criminal history, and length of the MPI is not linear; that is, the length of the MPI does not consistently increase with increases in the seriousness of prior record. Both distributions evidence decreases where increases would be expected, were the relationship strictly linear.

3) When the seriousness of offense is held constant, whether that be the offense of conviction or the offense of indictment, some relationship between length of MPI and prior history is discernible, at least with respect to the more serious felony classes. In Table III-3 (Conviction Offense) there is a consistent gradual increase in the length of the mean MPI for each prior history category within Felony Classes B & C. The same linear pattern is discernible in Table III-4 (Offense of Indictment) within Felony Classes A & B. However, among the less serious felonies (i.e., Classes D and E in both tables) there is virtually no variation in

the length of the mean MPI as the seriousness of the prior criminal history increases. For example, the mean MPI's for Class E felonies in Table III-3 went from 21 mos. for those with no prior convictions down to 17 mos. for those with 1 conviction, back up to 21 mos. for those with 2 or 3 convictions, and down again to 17 mos. for those with 4 or more. It must be noted, however, that some of these "reversals" (i.e., results in the "wrong" direction) may be attributable to the small size of the sample.

Table III-5 permits an examination of the same relationship using a more complete and more sophisticated index of prior criminal history. Again, one can observe some relationships of a reasonably linear nature within felony Classes B & C, while the relationship is essentially flat in Classes D & E.

This table does however suggest that the index of prior criminal record may be a slightly more sensitive measure of prior record seriousness as seen by the Board than a prior record score based solely on the number of prior convictions. This suggestion stems from the observation that the standard deviations (Col. 5 d, Table III-5) from the mean in general are somewhat smaller than those obtaining when the number of prior convictions is used to measure prior record (Table III-3).

The standard deviations from the mean themselves deserve comment because they are rather large, especially in the more serious felony classes. The size of the deviations suggests that there is considerable variation in the length of the MPI imposed in cases in which felony class of offense and prior criminal history is the same.

For example, Table III-3 indicates that the mean MPI for cases with Class B convictions and no prior criminal convictions was 34 mos. The standard deviation of 13.7 mos. indicates that a range of 27.4 mos. (i.e., from 20.3 to 47.7 months) is needed to account for the MPI's imposed on only two-thirds of the cases in that class. In other words, approximately 27 of the 41 cases convicted of a B felony and having no prior conviction were given MPI's ranging from 20.3 mos. to 47.7 mos. The remaining third of the 41 cases were given MPI's above or below that range.

As Tables III-3 and III-5 indicate, the standard deviations are fairly large for all of the felony classes. It was hypothesized that part of this variation could be attributable to the variation in the seriousness of the offenses that are grouped within each felony class. It was also hypothesized that the length of the maximum sentence may have influenced the length of the MPI.

Table III-6 presents the median MPI term (set by the Board), the median maximum sentence (set by the Court), the range of the MPI's and the range of the maximum sentence for ten selected major offense categories. A review of the ranges for both the MPI and the maximum term indicates that there is considerable variation in both the MPI and maximum terms imposed for the same offense of conviction. Moreover, the relationship between felony class of conviction and median MPI is not strictly linear. So, for example, Rape-1 and Robbery-1, both Class B felonies evidence lower median MPI's than do Assault-1 (Class C felony) and Assault-2 (Class D). This lack of linearity is also true of the relationship between felony class of conviction and the median maximum term imposed by

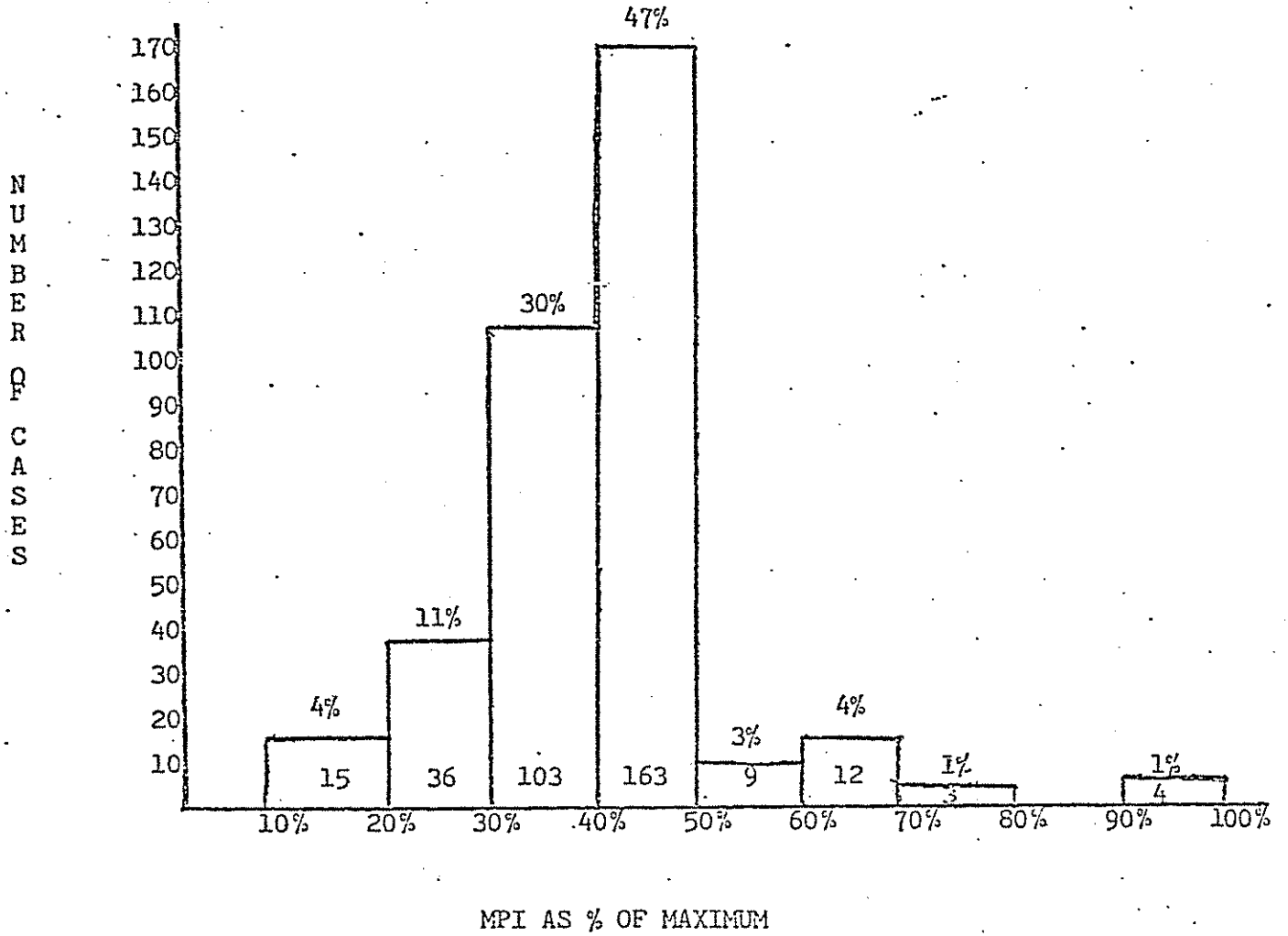
TABLE III - 6

<u>Conviction Offense</u>	<u>Felony Class</u>	<u>N</u>	<u>Median MPI</u>	<u>Median Maximum Term</u>	<u>MPI Range</u>	<u>Maximum Range</u>
Manslaughter-1	B	33	47	120	24 - 84	60 - 300
Assault-1	C	3	39	144	36 - 48	120 - 180
Assault-2	D	6	39	48	12 - 42	36 - 60
Rape-1	B	9	36	99	30 - 108	60 - 216
Robbery-1	B	36	33	74	12 - 48	36 - 300
Manslaughter-2	C	11	29	69	24 - 48	36 - 120
Robbery-2	C	51	24	52	12 - 48	36 - 180
Burglary-3	D	16	24	49	12 - 30	36 - 84
Attempted Robbery-3	F	5	24	49	18 - 36	36 - 48
Robbery-3	D	35	18	46	12 - 36	36 - 48

#1
#1
#1
#1

Figure III - 1

DISTRIBUTION OF THE MINIMUM PERIOD OF IMPRISONMENT (MPI)
TERMS AS A PERCENTAGE OF THE MAXIMUM SENTENCE



the Court, e.g., Assault-1 (a Class C felony) had a higher median than did Manslaughter-1 (a Class B felony).

Figure III-1 is a histogram showing the distribution of sample MPI's as a percentage of the maximum imposed by the Court. The figure indicates that 77% of the MPI's were set at terms ranging from 30% to 50% of the maximum sentence, with almost half of the cases (47%) receiving MPI's of between 40 to 50% of the maximum. The data suggests a fairly strong relationship, although by no means a one-to-one relationship, between the maximum imposed by the Court and the MPI set by the Board. Thus, the variation in MPI's for similar offenses is in part a product of the variation in maximum sentences imposed and in part a product of the Board's own discretion.

Summary and Conclusions

This analysis of a sample of cases having MPI's set by the Parole Board indicates that such cases, while similar to the general admissions population of felony inmates with respect to the seriousness of conviction offense, presents a generally less serious picture of prior criminal history than does the general population.

For this sample, the seriousness of the instant offense was clearly more determinative of the length of the MPI than was the seriousness of the offenders prior criminal history. This latter variable does appear to account for some of the variation in MPI's within the more serious felony classes (i.e., B & C), but seems largely unrelated to MPI in the less serious classes (i.e., D & E).

There appears to be a considerable amount of variation in the length of MPI's set for: offenses of the same felony class; similar combinations of felony class and prior criminal record; and even for the same offense of conviction. There also appears to be considerable variation in the maximum sentences imposed for selected major offenses.

There is a fairly strong relationship between the MPI imposed by the Board and the maximum imposed by the Court. Nevertheless, it is clear that the variations in MPI's are not entirely attributable to variations in maximum sentences.

Section IV: The Parole Release Study

Introduction

This section reviews the findings from a study of the Board's past paroling practices. This piece of research was undertaken at the specific direction of the Chairman to generate descriptive statistics about the characteristics of parolees, and to determine the average time served by inmates with various offense and prior record characteristics. An extensive data base containing sentence, prior record and offense information was developed for all inmates released for the first time on their present sentence between January 1, and June 30, 1977 (approximately 2200 cases). The sample was restricted to parolees and, therefore, no information is available concerning the time served by inmates who were conditionally released, or released at the maximum expiration of their sentences. It must also be noted that the sample does not include inmates who violated parole on their present sentence and who were returned to prison as technical violators, or as violators with new sentences. These cases were excluded because the computation of time served is complicated by the fact that these inmates are given credit for the time they served on the "street" before the revocation of parole. Therefore, the time served statistic in these cases would be extremely inflated.⁽¹⁸⁾

¹⁸The time frame for the sample was set by the parole staff. In view of the fact that it covers half a year, rather than a full year, the time served figures may reflect seasonal biases. This particular time frame was not chosen arbitrarily. Prior to November, 1976, the Parole Board's discretion in setting the length of the Minimum Period of Imprisonment was constrained by statute. Prior to that time, Board members could not set minimum terms that exceeded one half of the maximum sentence imposed or three years, (cont'd. on p. IV-2)

The study of time served by parolees is consistent with other research in the area of parole decision-making and guideline development.⁽¹⁹⁾ Since parole is the dominant mode of release from prison, and analysis of parole releasees should provide a reasonable estimate of the Board's policies concerning the appropriate amount of time to be served by offenders with various offense and prior record characteristics. Nevertheless, the reader is reminded that the time served statistics presented in this section of the report do not reflect the average or median time served by all inmates released from Department of Correctional Services facilities during this time period. Nor is it clear whether the average time served statistics for the entire population of releasees would be greater or less than those presented for the sample of parolees. For example, a review of time served statistics for those released on parole in 1976 and those conditionally released indicates that conditional releasees served considerably less time than those released on parole.⁽²⁰⁾

¹⁸(Continued from p. IV-1) whichever was less. After November 1, 1976, the Board members were permitted to set minimum terms up to the maximum sentence imposed in the actual case provided that the minimum terms in these cases were approved by the full Board. The sample used in this analysis therefore reflects the Board's first six months experience under the new provisions. Thus, the sample may reflect biases which relate to the transitional period it covers, as well as biases that may be present due to the exclusion of the conditional release and maximum expiration cases.

¹⁹See, Don M. Gottfredson, Colleen A. Cosgrove, et al, Classification for Parole Decision Policy, (Criminal Justice Research Center, March, 1977) p. 221.

²⁰There are a few possible explanations for this surprising finding. To be eligible for release on parole an inmate must serve a year at a Department of Correctional Services facility. This year does not include credit for jail time. In computing eligibility for conditional release, jail credit is included in the calculations. For example, an inmate must be conditionally released at the expiration of one year at a Department of Correctional Services facility. (cont'd. on p. IV-3)

Appendix E presents the list of variables on which data was collected, the definitions of each variable and the data collection forms used to record the data. In addition to data regarding the time served by each releasee, data was collected concerning: the instant offense; weapons used; physical injury inflicted; and a number of items related to the inmate's prior criminal history.

The prior record information was scaled using an index developed by the Parole staff. The prior criminal history worksheet, which is presented on the following page, divides the seriousness of the prior criminal history into four categories ranging from "good" to "very poor". The classification of the prior criminal history depends on the scores on four items: 1) the number of prior convictions, 2) the number of prior incarcerations (jail terms plus prison terms.), 3) the number of prior prison terms, and 4) whether the present offense was committed while the inmate

²⁰ (Cont'd. from p. IV-2) tion of the two-thirds of his maximum sentence if he had earned all of his "good time credits"; therefore on a three year maximum sentence, conditional release occurs at the expiration of two years. If, for example, an inmate has 18 months of jail credit, he must be released after serving six months in a Department of Correctional Services facility. In this case he would not be eligible for parole, but he must be discharged from the institution. Although information on conditional releasees was not collected in the course of this research, it is probable that this category of releasees consists in large part of inmates with relatively short sentences (e.g. three or four year maximum terms, and excessive jail credits.) It must be noted that in calculating the time served statistics for parolees that these statistics include jail credit as part of time served. Time served was defined as jail credit plus time served from the date of reception at a Department of Correctional Services facility until the date of release (not the date on which parole was actually granted.) In sum, it is possible therefore that the time served statistics for parole releasees are actually higher than the average for all releasees.

CRIMINAL HISTORY CATEGORY WORKSHEETItem #1: Prior Convictions

No Convictions	=	3
One Conviction	=	2
Two or three Convictions	=	1
Four or more Convictions	=	0
Prior Convictions Score	=	<input type="text"/>

Item #2: Total Number of Commitments (Jail Plus Prison Terms)

No Commitments	=	2
One or two Commitments	=	1
Three or more Commitments	=	0
Prior Commitment Score	=	<input type="text"/>

Item #3: Prior Prison Terms

No Prison Terms	=	2
One or Two Prison Terms	=	1
Three Prison Terms or More	=	0
Prior Prison Terms Score	=	<input type="text"/>

Item #4: Prior Parole/Probation History

Not on Parole and/or Probation at time of Current Offense; and Never had Parole Revoked or Committed for a New Offense while on Parole	=	1
--	---	---

On Parole and/or Probation at Time of Current Offense; or has had Parole Revoked or Committed for a New Offense while on Parole	=	0
--	---	---

Prior Parole/Probation History Score	=	<input type="text"/>
--------------------------------------	---	----------------------

was on probation or parole, and/or whether the inmate ever had his parole revoked.⁽²¹⁾ The points accorded by the scoring system vary by item, but cumulatively the higher total scores are associated with relatively less serious criminal records.

In conducting this study, Vera staff was directed to measure what Parole staff referred to as the "actual" offense. The Chairman expressed the opinion that the offense of conviction was more often than not the end result of plea negotiations and, as such, did not indicate the seriousness of what actually happened. After a series of negotiations, it was agreed that Vera would collect data on the so-called "actual offense," as well as recording the indictment and conviction offenses and the felony classes of those offenses.⁽²²⁾ To identify the "actual offense" Vera staff studied the offense description provided in the pre-sentence report and assigned to it the penal law category and felony class that most closely corresponded to the most serious offense behavior described in the report.⁽²³⁾ As a check on the reliability of the cod-

²¹The prior criminal history score was derived from a review of the "salient factor" score used by the United States Parole Commission. The weights that were assigned by the Parole staff are arbitrary. They do not reflect the results of an empirical analysis of the factors related to recidivism in New York State. It must be noted, however, that the prior record factors included in the prior record score are factors that have been consistently found to be related to recidivism.

²²It was and is understood that Vera's agreement to collect and analyze data on the "actual offense" does not indicate Vera's acceptance of the concept as a legitimate one in setting MPI's or determining the length of time served prior to parole release. The practice of basing such determinations on an offense, or degree of offense, other than that for which the inmate was convicted raised issues which have yet to be addressed by a New York Court.

²³It is not always easy to identify what constitutes the actual offense. It is not uncommon, for example, for a defendant to be indicted on five counts of Robbery, arising out of five discrete incidents, and for a defendant to take a plea to Robbery-3 which satisfies all five indictments. One of the indictments may have concerned (cont'd on p. IV-6)

ing, and to provide additional information on the "actual offense", data concerning the type of weapon used, the degree of physical injury sustained by the victim, and, for drug offenses, the amount and type of substance involved, was also collected.

The matrices, or charts, contained in Appendices F-H present the mean and median time served for various combinations of "actual" offenses and prior criminal history scores.

The data presented in these Appendices are in the format requested by the Parole Staff and reflect the summary statistics requested by them. At their request, Vera subdivided the release sample into four sub-samples: 1) cases where the minimum term had been set by the Board (MPI cases.), 2) cases where the minimum term was set by the sentencing court (judge-set minimum cases), 3) cases where the most serious conviction offense concerned the possession and/or sale of a controlled substance, and 4) a combined sample consisting of MPI and judge-minimum cases, with the "drug" cases excluded. Specifically, Appendix F presents the data regarding Board Set MPI cases with a separate set of tables for the 69 drug cases in which the MPI's were set by the Board. Appendix G presents similar tables for the judge-set sample and separately for drug cases in which the minimum terms were set by the Court.

²³(Cont'd. from p. IV-5) what appears to be Robbery-1, that is, the armed robbery of a liquor store. In coding the actual offense, the most serious offense behavior alleged in the pre-sentence report would be recorded, regardless of whether the indictment reflected the behavior. Specifically, an inmate could have been indicted for Robbery-2 offense, which involved what appeared to be a weapon, however the weapon was never recovered. The testimony of the witnesses suggests that a Robbery-1 indictment may be appropriate; however, a Robbery-2 indictment is entered. The defendant pleads guilty to Robbery-3. This case would have been coded as Robbery-1. For this reason there is a certain amount of discrepancy between Vera coding of the "actual offense" and the most serious indictment offense."

Finally, Appendix H presents all tables for the combined Board-set and judge-set cases, excluding drug cases.

The tables, histograms and charts are essentially the same in each Appendix. For the most part they present frequency distributions for various dimensions of prior criminal record, the felony class of the offense of indictment, offense of conviction, and "actual offense," the maximum sentences imposed by the Court, and weapons used and injuries involved in the offenses. The charts, or matrices, at the end of each Appendix require a brief word of explanation.

Each chart is a cross-tabulation which presents time served until release as a function of the "actual offense" and the prior criminal record of the offender. Each cell, therefore, represents a combination of an "actual offense" and a category of prior record, e.g., Murder-2 with a Good record, Robbery-1 with a Poor record, etc. Each cell then presents a substantial amount of information about the cases that combine the specific offense and prior record attributes. This information includes: (1) the N, or total number of cases in the cell; (2) the mean time served by those cases; (3) the standard deviation from the mean; (4) the 100% range, that is, the minimum number of months and the maximum number of months served by the cases in that cell; and (5) the 80% range indicating the upper and lower limits of the time range within which fall 80% of the cases in the cell. The 80% range, not only describes where the heavy majority of cases in each cell fall, but eliminates the extreme scores on each end of the range.

In addition, each cell describes the median time (i.e., the mid-point in the distribution of time served scores) served by the cases in that cell; the upper and lower limits of a 10-month time range established by adding and subtracting 5 mos. from the median time served; the number of cases in the cell that fall within that "median range"; and the percentage of the cell's cases that fall within the "median range".

The use of a "median range" to examine the distribution of cases in each cell reflects a tentative, and arguable, assumption that a ten-month range provides for reasonable variation in time served by cases combining the same offense and prior record attributes. By applying this range to the cases in each cell we can identify the proportion of those cases that would be included in that 10-month range on the basis of time they actually served. If that percentage is reasonably high, the range effectively encompasses past Board release decisions in cases of that kind. If the percentage is low, the range does not effectively reflect such past decisions.

It should be noted that the use of the "actual offense" classification accords a particular meaning to the time served figures. For example, the case placed in the offense category "Robbery-1" in these tables are there, not only because they were convicted of "Robbery-1" and sentenced accordingly, but because that label, in the opinion of a Vera coder, accurately described the most serious criminal act alleged against the offender. Despite that classification, however, the category almost certainly

includes a substantial number of inmates who were convicted of lesser offenses and given maximum sentences consistent with the offense of conviction. Thus, to the extent that the Court imposed maximum influences average time served, the mean and median times presented in these cells are likely to be lower than those served by inmates who were actually convicted of and sentenced for the crimes specified here.

The data derived from this parole release study were analyzed and presented to Parole staff in the form used in Appendices F through H. Little or no interpretive text was asked for or presented with those tables. Nor does this final report present a detailed analysis and interpretation of the data. Rather, what follows merely highlights some of the similarities and differences between the Board-set and judge-set samples, and sets forth some general observations regarding the relationships among offense seriousness, prior record and time served.

Prior Record Characteristics of Board-Set and Judge-Set Samples

Based on an examination of Tables 1 - 8 in Appendices F and G, the following observations can be made by way of a comparison of prior record characteristics of the two samples:

- 1) Excluding drug cases from both samples, nearly half of the inmates with Board-set MPI's (48%) had no prior misdemeanor convictions, compared with approximately a third (32%) of judge-set minimum cases. (See Tables 1 in Appendices F & G).

24.8 mos. and 20.5 mos. respectively. The differences among median times for these offenses and prior record categories were approximately the same.

- 2) When offense type is held constant, part of the variation in time served may be attributable to differences in the seriousness of the prior criminal history. For example, mean time served by Robbery-1 cases increased from 23.7 to 29.3 to 32.6 to 44.2 mos. as the seriousness of prior criminal record increased from "Good" to "Very Poor".
- 3) The impact of prior record on time served is greater among the more serious offenses than among the lesser felony offenses. For example, the differences among prior record categories for Robbery-2, a Class C felony, are not as great as the differences presented above for Robbery-1. Furthermore, there are practically no differences among these categories for Robbery-3, a Class D Felony. In fact, the finding of practically no variation by prior record categories appears to be true of all Class D & E felonies included in the table.
- 4) It appears that time served escalates more rapidly along the offense seriousness dimension than along the prior record dimension.

- 5) The amount of variation in time served for the same offense and prior record combinations appears to increase as the seriousness of the offense increases. For example, the standard deviation for time served by Robbery-1 cases with a "Good" prior record was 9.3 mos. and the 80% range was 19.3 mos. Comparable figures for Robbery-2 and Robbery-3 cases with a "Good" prior record were: s.d. = 8.4; 80% range = 17.1, and s.d = 6.0; 80% range = 8.5 months, respectively.

This increased variation in time served as offense seriousness increases may reflect a similar pattern of increased variation in maximum sentences for more serious offenses. In other words, in the more serious offense categories, the Court has greater latitude in sentencing and the Board has more discretion in determining time served.

Section V: Correlation and Regression Analyses

The analysis reported in this section was not requested by the Parole Board. It was undertaken by the Vera Institute in the belief that by using correlation and regression techniques, a better understanding of the relationships among the various factors and time served could be achieved. As expected, the results of this analysis indicate that it is possible to predict time served with a fairly high degree of accuracy based on a knowledge of the scores each case achieves on seven variables.

The previous section briefly described certain characteristics of the cases contained in the parole release sample and summarized a series of tables which showed the mean and median time served for various combinations of actual offense categories and prior criminal record scores. It appeared from these distributions that when the seriousness of the offense, as reflected in the "actual" offense, was held constant, the relationship between increases in the seriousness of the prior record and the time served was non-linear; that is, increases in the seriousness of the prior criminal record score did not consistently result in increases in the mean and median time served. It was suggested that the variations, or lack of variations, in time served may be attributable to the influence of other factors, including the length of maximum terms.

The purpose of this regression analysis was to generate an equation, using the fewest number of variables, to predict time served with the highest degree of accuracy. In order to conduct a

TABLE V - 1: Correlation Coefficients for Ten Major Variables; MPI Cases (N=1363)

	1	2	3	4	5	6	7	8	9
1. Time Served (in months)									
2. Felony Class of the Conviction Offense*	-.52								
3. Number of Prior Prison Terms	.23	-.12							
4. Weapon Code**	.27	-.39	-.01						
5. Injury Code***	.38	-.32	.01	.29					
6. Attempted Murder-1, Attempted Murder-2, Murder-2, Manslaughter-1****	.38	-.30	.03	.26	.72				
7. Maximum Term (in months)	.74	-.55	.17	.26	.33	.32			
8. Minimum Term (in months)	.82	-.55	.25	.25	.34	.33	.74		
9. Number of Jail Terms	.11	-.04	.26	-.02	-.04	-.04	.06	.10	
10. Total Convictions	.14	-.07	.44	-.04	-.05	-.04	.07	.13	.88

* Felony Class of the Conviction Offense: The negative sign reflects the coding scheme used on this variable (see text for explanation). The relationship indicated in Cols. 1 & 2 are actually all positive.

** Weapon Code: Dichotomous Variable, Presence of Weapon=1, Absence of a Weapon=0.

*** Injury Code: No injury=0, Force or restraint=1, Physical Injury=2, Serious Physical Injury=3, Death=4.

**** Attempted Murder 1, etc.; Dummy Variable, if the actual offense involved a homicide or an attempt, score=1; if not, score=0.

ness of the actual offense. In this regard, it must be emphasized that r is a measure of linear association, and in instances where the actual relationship is curvilinear, r will underestimate the magnitude of the correlation. (24)

- 2) The felony class of conviction, which may be considered a measure of offense seriousness, was rather highly associated with time served ($r = -.52$). The offense indictment and the "actual offense" (see Section IV for an explanation of this variable) were also correlated with time served, (not shown in Table V-1) although more moderately ($r = -.37$ and $-.36$, respectively). (25)

The apparently negative correlation reflects the coding scheme used for this variable. The felony class was coded from 1 to 5 with 1 assigned to the most serious offenses (Class A) and 5 to the least serious (Class E). Using this code, the highest

²⁴For a discussion of the interpretation of zero-order correlations and regression analysis, refer to Hubert M. Blalock Jr., Social Statistics, 2nd edition (New York, McGraw-Hill: 1972); pp. 397-464.

²⁵The felony classes are most appropriately categorized as ordinal rather than interval measures. Although the use of an ordinal independent variable with an interval dependent variable violates some of the assumptions underlying regression and multiple regression, it is a technique that has proved useful in the area of developing parole decision-making guidelines. See, Gottfredson, (Albany, New York: Criminal Justice Research Center, 1977).

scores (4 & 5) are associated with the lowest amounts of time served, and therefore the correlation has a negative sign. In reality, the relationship is as expected - to wit, the more serious the offense, the longer the time served.

- 3) There was a low positive association between the presence of a weapon and time served ($r_{pb} = .27$).⁽²⁶⁾ Thus, parolees whose offense involved the presence of a weapon, tended to serve more time than others. This variable was moderately correlated with a number of other variables: felony class of the conviction offense ($r = .39$), degree of injury ($r = .29$) and minimum term ($r = .25$).
- 4) The degree of physical injury sustained by the victim was moderately associated with time served ($r = .38$), and, as anticipated, it was also correlated with the felony class of the conviction ($r = -.32$), minimum term ($r = .34$), and maximum term ($r = .33$).
- 5) Vera staff sought to determine whether or not specific offense categories (e.g., Robbery-1; Murder-2) were correlated with time served, and whether or not the

²⁶The code for weapon use was dichotomous, presence of a weapon = 1, absence = 0. The statistic used to express the relationship between a nominal variable and an interval variable is the point-biserial ($r(r_{pb})$). The level of significance of this factor and the interpretation depends on the proportion of the sample which possesses (cont'd. on p. V-7).

specific offense would explain any more of the variation in time served than was explicable using only felony class of conviction as a measure of offense seriousness. To answer this question a number of "dummy" variables⁽²⁷⁾ were created.

Using this technique, it was found that parolees whose "actual" offense involved the death or the attempted death of the victim tended to serve more time than parolees whose offense did not involve these factors ($r_{pb} = .38$). This finding, of course, reinforces an intuitive understanding of the Parole Board's practices. The actual offenses included in this combination were Attempted Murder-1, Attempted Murder-2, Murder-2, and Manslaughter-1. For the sake of simplicity, this variable will be referred to as the homicide factor in the remaining pages.

- 6) The length of the maximum term was substantially correlated with length of time served ($r = .74$). There is also a fairly high correlation between the felony class of the conviction and the length of the maximum sentence ($r = -.55$).

²⁶(Cont'd.) sess the attribute in question. For review of point-biserial correlations, refer to Jacob Cohen and Patricia Cohen, Applied Mutliple Regression/Correlation Analysis for the Behavioral Sciences (Hillsdale, New Jersey: Lawrance Erlbaum Associates, 1975).

²⁷For a discussion on the use and interpretation of dummy variables, see Cohen and Cohen, op cit.

however, they do not indicate the average amount of change in time served that can be expected for each month or year increase in the length of the MPI. This rate of change was calculated⁽²⁸⁾ and it was found that for each one month change in the length of the minimum term, there is a corresponding 1.2 month increase in the amount of time served.

Once the rate of change was known, it was possible to predict the amount of time served based on a knowledge of the actual MPI imposed, using the formula, $Y = a + bX$.⁽²⁹⁾ For example, if the MPI were 24 months, the expected time served would be 28.42 months.

$Y = -.38 + 1.2 (24)$ The very high correlation between the MPI and time served indicates that there will be little difference between the predicted time served and the actual time served.

²⁸The rate of change was calculated using the following formula:

$$b_{yx} = \frac{s_y}{s_x} (r)$$

where: Y = time served

X = the minimum term

b_{yx} = the rate of change in Y based on each unit change in X. It is also the slope of the regression line showing time served as a function of minimum term.

S_y = the standard deviation from the mean of Y. In this case, the mean time served (\bar{Y}) was 28.9 mos. with a standard deviation of 14.5 mos.

S_x = the standard deviation from the mean of X. In this case, the mean minimum term (\bar{X}) was 24.4 mos. with a standard deviation of 9.8 mos.

r = the zero order correlation between the two variables. In this case, r = .82.

²⁹Where: a = the Y intercept determined by applying the formula $\bar{Y} - b\bar{X}$ where \bar{Y} is the mean time served (28.9 mos.), b is the previously determined slope (1.2) and \bar{X} is the mean minimum term (24.4). Thus:

$$a = -.38 (a=28.9-(1.2)(24.4).)$$

In the same way as the time served can be predicted from a knowledge of the minimum term, this minimum can be predicted from a knowledge of the maximum term imposed by the Court. So, for example, using the same formulae as those explained above, it was determined that a maximum sentence of 60 months would yield an expected MPI of 22.7 mos. and an expected time served of 26.8 mos.

As previously indicated, the minimum term in these cases is set by the Parole Board. The minimum, in turn, is strongly predictive of the amount of time served. Therefore, it is important to determine how much variation in time served is attributable to differences in MPI and to other variables as well, such as the number of prior prison terms, weapons use, etc. Vera staff utilized the technique of multiple regression to study this question.

Multiple Regression

Multiple regression is the standard statistical tool used to examine the individual and combined effects of a number of independent variables on the dependent variable. Multiple regression serves to identify the unique proportion of the total variation explained by a variable after controlling for the variance it shares with other variables.

Ideally, the factors entered into the equation should be maximally correlated with the dependent variable and minimally correlated with each other. The review of the zero order correlations revealed that several factors were moderately or substantially cor-

related with time served; however, with the exception of the number of prior prison terms, all these factors were also highly intercorrelated. This problem of shared variance or multicollinearity limits the types of inferences that can be drawn. The hierarchical method of multiple regression as opposed to step-wise regression, serves to minimize the negative effects of overlap in the independent variables. Therefore, the hierarchical method was employed in this analysis.

In the hierarchical method, the variables and the ordering of the variables are selected by the researcher. The seven variables which, in combination, produced the equation with the greatest predictive power were: felony class of the conviction offense, number of prior prison terms, weapon code (weapon use), injury code (degree of physical injury), homicide factor (whether the "actual" offense was classified as Attempted Murder-1, Attempted Murder-2, Murder-2, or Manslaughter-1), maximum term, and MPI. Table V-2, "Multiple Regression Summary Table for MPI Cases" presents the summary results of the analysis.

The predictive nature of this equation deserves comment. Although the seven factors entered into the equation predict time served, it cannot be concluded that these factors are in fact the variables that are taken into consideration by the Board in the actual decision-making process. Some of these factors may be surrogate variables, that is, they may represent, or serve as proxies, for the actual decision-making factors. For example, the correlation between the felony class of the conviction offense and time

TABLE V - 2 : Multiple Regression Summary Table for MPI Cases (N= 1363)

<u>Variable</u>	<u>Multiple R</u>	<u>R²</u>	<u>R² Change</u>	<u>Simple r</u>	<u>B</u>	<u>Beta</u>
Felony Class of the Conviction Offense	.52	.27	.27	-.52	-.097	-.008
Number of Prior Prison Terms	.54	.30	.03	.23	1.068	.042
Weapon Code	.55	.31	.01	.27	.666	.020
Injury Code	.59	.35	.04	.38	.330	.033
Attempted Murder-1	.60	.36	.01	.38	.794	.074
Attempted Murder-2						
Manslaughter-1						
Maximum Term	.77	.59	.23	.74	.079	.260
Minimum Term	.85	.73	.14	.82	.846	.576
Constant					1.286	

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1
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served was $.52$. In practice, it is unlikely that the Board is concerned with this factor; however, it is known that the Board is concerned with the seriousness of the offense. In this sense, the felony class of the conviction may be interpreted as acting as surrogate, or substitute, for offense seriousness. Thus, it cannot be stated that the release decision-making practices of the Board have been explained by this analysis. The term "explained," although it appears on a number of occasions on the following pages, is used here in the statistical rather than the colloquial sense. In multiple regression the amount of variation explained by the first variable entered into the equation is equal to the square of the zero-order correlation (simple r). Thus, if MPI had been entered first in this analysis, it would have explained 67% ($r = .82$; $R^2 = .67$) of the variance in time served.

In order to determine the relative importance of factors other than minimum term in predicting time served, minimum term was entered into the equation last. The Multiple R (multiple correlation coefficient in Table V-2) expresses the predictive accuracy of the equation. The Multiple R of $.85$ indicates that the correspondence between the predicted and observed time served is very high. R^2 expresses the amount of variation in the dependent variable (time served) that is accounted for by the combined effects of the independent variables. The R^2 of $.73$ indicates that a substantial amount (73%) of the variation in time served is explained by the seven variables included in the equation. "The change in R^2 " is the proportion of the variance in the depen-

It is also possible that a better estimate of the relationship between offense seriousness and time served can be achieved by manipulation of the dummy variables used for the various offense categories. When the relationship between the prior record factors and time served has been more clearly delineated, and adjustments have been made for the interaction between these factors and offense seriousness, it is probable that an equation with a fairly high predictive power could be developed.

Finally, the analysis described here reveals the relative strength of factors which contribute to positive parole decisions. The Board, however, also denies parole and these inmates may ultimately return to society on conditional release, or as a result of completing their maximum sentences. None of these cases were included in the study sample. Thus, we do not know the relative importance of the factors analyzed here to the denial of parole, or to the length of time served, regardless of the method of release. Such research would require a considerably different sample, but the research would contribute substantially to our understanding of the release process and the role played by the Parole Board in that process.

Section VI: Additional Tasks Performed by Vera

This section describes briefly three additional tasks performed by Vera for Parole. They are: (1) an analysis of the first 300 cases in which the Board set an MPI, after adopting preliminary guidelines in October, 1977; (2) the development of data collection forms and manuals for use in the design and implementation of a Management Information System (MIS); and (3) the drafting of a manual in English and Spanish which explains some of the rules and regulations of the Parole Board to the inmates.

1) Preliminary Guidelines

In mid-October, the Parole Board adopted a preliminary set of guidelines which were designed by Parole staff. The guidelines consist of a six-level offense severity scale and four prior criminal history categories forming a 24 cell matrix (see Figure VI-1).

In November, Parole staff asked the Vera staff to analyze the first three hundred decisions made by the Board using these guidelines. The purpose of this analysis was to determine the number and types of decisions made inside and outside the guidelines. The Vera staff agreed to undertake this task, and, shortly thereafter, presented the findings to Parole staff.

The total sample consisted of 292 cases. Thirty-six cases were dropped because the decision forms were incomplete, thereby reducing the usable sample to 256. Of this sample, 114 (45%) of the decisions were within the guidelines; 76 (30%) were above

STATE OF NEW YORK - EXECUTIVE DEPARTMENT
DIVISION OF PAROLEGUIDELINES FOR PAROLE BOARD DECISION MAKING

(Policy of the Board of Parole Concerning Customary Total Time Served (Including Jail-Time) Before Release for Typical Cases)

OFFENSE SEVERITY LEVEL ACTUAL CRIMINAL CONDUCT	PRIOR CRIMINAL HISTORY CATEGORY			
	GOOD (10,9)	FAIR (8,7,6)	POOR (5,4)	Very Poor (3,2,1,0)
Level 6 (Least Severe Offense)	12-16 Months	16-20 Months	20-26 Months	26-32 Months
Level 5	12-18 Months	18-24 Months	24-30 Months	30-36 Months
Level 4	14-20 Months	20-28 Months	28-36 Months	36-48 Months
Level 3	16-22 Months	22-30 Months	30-38 Months	38-50 Months
Level 2	18-26 Months	26-38 Months	38-50 Months	50-72 Months
Level 1 (Most Severe Offense)	40-60 Months	60-100 Months	100-150 Months	150-250 Months

NOTES:

1. These guidelines assume a satisfactory institutional adjustment, including (but not limited to) program goals and accomplishments, academic achievements, vocational education, training or work assignments, and therapy and interpersonal relationships with staff and inmates.
2. These guidelines assume a satisfactory performance (if any) as a participant in a temporary release program.
3. These guidelines assume the availability of adequate release plans, including (but not limited to), community resources, employment, education and training, and support services.

and 66 (25%) were below the guidelines. These results suggest that the preliminary guidelines did not reflect the Board's time-setting policies.

Table VI-1 summarizes the distribution of the decisions inside and outside the guidelines according to the offense severity level and the prior criminal history category. The table does not show the distribution of cases with "Very Poor" records, because only 6 cases fell into that category. The total N, therefore, was 250. Tables II & III (Appendix I) provide additional information regarding the specific MPI set in each case and the reasons for it being set outside the ranges recommended in the preliminary guidelines.

Due to the number and complexity of these tables, discussion here is limited to the distribution of the decisions for Level II offenses. The findings from this analysis, however, seem generalizable to the entire sample.

Thirty-four cases were rated as involving Level II offenses and "good" prior criminal histories. Of these cases, 12 decisions were inside the guideline range, 19 were above and 3 were below. The MPI range recommended for this combination in the preliminary guidelines was 18-26 months (Table VI-2). The actual MPI's imposed ranged from 12 to 60 months (Tables II & III in Appendix I). The MPI's above the guidelines ranged from 30 to 60 months and tended to cluster at 30 months (5 decisions), 36 months (4 decisions) and 48 months (five decisions). This clustering at both extremes of the range outside the guidelines, indicates that this variation in the length of the MPI imposed cannot

TABLE VI - 1

November 21, 1977

Preliminary Guideline Analysis

DISTRIBUTION OF DECISIONS ACCORDING TO SEVERITY LEVEL AND PRIOR RECORD SCORE

Level	Good			Total	Fair			Total	Poor			Total
	Inside	Above	Below		Inside	Above	Below		Inside	Above	Below	
I	3 50%	0 ---	3 50%	6	0 0%	0 0%	2 100%	2	0 ---	0 ---	2 100%	2
II	12 35%	19 56%	3 9%	34	17 46%	9 24%	11 30%	37	6 49%	2 13%	7 47%	15
III	15 36%	20 49%	6 15%	41	17 53%	5 16%	10 31%	32	4 44%	2 22%	3 34%	9
IV	5 38%	7 54%	1 8%	13	9 47%	4 21%	6 32%	19	3 75%	0 0%	1 25%	4
V	5 63%	3 37%	0 0%	8	13 72%	3 17%	2 11%	18	3 38%	1 12%	4 50%	8
VI	1 100%	0 0%	0 0%	1	0 0%	1 100%	0 0%	1	0 ---	0 ---	0 ---	0
Total	41	49	13	103	56	22	31	109	16	5	17	38

*Cases with prior records classified as "Very Poor" numbered only 6, and are therefore not shown in the table. This reduced the N to 250.

be attributed to the influence of one or two extreme scores. A guideline range which would accommodate approximately 75% of these cases would run from 18-48 months, i.e., a range of two and a half years.

Although there was some variation across offense and prior record categories for cases decided inside the guidelines, the most revealing statistics concern the percentage of the decisions above and below the guidelines for the different cells. As this table shows, when the decisions were outside the guidelines and the prior criminal history scores were "good", the MPI's set in the majority of the cases above the guidelines. For offenders with "fair" records, the converse tended to be true. Although a very small proportion of the cases in this sample concerned subjects with "poor" records, this distribution suggests a tendency for the decisions outside the guidelines to be "below" the recommended range. These results indicate that the length of the MPI suggested by the preliminary guidelines for subjects with "good" records was too short, and for those with "fair" or "poor" records, the suggested MPI's were too long.

Appendix I presents three tables showing the distribution of cases inside and outside the guidelines by offense seriousness level and prior criminal record category. (The appendix also presents the instructions and code sheets used by Parole staff and Board in applying the preliminary guidelines to actual cases).

Cases with offense ratings of Level II and "fair" criminal records, were similarly distributed with respect to the preliminary guidelines. For the 37 subjects rated in this category,

slightly less than half (46%) of the decisions were within the 26-38 month guideline range. The remaining decisions were fairly evenly divided between those above and below the recommended range (24% and 30%, respectively). Again, the range for the decisions above and below the guidelines was rather broad, 40-60 months, and 12-24 months, respectively. A range which would encompass approximately 75% of these decisions would run from 18-44 months.

Therefore, if this data were used to develop guideline ranges for inmates with Level II offenses and "fair" or "good" records those ranges would be almost identical. This, in turn, suggests that prior record, or at least this measure of prior record, does not serve to differentiate between these two groups.

Despite the fact that the guidelines were preliminary and were to be changed by Parole staff, these findings regarding the influence of prior record are consistent with the finding of the MPI Study (Section III, infra.) and the Parole Release Study (Section IV, infra.). Both of these studies showed that there was considerable overlap in the ranges of time served when the seriousness of offense and the prior criminal record were held constant.

2) Data Collection Forms for Eventual Use in a Management Information System (MIS)

In the Fall of 1977 Vera staff agreed to Parole's request that Vera identify and define the data elements that would be needed if Parole were to develop a multi-purpose data base which could be used to monitor the guidelines, and which would provide

detailed demographic and prior criminal record information that could be used for research purposes not directly related to the operation of the guidelines. It was agreed further that Vera would begin this task by developing a tentative list of items which would be reviewed and revised by the parole staff.

In early November Parole staff approved a list of items that had been submitted by Vera, and it was agreed that Vera would develop the appropriate forms for collecting this data and draft the corresponding instruction manuals. In early December, some initial drafts of the possible formats to be used for the data collection instruments were reviewed. Due to the number of data elements involved and the complexity of coding some of these items, it was necessary to use two separate data collection instruments. The first, the Admissions Form, would be used to collect the demographic and detailed prior record information. The second, the Hearing/Review Form, would be used to gather the information necessary for monitoring the guidelines. During the months of January, the preliminary drafts of these documents were reviewed, discussed, and revised. Final versions of the data collection instruments and coding manuals were submitted to the Board on January 25, 1978 (copies of these materials are contained in Appendix J). The following is a brief description of these materials.

Admissions Forms

This title was used because the information collected on this form is similar to that collected on the Admissions Blotter Sheet, used by the Department of Correctional Services. The primary difference is that the prior record items in the system proposed by

Vera are much more extensive than those in the current DOCS system. For the other, basically demographic, factors the coding system proposed by Vera is identical to that employed by DOCS. This duplication is intentional. It means that, regardless of whether the information is collected independently by Parole or in conjunction with DOCS, the coding systems would be compatible. It should be noted that columns used to collect this data do not correspond to the current DOCS system; however, in the event that it was deemed desirable to merge the two data bases, this merger could be accomplished through the use of various COBOL programs which would shift the fields.

This form, unlike the form developed for monitoring the guidelines, is not pre-coded. Due to complexity of the coding instructions, the use of a pre-coded format was unfeasible. It is difficult to estimate the amount of time involved in coding this information. The demographic and sentence information is readily available in the case file. The prior criminal record information would have to be gleaned from the pre-sentence report, and this will be extremely time-consuming. It is possible that thirty minutes would be required to complete this form.

For both the Admissions Form and the Hearing/Review Form, cards for each case are matched by the NYSID number. Specifically, and for each computer card, column 21 is reserved for the NYSID Alpha Digit, and columns 23-29 are reserved for the NYSID number. This column format also facilitates the matching of the cards generated for monitoring the guidelines with the Social Statistics cards used by Parole to enter into the Parole E.A.M. system.

The card type, column 78 on all cards, is at present blank. The card type would serve to identify the kind of information contained on the card, for example, whether it concerned a parole hearing, or an MPI hearing. Columns 79-80 are reserved for the sequence numbers, which are used in conjunction with the card type identifier. Because the cards must be in a specific order for analysis, the card type and the sequence numbers insure that the cards are ordered correctly. Again, card type and sequence numbers have not been assigned pending decisions on when and what data will be collected.

The code manuals, in addition to providing instructions on the coding of the information, can serve for file documentation, variable definition, and edit purposes. The manuals describe the format to be used, the column numbers and the variable descriptions.

Finally, because this system does not employ "double punches," or alpha codes, the data is amenable to statistical analysis using SPSS (Statistical Package for the Social Sciences).

Hearing/Review Form

This four page form was designed for collecting the data needed to monitor the guidelines. Although this form appears to be rather long, it uses a pre-coded format which will minimize the amount of time involved in coding the data. Specifically, most of the instructions and codes to be used are contained on the form itself. There are only a few items for which the coder will actually need to refer to the coding manual (e.g., DOCS offense code). The data collection form also collects information on the items specified in Executive Law 259. Since some of

these items are not easily coded, e.g., judicial recommendations, space has been provided for the coders to summarize these recommendations. Using this system it will eventually be possible to develop a code for this information, if it proves to be information that would be useful in a computerized data base.

Again, although this form may seem lengthy, it is likely that it would only take ten minutes to complete, because the coding instructions are on the form and the information is readily available in the case files.

3) Inmate Manuals

In January, 1978, the Vera staff began to prepare a preliminary version of a manual for use by inmates. This manual describes the Board's rules and regulations governing access to documents contained in the Division of Parole files, procedures for appealing parole release and MPI decisions, and the decision-making guidelines adopted by the Board for use in setting MPI's and making release determinations.

The policies, procedures and general substantive content in the manual were developed by Parole and presented to Vera. Vera's role was that of an assembler and editor, organizing and generally editing the materials into a coherent, readable manual.

The preliminary draft was reviewed with the Parole staff in early February and a revised draft of this document was discussed with the Parole staff in mid-February. A final version of the manual in both English and Spanish was mailed to the Parole staff on March 13, 1978 (See Appendix K.).