THE POLITICS OF PAROLE

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I. INTRODUCTION

"Parole is the practice of conditionally releasing adult prisoners after they have served part of their sentence in an institution" (Goldfarb and Singer, 1973: 257). Historically, the concept of parole grew out of a practice instituted by Captain Alexander Maconochie in the early 1800's. Captain Maconochie was in command of one of England's penal colonies in Australia. The program that he instituted, known as a ticket of leave, allowed prisoners to earn an early release from their sentence through hard work and good behavior.

The predecessor to parole in America was the institution of "good time" laws in the early nineteenth century. These laws provided for the commutation of prison sentences by allowing men to earn a specified number of days of "good time" to apply to their sentence. The intent of the law was to lessen the severity of prison sentences, which were determinate in the nineteenth century; and to help with prison discipline by giving prisoners some incentive for work and good behavior. These laws were simply designed to lessen the punishment of long years of imprisonment, and gave rise to the popular phrase "time off for good behavior".

By the late 1800's, the results of programs such as those of Maconochie and Walter Crofton, head of the Irish prison system and developer of a program of early release known as the "Irish system", began to influence American penologists. The concept of parole "grew out of the change in point of view in penal philosophy from one of punishment to one of

reformation" (Giardini, 1959: 5). The purpose of early release changed from one of a commutation of a sentence to a means of reintegrating the offender back into the community. The concepts essential to the modern parole system began to evolve: the indeterminate sentence, institution practices based on treatment rather than punishment, and the supervision of paroled offenders in the community by paid professionals. This philosophy is exemplified by the following explanation of parole found in the Handbook on Parole and Related Procedures, published by the Kansas Adult Authority:

> "Parole is not a gift. It is one more step in the treatment process to be extended to those whom the Parole Authority believes acceptable to that program" (1979: 1).

With the rise in the use of parole in the United States in the twentieth century, there was a subsequent rise in the formation of agencies to administer parole, and, most important to this research, agencies whose sole purpose was to decide who should receive parole. The early statutes providing for the conditional release of prisoners relied upon the Governor's power to pardon. Such was the case in Kansas. It was not until 1957 that the legislature finally separated the Governor totally from the parole process and vested this power in a separate state agency.

In 1903, legislation was enacted which took the first steps toward a modern parole system. The statute provided for a prison board that would make the initial decisions for the parole of a prisoner, pending the final approval of the Governor. This board was the forerunner of today's Kansas Adult Authority, the state agency whose sole responsibility is the granting of parole in Kansas.

Another important part of the 1903 legislation was the enactment of the Indeterminate Sentence Act. This was a giant step towards a new

correctional philosophy based upon reformation, recognized in the Kansas Adult Authority's own History of Parole in Kansas; "The indeterminate sentence is predicated on the idea that the length of time necessary to accomplish reformation and rehabilitation can not be foreseen at the time sentence is imposed and that the decision as to when a prisoner is ready for release should be made by some agency other than the Court" (1976: 3).

Every state in the Union has had some type of separate agency responsible for granting parole. But these paroling authorities, much like the rest of the correctional agencies, have operated in virtual isolation from public scrutiny for most of this century. Over the last decade, this isolation has been continuously challenged. "Once among the least visible elements of corrections, parole has been brought into view both by legislative and judicial review and by a growing body of literature advocating the abolition, or at least the curtailment, of parole" (O'Leary, 1976: 2).

In view of this scrutiny, it is important that the process of parole and the paroling authorities be understood. With federal and state correctional facilities currently housing over 300,000 men, the process of parole has a large impact on our criminal justice system. With an obvious shift in this country today towards conservatism and a growing fear of crime by the general population that has been heightened by law enforcement agencies and the media, a practice that has as much impact as parole must be carefully researched.

Over the past few years, the concept of rehabilitation has been criticized and a movement towards a return to punishment as a correctional philosophy has received growing support, even among once respected members of the social sciences fields (for examples of these arguments, see David

Fogel, Ernest van den Haag, Norval Morris, et. al.).[1] The aims of this research are to examine: (1) the parole granting process, and (2) the reasons why it seems so unsatisfactory to so many people today. This research will focus most of its attention on the principal and, supposedly, most important actors in the parole process, the paroling authority.

II. LITERATURE REVIEW

Since its development, parole has been researched extensively and countless works have been written relating to the theory and practice of a parole system. Most studies of parole concentrate on six basic themes; the history of parole, selection criteria for parole eligibility, principles of supervision, the administration of parole services, models for parole systems, and studies of recidivism rates of parolees. The practice of parole sounds very logical and practical in the textbooks. It appears that the practice of an effective parole system is simply a matter of proper organization and administration. Once the basic model is established and followed, it ought to work. Moreover, these principles have changed little in the past three decades. The concepts found in David Dressler's classic, Practice and Theory of Probation and Parole, published in 1959, are basically the same as those found in Howard Abadinsky's 1977 version, Probation and Parole: Theory and Practice. Dressler's work, in at least its third edition, is still used extensively in colleges as a textbook for aspiring professionals in the field of corrections.

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[1] David Fogel, We Are the Living Proof (Cincinnati: Anderson, 1975). Ernest van den Haag, Punishing Criminals (New York: Basic Books, 1975). Norval Morris, The Future of Imprisonment (Chicago: Univ. of Chicago Press, 1974).

Very little recognition has been given to the social and political situation in which the parole system operates, and even less attention has been paid to the people who administer parole. This limited point of view is evident in most of the field research on parole. The majority of the research on parole, like most of the research done by social scientists, has been quantitative in nature. This approach was emphasized by Daniel Glaser, "In corrections, as in medicine,. . .problems in developing more effective practice are most adequately solved by controlled experiments" (1964: 5). The quantitative approach places the process of parole in a vacuum, a sterile environment. The attempt was made to measure and quantify the practice of parole. In her work, Demystifying Parole, Janet Schmidt has been one of the few to show the effect of the idea that "parole was not seen as a political issue, but rather, one of value-free science attempting to improve technique" (1977: XV). This is one of the major criticisms of the quantitative approach to social science research in all of its areas of research, not just parole.

As a result of this quantitative approach and the underlying philosophy it represents, the research on parole has centered upon the individual, the parolee.

> "The focus of most criminological research on parole has not been on the board, but on the inmates and prediction. This concept supports and justifies positivist notions of quantification and statistical measurement, the ideology of treatment, and the whole medical model" (Schmidt, 1977: 119).

Thus, as Schmidt points out, one of the major areas of studies has been on the prediction of parole success. Studies have attempted to determine what individual characteristics of an inmate would make him a better risk for parole. This information was to be used in the selection process for parole,

a major area of concern, to make it more "scientific". Illinois was the first state to use such a system derived from research. The results seemed promising as Lloyd Ohlin reported, "a detailed study in 1937 led to the conclusion that the prediction information played a significant part in selecting better risks for parole, and that this improved selection was a major factor in the decline of the violation rate" (1951: 88). That was forty years ago, and today only the U.S. Board of Parole and a few other states make any use of prediction tables after continued research into the effectiveness of such methods. The answer to the question of why parole boards still refuse to use such tools is that the results of these research projects still are being disputed on methodological grounds. Janet Schmidt has been one of the very few who have looked to the parole boards themselves for the answer.

Another major area of research on parole has been on the effectiveness of treatment programs and different types of supervision practices. The criterion for measuring success or effectiveness has been the recidivism rate for the parolees that were involved. This measure of success fits in with the scientific model of research. One sets up a certain type of program, runs a few inmates through it, and finds out how many fail. If the failure rate is too high, one looks at the individuals to find out why they didn't succeed, and then tries to develop a new program to improve the deficiencies of these individuals. But there are problems with this approach, as Daniel Glaser points out, "it is often difficult to determine whether the apparent success or failure of a correctional program results from the program itself. . ." (1964: 5). This difficulty, however, has not been seen as a significant variable since the majority of research follows this approach.

The assumption that these methodological approaches make is one that may be the most significant variable and yet is often ignored. Most research assumes that the system of parole or a specific program operates in accord with its theoretical design. The operation of a system and the individuals who operate it are looked upon as an independent rather than a dependent variable. Research has studied inputs and outputs of the system, but rarely the "throughputs", the effect of the operation of the system itself. Organizations do not always operate as they say they do. If researchers recognize this aspect of the problem at all, it is usually mentioned briefly, almost in passing. It is as if the impact of the organization and its members is minimal. Giardini in his book, The Parole Process, provides a typical example: "The personal points of view, biases, and attitudes of each member of the parole board or commission will inevitably influence the decisions in parole selection" (1959: 157). Giardini does not go on to discuss how much of an influence there is. Few others do either.

Lloyd Ohlin recognized this problem of lack of attention to the parole board and to its role in the political environment thirty years ago: "It is thus apparent that the views held by the public, the press, professional politicians, prisoners, and correctional authorities about parole have an important effect on the operation of the parole system" (1951: 22). He then went on to say:

> "Thus in practice parole is a product of the acts, understandings, and misunderstandings of the persons able to exert the greatest influence. Their effect on the actual operation of the parole system has never been studied closely" (1951: 19).

Thirty years later the actual effect of these factors is still unknown. The actual operation of parole systems has still not been placed under close scrutiny. Lloyd Ohlin never resolved these questions. As a trained social

scientist, he like the others who preceded him, could not break out of the quantitative method of research that was the least able to answer these questions.

Janet Schmidt claims that these researchers could not view parole as a political issue. Her research is one of the first to focus solely on the parole board and its decision making process. But her method was still quantitative for the most part. She concentrated on determining what factors the U.S. Board of Parole actually considers in its decision-making process and which ones are the most important. Her results are valuable in identifying the determining factors in the decision-making process. Her conclusions as to why certain factors are the most important could have been better supported by the use of qualitative methodology.

III. STATEMENT OF PURPOSE

The specific aim of this research, then, is to take a qualitative approach to the process of parole. I will focus on the paroling authority for the state of Kansas, the Kansas Adult Authority. I will try to describe the actual process by which a decision to parole is made, in comparison to the officially described process. I hope to find an answer to the question of just how much the parole board has an impact on the parole system as a whole. And most importantly, I will attempt to show the position of the parole board in the political milieu in which it operates and how its decisions are a product of this political situation. All of this, of course, in contrast to the lay and professional notions of how a parole board does or should operate.

IV. RESEARCH METHOD

Since the focus of this study is upon the Kansas Adult Authority, a brief description of this agency is necessary. The Kansas Adult Authority, hereafter referred to as the KAA, was established by statute in July 1974. The KAA took the place of the former Board of Probation and Parole and the supervision of parole officers was transferred to the newly created Department of Corrections. The membership of the board was increased to five part-time members to be appointed by the Governor. In January 1979, statute changed the KAA's board members positions from part-time to full-time; with a salary equal to that paid District Court judges for the State of Kansas.

Statute requires that no more than three members of the board may be from the same political party. The Governor is directed to choose the members from the following professions: psychiatry or psychology, sociology, licensed physicians, and attorneys admitted to the bar in Kansas. The term of office is four years.

The KAA is an independent agency. Its major responsibilities according to statute include: conducting hearings to determine whether or not to grant parole, authorizing parole discharges, holding parole revocation hearings. The KAA is the only agency with the authority to grant parole. According to Kansas statute, "the Kansas Adult Authority shall have power to release on parole those persons confined in institutions who are eligible for parole when, in the opinion of the authority, there is reasonable probability that such persons can be released without detriment to the community or to themselves" (K.S.A. 22-3717: Sec. 13(1)).

Decisions as to whether or not to grant a parole are made after a parole hearing where the KAA has the inmate appear before it and interviews the inmate. Some of the criteria the board uses to make a decision are listed in their Handbook on Parole and Related Procedures:

> "(1) the sentence imposed by the court and any mitigating or aggravating circumstances of the offense, prior criminal record, and underlying causes for the inmate's criminal conduct, (2) institutional conduct, work performance and participation in available self-help treatment programs, (3) community release plan, (4) inputs from the Department of Corrections' staff and officials from the area of conviction as well as other interested parties, and (5) the inmate's readiness for parole release and ability to become a law abiding citizen" (KAA, 1979: 5).

But, nowhere in this handbook does the KAA indicate which of the above criteria are given the most weight or are the major determining force in a decision regarding parole. The KAA implies officially that each are given equal weight. Therefore, the official process of decision-making is one of carefully weighing all of the material pertaining to each individual inmate's case as he appears before the board. The official decision-making process with all of the inputs can be described with a flow chart (see Fig. 1).

As noted earlier, the viewpoint of this research is that parole is a political process. Therefore, a study of the KAA must include the identification and study of those groups that have influence upon the KAA. The KAA does not operate in a vacuum. Those groups that were identified by initial observations as major influences and targeted for analysis were; the State Attorney General's office, the State Legislature, the Department of Corrections (DOC) and its correctional institutions, and public pressure, which would include the media and special interest groups.

Several methods of qualitative analysis were employed. Various

interview techniques were used in an attempt to determine how the principal members of some of the groups viewed their own roles and how they perceived the role of the KAA. Interviews were held with three of the five board members of the KAA. The intent of these interviews was to find out the personal perceptions of the individual members about parole and how they viewed their role as board members on the KAA. An Assistant Attorney General, the Chief of the Criminal Division, was interviewed about his perceptions of the KAA. Three officials at the Kansas State Penitentiary who had regular interaction with the KAA for a number of years were also interviewed. Time and travel considerations precluded any more extensive use of interviews. Those interviewed were the most readily accessible.

The reasons that the Kansas State Penitentiary was chosen as a source of interviews requires some further discussion. Since the Kansas State Penitentiary (KSP) is the adult maximum-security institution for the State, I felt that any contradictions to or changes in official parole policy would be most apparent there. Also, as a former employee of that institution, I had the contacts necessary for easy entry. Because I was viewed as a former comrade-in-arms and not in the sometimes threatening role of social researcher, I felt that the officials would be more open and honest in their discussion with me. The element of trust was already established.

The basic format for the interviews in the beginning was the structured scheduled interview. Certain types of information regarding the KAA and parole were elicited from all respondents, but the questions were redefined to fit the different situations and special characteristics of the respondents. Portions of the interviews often more closely approximated the unstructured interview format as respondents volunteered information that

was not requested and questions arose from this information. In practice the interviews were a combination of both formats. The interviews were not recorded on tape. Field notes were used in the hope that the various officials would be more open and less apprehensive than if a tape recorder was present.

Field observations were made of public proceedings of the KAA and a State Senate committee hearing on a bill pertaining to the KAA. The KAA holds public hearings to gather information on inmates coming up for parole. These hearings are held once a month in three locations in the State. I observed and recorded the proceedings of two of these hearings, one in Topeka and one in Kansas City. My purpose was to observe an official activity of the KAA and to gain some indication of public response. I attended a hearing of the Senate Federal and State Affairs committee on a bill introduced that recommended a number of changes directly related to the KAA and the DOC. This hearing gave me the opportunity to observe the political interplay between the legislators, the KAA, the DOC, the Attorney General's Office, and a prominent private citizen group. From this hearing I was able to record the different agencies' official stance on the KAA and the parole process.

Historical review of publications of the KAA and Kansas statutes was used to try and trace the development of parole in Kansas. This method is essential in understanding the KAA and parole in its present form. Historical review helped to identify trends and shifts in the political climate and their connection to the trends and shifts in the social climate. Review of past official documents allowed for comparison with the official documents of the present KAA and the State Legislature.

In addition, some quantitative data was collected in an attempt to support the qualitative observations. Statistics were gathered from the KAA and KSP on parole hearings over the past six years.

V. RESULTS

The results of the research will first be presented by looking individually at each of the principal influence groups mentioned earlier. It must be noted here that a great deal of overlap between these groups will be evident. Since these groups are all participants in a political arena, a great amount of interaction is natural. The last portions of this section will focus on the interaction between these different groups.

The State Legislature

Since the KAA operates under statutory mandates, the influence of the legislature on parole and parole decision-making can be great. The best place to begin a discussion on the KAA is to look at the legislation that defines parole and paroling authorities.

In the introduction section of this paper, brief mention was made of the 1903 legislation that first provided for a system resembling modern day parole. That system remained unchanged until 1957, and the process of parole and the paroling authority for Kansas has undergone multiple changes since then.

In 1957, the first Board of Probation and Parole (BPP) was established and the paroling authority would bear that name until 1974. The board was a part-time, five-member board that was paid on a per-diem basis. "The statute required that three members be from the same political party and the membership include an ordained minister, an attorney, a businessman, a farmer, and one other member chosen at large" (KAA, 1976: 4).

In 1961, a new statute cut the membership of the board from five to three and paid them a small annual salary. The Governor remained the appointing authority. Along with these revisions came added responsibilities. The supervision and administration of the parole system was taken from the penal system and placed under the supervision of the BPP where it would remain until 1974.

In 1966, the BPP established guidelines, under statutory authorization for parole eligibility, based upon good time credits earned on the "flat" or determinate sentences that the justice system of Kansas had been using for almost 100 years. "This good-time table authorized two months for the first year, four months for the second and six months for the third year, or thereafter. . ." (KAA, 1976: 5).

The criminal code for Kansas was revised in 1970. The flat sentence gave way to more indeterminate sentences that had set minimum terms. The good-time credits were then applied to the minimum term that was set by the sentencing court for adetermination of parole eligibility.

In 1974, the legislature abolished the Board of Probation and Parole and established the Kansas Adult Authority. The responsibility of supervising the parole system was returned to the penal system, renamed the Department of Corrections. A five-member, part-time board was established and paid a salary of $12,500 annually. The method of appointment, four-year term of office, and composition of the board was much the same as it is today.

The most drastic changes made by the 1974 legislation referred to the manner in which parole eligibility was computed. According to K.S.A. 22-3717 (2):

> "After expiration of one hundred twenty (120) days from the date of sentence, the Kansas Adult Authority is hereby granted the authority to place upon intensive supervised parole any inmate classified in the lowest minimum security classification who has achieved such status under rules and regulations promulgated by the Secretary of Corrections, except in the case where a death sentence of life imprisonment has been imposed as the minimum sentence or where the minimum sentence imposed aggregates more than fifteen (15) years. . ." (1974).

The statute instituted an absolute indeterminate sentence for almost all adult felons sentenced in Kansas. Except for the two special circumstances noted in the statute, the KAA had the power to release an inmate on parole at any time they saw fit, regardless of the sentence imposed. The institutions set the parole hearing eligibility date at their discretion. With the noted exceptions, the amount of time a man had served was no longer a consideration for parole eligibility under the new statute. This legislation instituted a true rehabilitation philosophy. Men were to be released on parole when, in the opinion of the institution personnel and the KAA, they had reached the optimum time for release. Each inmate's case was to be considered on an individual basis.

This reform policy lasted only four short years. In 1978, K.S.A. 22-3717 was changed again. For inmates sentenced to class B or C felonies, the second and third most serious classes of felonies, statute required that an inmate must serve the entire minimum sentence imposed by the court, less good time credits established by the KAA. The good time credit computation formula devised by the KAA looked familiar; "two (2) months for the first year, four (4) months for the second year, and six (6) months or thereafter, which based on the minimum sentence imposed by the court. . ." (KAA, 1980: 582). This formula is identical to the one established by its predecessor, the BPP, in 1966 and discontinued in 1974. This statute was to apply to all convicted felons sentenced after January 1, 1979.

The 1978 legislation also amended K.S.A. 22-3707 to make membership on the board of the KAA a full-time position. The salary for a board member begins at $32,000 a year.

In the 1981 Kansas Legislative Session, new changes were proposed. Senate Bill No. 43 was introduced before the Senate Committee on Federal and State Affairs. Several amendments to K.S.A. 22-3711 and 22-3717 were considered that would have drastically changed the nature of the parole hearing conducted by the KAA.

The recommended changes to K.S.A. 22-3711 would make all records used by the KAA in determining if an inmate should be released subject to public inspection. These records would include the presentence report, the pre-parole report made by the institution, and the case history of the inmate's supervision in the institution. Also, any other sources of information about an inmate would be open to the public, such as letters from family and friends of the inmate, letters from the victim, and written comments from judges, prosecutors, and police contained in the parole field investigation report. Under existing statute, all of these records are considered privileged information, to be released only to members or employees of the KAA, the judge, the Attorney General or others directly involved, such as employees of the DOC.

K.S.A. 22-3717 also proposed drastic changes. The amendments to this section would open all parole hearings to the public with the opportunity for any interested parties to appear and give testimony on the proposed parole. In addition, the opportunity to present evidence and cross-examine the inmate was to be given to the Attorney General or the prosecutor from the county where the inmate was sentenced. These public hearings were to

be held in two locations, either Hutchinson or Topeka, depending upon which was closer to the county the inmate wished to parole to. Inmates were to be transported to these sites for the hearings. Under current statute, the parole hearings where the inmate is interviewed are closed except to members of the KAA and the institutional personnel directly involved with the inmate's case. These hearings are held at the institution in which the inmate is confined.

Another proposed change that is significant dealt with the section on parole eligibility for persons convicted of class A felonies, the most serious felony category. The proposed change would change the mandatory minimum eligibility from fifteen years to thirty years. There were other minor changes proposed that are related to the ones already summarized. I have outlined those proposed changes that would have the most impact on the parole system.

One portion of the existing statute that curiously remained unchanged referred to the purpose of releasing an inmate on parole. According to section (4) of K.S.A. 22-3717:

> "A parole shall be ordered only for the best interest of the inmate and not as an award of clemency. Parole shall not be considered a reduction of sentence or a pardon. An inmate shall be placed on parole only when the Kansas Adult Authority believes that the inmate is able and willing to fulfill the obligations of a law-abiding citizen. . ." (1980).

On February 11, 1981, the Senate Committee on Federal and State Affairs heard testimony on Senate Bill No. 43. Those appearing to give testimony were, in order of appearance: Richard B. Walker, Vice-Chairman of the KAA, representing the KAA; Patrick McManus, Secretary of Corrections, representing the DOC; Tom Haney, Deputy Attorney General, representing the State Attorney General; and Stan Gibson, a private citizen, representing a citizen's

interest group called Kansans for Effective Criminal Justice, Inc. Their testimony before the committee is summarized in their written statements found in Appendices 1 through 4. Analysis of the statements of each of these groups will be presented later in this section.

Important to this discussion is the observation of the actions of the legislative committee and the outcome of the proposed changes. There were ten committee members present at the hearing. Throughout the hearing, which lasted approximately forty minutes, only two members of the committee asked questions or offered any comment. After the testimony by the KAA, the chairman of the committee asked two question of Mr. Walker. Both referred to the public forums currently being held by the KAA. The chairman inquired as to the participation at these hearings and the success of publishing names of inmates coming up for parole in newspapers across the state. Mr. Walker replied that the participation at the hearings was "very good, and evenly matched at all three locations." He also noted that they had received comments that more papers should run these lists. That was the extent of the questioning of Mr. Walker.

No questions were asked of Patrick McManus upon completion of his testimony. The committee went directly on to hear Tom Haney from the Attorney General's office. Only one member of the committee raised any questions concerning Mr. Haney's testimony. Concern was raised over the opening of records to the public and the possibility that important confidential sources of information would "dry up". Mr. Haney replied that he did not feel that there was that much information that could be that sensitive; and if it was, it could be protected if a danger to the source was perceived. The discussion between the committee member and Mr. Haney was

very short and there wasn't any further participation by committee members during the hearing. The committee appeared to be most concerned with concluding the hearing by noon.

Senate Bill No. 43 has since been split into two separate bills. The sections pertaining to the public parole hearings and public access to records died in committee. The section containing the thirty-year mandatory minimum parole eligibility for class A felonies was passed on to the floor of the Senate.

The Public

Public opinion or public response are very nebulous areas and very elusive when one tries to gain some measure of them or attempt to determine their impact. An even more difficult task is devising some means of gathering valid data that shows what you are attempting to show and then interpreting that data. Most often, quantitative methods such as the survey are employed. The limited time period in which this research was conducted did not allow for the formulation and data gathering needed in such a research method. Qualitative methods that attempt to observe vague social interactions such as public opinion are difficult to devise. For this study, I define "the public" as those groups outside the official sphere of the criminal justice system. This definition would include the mass media, special interest groups, and any private citizen. An attempt was made to observe what groups are the most active and vocal and what point of view was being presented.

At the Senate Committee hearing, only one group that could be said to be representing the public interest was present to give testimony. The

spokesman's testimony (see Appendix 4) stated that one of the major areas of concern for the group was the KAA. This group feels that the KAA should be more accountable to the public in its decision-making process. The group supported the portion of the bill that allowed for more input by prosecuting attorneys, law enforcement officials and crime victims. The quotations used in the address indicate a definite law and order stance. The quote taken from Chief Justice Burger's address to the ABA is interesting in the context of this hearing. The main thrust of Chief Burger's recommendations on the improvement of our criminal justice system was concerned with the criminal court system. Chief Justice Burger did not address the parole systems.

The important point is that this group was the only citizen-advocacy group to appear. In 1978, when Kansas instituted the Community Corrections Bill, there were a large number of citizen-advocacy groups that led the fight for passage of that progressive legislation. Those groups were very much opposed to use of incarceration for offenders, and were a major force behind the cancellation of plans for a new prison. The Community Corrections Bill was implemented in part due to the effective mobilization of what could be termed corrections reform groups. The absence of these groups at a hearing on a bill that would have a drastic impact on the correctional system by implementing a very conservative, hard-line stance towards offenders is interesting. The KAA and the DOC were left to defend their points of view alone; public support appeared to be behind the Attorney General. It would appear that at the present, the most effectively mobilized citizen-advocacy group concerned with the criminal justice system is on the conservative end of the spectrum. Whether or not this group actually reflects public opinion is not clear.

The mass media has given this conservative point of view an adequate forum. A "Kansas City Times" article on January 30, 1981 included the headline "Stephan's plan for no parole gets new life". Robert Stephan is the current Attorney General for the state. The article begins with a story of a vicious crime that ended with a second-degree murder charge and a fifteen-year sentence for the offender. The article points out that under present law, the offender is eligible for parole. The plight of the slain victim's family in their attempts to keep the offender from being paroled seven years after the crime is recounted. This situation is held up as an example of what is wrong with the state's sentencing and parole laws. According to the author of the article, "At the heart of the dispute is the conception that the public wants stricter sentencing of criminals to keep them from committing more crimes." The Attorney General is quoted as saying of his proposal, "It helps society. The criminal is locked up and is incapacitated. That reduces crime." The Attorney General's proposal for the elimination and the establishment of flat determinate sentencing is outlined.

The judgment made by the author that the public wants stricter sentencing is one that is being made by many publications today. The publication of the recent FBI statistics showing dramatic increases in violent crimes, the sensationalization of recent violent crimes, including coverage of the Atlanta slayings, special articles by periodicals such as Time, have fueled a public hysteria over crime. The recent presidential election and the publicity over a perceived conservative shift in public opinion, vocalized by groups such as the Moral Majority, have led to the conclusions that the public wants the criminal justice system to take a tougher stance.

In August of 1980, the KAA instituted the practice of holding public meetings once a month in three locations in the state. The purpose of these hearings was to provide a public forum on parole. Input from concerned citizens was to be gathered on inmates whose cases were to be heard in the following month. I attended two of these hearings in order to observe how much public participation was actually present. These hearings were held in February 1981 to gather information on the more than 120 inmates who were up for parole in March. (For discussion of the proceedings of these hearings, refer to Appendices 5 and 6, the behavior specimens.)

The first hearing was held in a meeting room of the Topeka Public Library in Topeka, Kansas. The Chairperson of the KAA was the only board member present and conducted the hearing. A list of inmates whose case for parole was to be heard in March was given to each person who entered. The behavior specimen, Appendix 5, shows that only five people appeared at the hearing. Four had some specific connection with a particular inmate, one appeared to give opinions in general. Testimony was given on three specific inmates out of the 120 listed as eligible for parole. The parents of one inmate wished to show support for their son's parole. They gave several letters from relatives and friends showing support for the inmate to the chairperson. The mother of the inmate did most of the talking and appeared very confused and concerned over the parole process. She kept asking the chairperson what the family could do to help their son obtain a parole. The chairperson tried to explain the process but was very noncommittal and vague in her statements. After approximately twenty minutes, the parents of the inmate left.

An older man in a business suit who had been sitting at the back of the room up to this point asked to say "a few words in general". He made a

brief statement about his opinion of men who had committed crimes against children, basically saying that they should never be paroled. Since these hearings are to serve as an open public forum, this type of participation is encouraged.

Two officials from the Attorney General's office appeared on behalf of a county attorney who could not attend. They offered testimony on two inmates sentenced from Montgomery County. Their remarks on both men were much the same. The county attorney did not feel that the men had served enough time for the crime they committed.

The hearing was held from 9:00 a.m. to 12:00 p.m. In those three hours, the testimony heard amounted to less than an hour. The rest of the time there was no one in the room besides the chairperson, an observer who had accompanied me, and me. Most of the hearing time was passed by casual conversation between the chairperson and this researcher. Initial contact for interviews with the board members was made at this hearing.

The second hearing observed was held in the Kansas City, KS, courthouse (see Appendix 6). Two board members of the KAA presided over the meeting. There was a better response in terms of numbers at this hearing, but the concern was with only two of the 120 inmates up for parole. The two officials from the law enforcement agencies offered testimony in opposition to parole for one particular inmate. Their basis for opposition was that the inmate had been involved in more serious crimes than the one he was sentenced for and should remain behind bars. A board member pointed out that the board "was bound by law to consider only the offense that the man was convicted of."

Following this testimony, seven individuals appeared on behalf of one inmate in support of his parole. Four were immediate family, one was the

family minister and the inmate's sponsor, and two were from the Criminal Justice Ministry, a group that offers support and counseling to inmates and their families. Five of these individuals stood before the board members and offered their remarks on the inmate's readiness for parole and the plans they had for his release. This process took about 45 minutes of the three hour hearing.

In the two hearings held, information was received on a combined total of five of the 120 inmates who were to receive parole hearings. A total of fourteen people participated in the two hearings. Only one person appeared to offer views on parole in general. Returning to the testimony of the KAA before the Senate Committee (Appendix 1), the spokesman noted in reference to the public hearings:

> "These hearings have drawn an excellent response, with frequent attendance by law enforcement authorities, crime victims, families of inmates and the press. We believe these hearings have provided much better public knowledge of the parole process for those who attend, and the members of the Authority have received much valuable information which has been useful in our parole decisionmaking."

The official process by which the KAA gathers information should be noted in reference to the above remarks. Before the inmate's regular parole hearing, a field investigation is conducted by a parole officer of the parole plan. In addition, the procedure calls for the parole officer to contact the judge, prosecuting attorney, and law enforcement officials of the county from which the inmate was sentenced to obtain their remarks for the official record. Whenever possible, the victim or the family of the victim are contacted for a response. In the investigation of the parole plan, the family of the inmate, his sponsor, and employer are contacted to verify information and evaluate the parole plan. From the two hearings held,

information was received from, at the most, three individuals that would not normally have been contacted in a routine field investigation. This information was received at the cost of the time involved for members to preside over these hearings and the expenses incurred in travel and materials to conduct these hearings.

These hearings, since they are public, are recorded on tape. This tape of the testimony offered is entered into the official records used by the KAA to determine parole. For anyone who does not wish to offer comments in public, a form is provided at these hearings for written information (see Appendix 7). The KAA guarantees the confidentiality of this information. The KAA also indicates that they receive a large volume of information on inmates through correspondence and telephone conversations. There is no way to determine how much information they receive in this manner or the content of this information since it is considered confidential. Therefore, the measurement of the amount of public response the KAA receives concerning parole depends upon statements given by the KAA.

The Attorney General

The present Attorney General of Kansas has become a central public figure in the criticism of parole and the manner in which the KAA grants parole. Some of his public remarks were given earlier. An interview with the Attorney General could not be scheduled in the time available to me. I was able to obtain an interview with Deputy Attorney General Tom Haney. Mr. Haney is the Chief of the Criminal Division and was the spokesman for the Attorney General's office before the Senate Committee. I felt that the official and public views of Attorney General Robert Stephan could be adequately outlined by Mr. Haney.

The interview was conducted in the State Justice Building in Topeka, Kansas, in Mr. Haney's office, on April 20, 1981.

The first area of inquiry concerned the recently proposed Senate Bill No. 43. I had received indications from various sources that the origin of the proposals was the Attorney General. Mr. Haney confirmed that the bill was originally proposed by the Attorney General's office. He said the bill "was proposed to open the cloak of secrecy surrounding parole hearings." He was disappointed that those portions of the bill regarding the establishment of public parole hearings had been amended and expressed his expectations by saying, "We do not anticipate public hearings in the near future." He cited the strong opposition from the KAA and the DOC as a major factor in its failure to pass the committee.

My inquiry about the public hearings currently being held brought some interesting responses. Mr. Haney appeared very proud of the Attorney General's role in the initiation of those hearings, "Bob Stephan has been solely responsible." Mr. Haney was quick to point out, "it is not a hearing; it is a fact finding session." I noted that Mr. Haney had appeared at one of the hearings I observed and asked him about the Attorney General's participation in these sessions. His reply was:

> "By and large, we appear at the hearings to oppose parole, acting on behalf of the county attorneys who cannot attend... We have even appeared on behalf of the victims and the victim's family."

The Attorney General has made his concerns very visible to the KAA. A concerted effort has been made to make the Attorney General's presence felt at each hearing. When asked to assess these hearings, Mr. Haney replied, "I think they are profitable." These hearings, initiated in response to pressure from the Attorney General, offer the opportunity for him to apply

constant pressure on the KAA. An opportunity that has been used quite frequently at the hearings held in Topeka by Mr. Haney's remarks.

Mr. Haney commented that Robert Stephan was "probably the KAA's primary antagonist." This was a very strong statement and a recognition of a definite conflict between the two agencies. Mr. Haney was questioned about the reasons behind Robert Stephan's criticism and opposition to the KAA. He felt that the KAA had too much power and discretion by statutory set-up. His major criticism of the KAA referred to this discretion:

> "The indeterminate sentence means nothing. With the KAA's discretion, no matter what the sentence, the parole eligibility is the same. It promotes plea-bargaining because there is no reason to charge and sentence offenders for all the offenses committed."

Mr. Haney outlined the Attorney General's reform package for the criminal justice system. The proposals include the abolishment of the KAA, the establishment of a "presumptive" sentencing system, and the construction of a new minimum security prison. This "presumptive" sentencing system would be much the same as the determinate sentencing system used in Kansas for almost 100 years prior to 1970. The offender would be given a definite amount of time to be served and would be required to serve that specified amount of time before release. The sentences would be the same for the crimes in each of the five felony categories; thirty (30) years for class A, fifteen (15) for class B, five (5) for class C, three (3) for class D, and one (1) for class E. The term "presumptive" refers to the discretion given the sentencing judge to vary the sentence up to twenty percent either way for mitigating or aggravating circumstances. Mr. Haney assessed the future impact of these proposals on the concept of parole:

> "The abolishment of the KAA would not abolish parole. Under a presumptive sentencing process, the inmate say was sentenced to ten years could still earn some type of good time. The institution, for good cause, could petition the sentencing court to reduce the sentence to allow for an earlier release on parole. If the court reduces the sentence and places the man on parole for a period of time we would still need parole officers. The authority to release a man from prison on parole would then be with the sentencing court."

This is a rather dramatic change. Mr. Haney acknowledged that he knew of no other state that currently has a system that resembles the Attorney General's proposals.

The final line of questioning involved Mr. Haney's impressions about the sensitivity of the KAA to public pressure. Interestingly, he noted, "They (the KAA) shouldn't be that sensitive to public opinion; they should review the information and make a decision regardless of pressure." This statement is a recognition of the autonomous set-up of the KAA and the official concept of the decision-making process. He did offer his personal opinion that the board leans "too much towards consideration of the inmate and his institutional behavior."

It is obvious that the position of the Attorney General is very much in the public eye and that the current Attorney General has used the public forum to air his views and criticisms of the KAA.

The Department of Corrections

The DOC and its correctional institutions have a vested interest in the parole system. The system of parole has a direct effect on many areas of Department operations as well as upon the inmates confined. On April 17, 1981, I traveled to the Kansas State Penitentiary (KSP) to interview some of its personnel to gain their perceptions of the KAA. Of all of the

influencing groups, the institutions of the DOC have the most direct contact with the KAA. I interviewed three key personnel, all of whom had worked at KSP for approximately ten years. They had experienced the different systems of parole discussed earlier on a first-hand basis. They also had contact with different parole boards during this period. Because these officials must maintain a continuing working relationship with the KAA, they will be referred to as respondents A, B, and C.

The first specific area of concern was how the KAA's decisions and the institutional operations were affected by having to operate under essentially two different sentencing systems. Respondent A observed that the KAA was "actually making decisions on paroles for all men as if they were sentenced under the new system, sort of an unwritten, understood policy that decisions are being made under new time-served considerations, even though the man was sentenced under the old system." The old system he made reference to was the total indeterminate system in use from 1974 to 1979. Respondent B echoed these comments by observing that:

> "People are doing more time now than before. The board is not looking at those people sentenced before as they should. They are judging those people according to the new standards."

Respondent C noted one consequence of this attitude of the board; "Operating under the one sentencing system effects the institution by denying the opportunity for the institution to operate under an individualized system."

The most significant result of this stance by the KAA was seen as the drastic drop in the number of people being seen for parole consideration over the past three years (see Fig. 2). The ratio of parole hearings to institution population has dropped from a high of .82 in 1977 to .45 in 1980. The actual numbers of parole hearings has been steadily dropping while the

institution population has steadily increased to the current 1,170 men, the highest total since the early 1970's. The institution's predicament was summarized by respondent C as:

> "We are placed in a double bind between increased convictions and longer sentences and decreased parole hearings. The projected incarceration figures are frightening."

The projections are indeed frightening. It was estimated that if the present trend continues to the 1983 fiscal year, 1,500 men will be incarcerated at KSP. That figure is approximately equal to the number of men incarcerated in 1968. Respondent C remarked, "There is no way that we can keep that number of men busy."

Curiously, it appears that the KAA was a major supporter of the sentencing system that came into effect in January 1981. Respondent A explained why:

> "It was mainly because there was conflict between the KAA and the DOC over the power to set parole eligibility dates. The KAA felt that the DOC, specifically the Unit Teams, had too much power to set parole eligibility dates."

The implementation of the team management concept for inmate classification was specifically designed to determine when a man was ready for release under the guidelines of the 1974 statute. By supporting legislation to limit the discretion of the DOC in setting parole eligibility dates, the KAA also limited much of its own discretionary power to release men on parole.

Since these officials had been directly involved in the cases of the men appearing for the board, I wanted their perception of what factors the KAA gives the most weight to in deciding on parole. All respondents were in agreement that the most heavily weighted factors dealt with the sentence, the offense, and the past criminal record of the man. The amount of time

served in relation to the sentence was listed as a major determinant in the decision-making process. The consensus opinion was that very little weight was given to institutional considerations, such as behavior, and that the institution had minimal input in the decision-making process. Respondent B summed up the situation this way; "A man can come in here and walk on water but if he hasn't done anywhere near his minimum he won't get consideration."

One of the practices of the present KAA that was cited as contributing to the kinds of decisions that were being made was the use of the split-board concept. In the past, boards sat as a whole to hear the inmate and review his case. Decisions for parole were made on the site after the inmate left. In the split-board concept, the members of the board split into two or three groups to review the material and hear the inmate. The board then returns to Topeka to consider all of the cases. The board member that heard the case presents the case with recommendations to the full board and a decision is reached. Respondent B described the practice and its effects:

> "The board appears to operate as five separate individuals. . .The old board used to sit as a whole board. Now they split up, and the one or two members give opinions to the full board. It appears as if the board follows one recommendation. . .rather than sitting and hashing out a fair decision as in the past."

There was general agreement among the officials that the decision made by the KAA was influenced by the board member who heard the case, the manner in which that member presented the case to the full board, and the recommendations made by that member. According to respondent C, "The split-board concept is a roulette game for the inmate."

The respondents had some very definite opinions as to why the present KAA's decisions are based upon the factors mentioned. Some of the comments made by respondent B were:

> "This board appears to respond more to political whims. They seem more susceptible to political considerations than boards in the past. . .Probably the most politically conscious board I've had anything to do with."

The reasons he cited for this increased public sensitivity were:

> "More politicians are making an issue of corrections. The KAA is following the path of least resistance rather than educating these politicians. The board is too new to be able to act as a team. They do not know what has gone on before."

Both of the other respondents also felt that this board was much more sensitive to public opinion than boards of the past. Respondent C summarized the reasons in this manner:

> "Currently, corrections is a big political issue that is taking away from consideration of other issues. . .The board is not reacting to criticism. They are absorbing it and pulling back to minimize their losses."

Respondents B and C had some interesting comments concerning the public hearings held by the KAA. Respondent C characterized them as a "Pavlov's response to pressure to the Attorney General." Respondent B characterized the hearings as:

> "an attempt to abdicate some of the responsibilities of the parole board. The public is not informed enough to get involved in parole. If they were, we wouldn't need a parole board."

There was one final comment made to me by respondent B at the conclusion of his interview that I feel obliged to include. He said that he had nothing against the individual members of the board personally. But, if he could use "one phrase to describe the actions of the board as a whole, it would be moral cowardice."

The KAA

In an earlier section, authors were cited as observing that the personal views of the members of a parole board have some influence on the decisions

of the board. This section summarizes the results of interviews with three of the five board members and the Executive Director of the KAA.

As outlined earlier, the board of the KAA is composed of five members, who by statute must be chosen from certain professional disciplines. The present membership of the board includes; a former State legislator, a psychologist with ten years experience at the Kansas Reception and Diagnostic Center, a psychologist formerly with the Menninger Foundation, a former high school principal and mayor from the city of Leavenworth, and a former district court judge and county attorney. Only one member has served more than three years on the board. There are four men and one woman, the Chairperson, on the board.

On March 5 and April 23, 1981, I interviewed the Executive Director of the KAA, the board chairperson and two additional members of the board. The Executive Director is responsible for the administrative duties involved in the operation of the KAA. The interviews were conducted in the offices of the KAA in Topeka, Kansas.

The first area of inquiry in the interviews concerned the public hearings currently being held. The Executive Director confirmed earlier information that the Attorney General was responsible for these hearings:

> "The Attorney General exerted a great deal of media pressure about the closed decisions of the KAA. The public hearing was clearly a response to pressure that began in August of 1980."

She indicated that possibly the Attorney General envisioned great response from anti-crime forces, but that in most cases the trend has been just the opposite, a trend echoed by the three board members.

The Executive Director also admitted that it was difficult to determine the real value of these hearings. The Chairperson of the KAA offered this

justification, "If nothing else, they are serving a psychological purpose; to show people that we are listening." The second board member agreed with the Chairperson:

> "We are gathering more information than we normally would. Just by our being there has brought more people forward. It lets people see that we are human, that we are concerned for justice."

Each of the interviewees showed some concern for the amount of public pressure being exerted on the board today and the reasons for it. According to the Chairperson:

> "The KAA is absolutely more in the public eye today. We seem to be the scapegoat for the failure of the criminal justice system this year. Some years it is the police, some years the courts. This is our year."

The second board member offered essentially the same explanation:

> "By the fact that the focus has been upon us, we are sensitive to the public attitude. I don't feel that the public is reacting to the parole board itself, but to frustration with the social system today. They have to blame someone."

The Executive Director felt that the present board was "still trying to define its role." The board members had similar perceptions of the public opinions towards parole. The Chairperson felt that:

> "The public responds to parole as leniency for crime. They feel that by giving parole we are condoning crime."

The third board member said, "The mood around the country for parole is for *more* responsibility in decision-making." He added, "You would hope that once a man serves his time, the community would accept that." Acknowledging that there was a movement currently in the state by certain groups to abolish parole and the KAA, the Executive Director noted that "certain feelings of survival were involved" in the actions of the board members. The Chairperson did not think that the abolition of the KAA would occur and said, "We are riding out the pressure."

The board members were asked about the criteria they use in making a decision and what factors are the most important to the decision. The Chairperson outlined three major areas that are considered first about an inmate who is up for parole. The first area of concern is the crime. They attempt to determine exactly what happened from police accounts, offender's accounts, and pre-sentence reports. She said, "We look at the severity of the crime, that is very important to us." In relation to the crime, the board considers the amount of time served on the sentence. In the words of the Chairperson, "Has the man served enough time for the seriousness of the crime, an arbitrary decision perhaps. . ." The second member confirmed that the time served and the nature of the offense are primary considerations.

The second major area of consideration is the perception of what the community wants. The Chairperson stated, "We keep a very close ear to the community, which varies throughout the state." This variance of opinion was also noted by the third board member, "Communities are very disparate in opinions and ideas about crime."

The third major area of consideration was that the board took a good look at the inmate's parole plan. After the board has looked at these three major factors, the Chairperson said that they look at all of the "other information".

I wondered if having to operate under two different sentencing systems effected the board's decisions. According to the Chairperson of the board:

> "The two systems cause very little problems. We use exactly the same criteria for all men. We try and keep the time served fairly consistent. People serving time under both laws probably will serve about the same amount of time."

The Chairperson also added that she liked the present sentencing system better than the former indeterminate system. She felt that the indeterminate

sentence was too arbitrary and too hard on the inmate because he could not have an idea of how much time he would serve. She said, "I do not like to see inmates coming before the board when there is no hope for parole because he has not served enough time." The second board member's views on the new system were a little different:

> "I personally lean towards indeterminate sentencing. It deals more with individuals. Determinate sentencing deals more with the offense only."

He felt that the longer, more repressive sentences do not deter. The third board member declined to offer an opinion of which of the two sentencing systems he preferred by saying, "I just work under the system that the legislature gives me."

The two board members commented on the use of the present KAA of the split-board concept mentioned in interviews with KSP officials. The third member justified its use:

> "The split-board method is dictated by sheer volume. It does allow us to graduate the level of consideration of each case. Some are very formal, some are not."

The second board member added, "The board is made up of five members and each one has his input."

One final question concerned the process by which a person becomes a board member of the KAA. The Chairperson said that the first step is to apply to the Governor's Appointments Secretary by submitting a resume and a position paper. In the case of the Chairperson, she was appointed to the board originally without a personal interview. She added that all of the more recent appointees had an interview either with the Governor or his Appointments Secretary.

Interaction of the Five Major Influence Groups

As I stated earlier, the last portion of this results section would show some of the interaction between the five major influences outlined. There is a very large amount of interaction between these influences and time precluded the study of all of the combinations and lines of influences. I will concentrate on three of the most prominent and readily observable interactions. The first two center on interorganizational conflict between two agencies. The third interaction process observed is the interaction between the five influences in a specific situation, the legislative arena.

Interorganizational Conflict - The KAA vs. The DOC

In the interview with the Executive Director of the KAA, the relationship between the KAA and the DOC was explored. She felt that the relationship was closer than in the past and felt that the "degre of trust was increasing." She characterized the relationship as one that was not yet at the most comfortable level but that they were working on the problems. The Executive Director mentioned that there had been some past conflict over setting parole eligibility dates for D and E felons, but acted as if it had been resolved.

The attitude expressed by the officials at KSP was quite different, especially concerning the conflict over D and E felons. There was animosity displayed by the officials over what they saw as an attempt by the KAA to further limit the discretion of the DOC and the institutional personnel.

The statutory requirements and KAA regulations governing parole eligibility for felony classes A, B, and C have already been discussed. At this time, the requirements for class D and E felonies, the two least serious

categories, will be outlined to exemplify the conflict between the two agencies.

The method for determining parole eligibility for D and E felons according to K.S.A. 1979 Supp. 22-3717 is given as:

> "Any inmate sentenced to imprisonment for a class D or E felony may be certified as parole eligible by the Secretary of Corrections at any time after the court no longer has jurisdiction to modify the sentence on its own initiative. Unless a parole hearing has already been held or the Adult Authority has established a date therefore, the Kansas Adult Authority shall hold a parole hearing when any such inmate has served the entire minimum sentence, less good time credits."

According to statute, the DOC is clearly given the authority to set parole eligibility dates for D and E felons. It also opens the door to conflict by saying that the KAA also has the power to establish eligibility dates, which they have exercised by holding "initial" hearings after the inmate has been committed to the institution. In contrast to the other felony categories, the statute does not command that a specified amount of time must be served. The requirement that a D or E felon be granted a hearing at the minimum term less good time is a maximum, not a minimum. A hearing is to be held on an inmate at this time only if a date has not been previously established.

In the KAA's interpretation of this statute in their Rules and Regulations, the wording of the statute was slightly rearranged to read; "any inmate who has been sentenced to a class D or E felony may achieve parole eligibility as established by the Adult Authority. . ." (KAA, 1980: 584). The KAA's Handbook on Parole and Related Procedures also infers that the authority to establish parole eligibility dates rests solely with the KAA; "Persons sentenced to D or E crimes will have their parole eligibility

established by the Adult Authority and in conjunction with the Secretary of Corrections rules and regulations" (KAA, 1979: 1). The KSP official noted that these regulations have reduced the DOC's ability to promote inmates to a parole hearing.

These regulations of the KAA have effectively denied the DOC the ability to do something that was statutorily granted them. The conflict over who would set parole eligibility dates has see-sawed back and forth. After the statute became effective in January 1979, the DOC followed its statutory authority and continued to set the eligibility dates for D and E felons. They felt, according to one KSP official, that this procedure was in the best interest of the inmate. The KAA was not always able to hold initial hearings on inmates at their time of committment. This meant that inmates were confined for months before they had any idea of their parole eligibility dates. Following statute, the DOC could set a hearing date at their initial classification committee meetings upon the inmate's commitment. But when they did so, according to a KSP official, the KAA would come in months later to hold an initial hearing and set the date back six months. This was causing a great deal of conflict between the two agencies.

The KSP official said that the heads of two agencies finally got together to work out a procedure. The result of this meeting was that because these initial hearings placed an extra load on the KAA, they would allow the DOC to exercise its statutory discretion and set the hearing dates for D and E felons. But, the KSP official said that the KAA reneged two months later and refused to honor the parole eligibility dates set by the DOC. Since the power to grant parole is vested solely with the KAA, they could simply refuse to hear the case until the mandated time under statute.

The DOC had no choice but to back down. To continue the battle would have placed the best interests of the inmate in jeopardy.

The formula the KAA normally uses in setting eligibility dates for D and E felons at the initial hearings is the same one used for B and C felons. The good time chart used by the KAA is given in Table 1. As was noted earlier, the good time applied to the minimum sentence on a D and E felony sentence is maximum time a man can serve before he receives a parole hearing. But, apparently the KAA routinely applies this formula to set parole eligibility dates for D and E felons. "The net result," according to the KSP official, "is thousands of additional months of incarceration for D and E felons."

Interorganizational Conflict - The KAA vs. The Attorney General

The attitudes of the Attorney General about the KAA have already been discussed. So have the attitudes of the members of the KAA towards the public hearings. It has been shown that the public hearings were a direct result of pressure from the Attorney General. But there has been some behind-the-scenes conflict over the public hearings that is important.

In my initial interview with the Executive Director of the KAA on March 5, I was told that the KAA had been operating these hearings without official funding since they were initiated after the beginning of the fiscal year. The hearings were not budgeted for and the KAA did not feel that they were effective or cost-efficient. The KAA took this information to the Governor and requested that they be stopped. The Governor agreed and told them they no longer had to hold these hearings since they were not budgeted. According to the Executive Director, when the Attorney General found out,

"The Attorney General brought more media pressure, and the Governor asked us to continue the hearings."

I was also told during this interview that the KAA had recently gone before the Kansas House Ways and Means Committee with their budget requests for the next fiscal year. According to the Executive Director, the KAA asked that the public hearings not be funded because they were not cost effective. I was told that "the House Ways and Means Committee had voted not to fund the public hearings." This interview took place just three weeks after the KAA had said in its testimony before the Senate Committee on Federal and State Affairs that the public hearings were useful and that, "We plan to continue these hearings in the future."

On April 16, 1981, I had another conversation with the KAA's Executive Director concerning the public hearings. I inquired about their status and was informed that the Ways and Means Committee had decided to give the KAA funding for the public hearings and that the KAA would continue the hearings through the next fiscal year. I asked the Executive Director if this change had come about because of pressure from the Attorney General on the House Committee. Her reply was, "No, the KAA asked that they (the public hearings) be funded."

The Legislative Arena

Because the legislature has a great amount of power to affect the operation of state agencies by enacting statutes and controlling funds, it is in this arena that considerable interaction takes place, at least on the official level. The hearing on February 11, 1981, of the Senate Committee on Federal and State Affairs to consider Senate Bill No. 43 found all of the

major influence groups in the parole process present to present their official viewpoints. The testimony of the different participants and the observed interaction will now be analyzed. For this discussion, refer again to Appendices 1 through 4.

A brief review of the testimony shows that of the four groups offering testimony, two were in opposition and two were in support of Senate Bill No. 43. The KAA and the DOC, the two groups most affected by the bill, stood in very strong opposition. The Attorney General and the citizen-advocate group were in strong support. The approach that the two sides took in attempting to sway the Senate committee was very different.

The KAA was the first to testify, followed by the DOC. Their opposition to the bill was based upon some very practical considerations. One of their major points was the added cost of the implementation of Senate Bill No. 43. The KAA estimated that the added cost of holding open parole hearings at two central locations and the notification procedures would be approximately $70,000 annually. The DOC estimated that the cost of transporting inmates to the central locations would be $111,834. In addition, the DOC estimated that the increase in the minimum sentence for class A felonies would involve the construction of a new facility in the future to handle the increased inmate population, at a cost of 28.4 million dollars.

Both the KAA and the DOC argued that implementation of the public access to records portion of the bill would cause great difficulty in the information gathering process. Both cited the potential threat to the sources of information by removing the confidentiality of the sources and the concern that sources of information may dry up. The KAA cited the last changes in the statutes as having the effect of doubling their workload and that the

new legislation would increase that workload further. The DOC showed concern over the increased risk to the community that would be present because of transporting large numbers of inmates to the centrally located hearing sites. All of this evidence cites very practical concerns. The philosophical impact of the bill was mentioned but not emphasized by the KAA, and not at all by the DOC.

In contrast, the two groups in support of the bill placed great emphasis on the philosophical or moral basis of the legislation. Both relied very heavily on the accountability of the KAA to the public in the parole decision-making process. The Attorney General voiced concern that the parole decision was "being made in a vacuum." The Kansans for Effective Criminal Justice were concerned that the rights of the victim were not being balanced with the rights of the offender. It is interesting to note that the Executive Director of the KAA described this citizen-advocacy group as being "owned" by the Attorney General and "probably most closely represents the public views of the Attorney General." It was suggested by the Attorney General's office that the fears of the agencies about the release of confidential information could easily be taken care of. The testimony also suggested that the open parole hearings would not add considerably to the KAA's workload and did not see it slowing down the process. In the testimony of both groups in opposition to the bill, no "hard" evidence was presented to counteract the figures and projections given by the KAA and the DOC.

The interaction process was very formal and sterile. There was no actual interaction between the four groups except that contained in their separate testimony. The four groups were like two debate teams arguing their positions before impartial judges, in this case the legislative committee.

The formal procedure of the hearing process is designed for this purpose. The interesting aspect is the lack of involvement by the committee members. In the discussion under the legislature section, it was noted that very few questions were asked of the spokespersons of the four groups. This could indicate one of two situations. Either the committee was simply absorbing the information or it had already made up its mind and was going through the official motions.

The legislative arena allowed the four groups to publicly air their official policy positions. The amount of behind-the-scenes lobbying was not explored by this study due to time considerations. The decision reached by the committee was discussed earlier. The implications of the decision made in terms of the political structure and the interactions will be explored in the final section of this study.

VI. INTERPRETATION

The data gathered indicates a very definite ideology involved in the decisions made by the KAA to grant or deny parole. It also suggests a process very different from the official one outlined in Figure 1. From the results, the actual process used by the KAA in determining whether or not to parole an inmate can now be described.

The Operational Philosophy of the KAA

Legislative guidelines certainly will have an impact upon the decisions made by a parole board. In 1973, the National Advisory Commission recommended a characteristic that a sentencing system should exhibit to be the most compatible with the objectives of parole; "No minimum sentences, either by mandate or by judicial sentencing authority" (1973: 393). The Kansas legislature followed this recommendation in 1974 and then reversed its position

five years later. This reversal in the sentencing structure that required specific amounts of time to be served before consideration effectively limited the discretionary power of the KAA. The Presidents Commission in 1967 noted that "(t)he basic trouble with such restrictions is that they allow no consideration of individual circumstances" (1967: 62). A parole board that follows the professionally accepted objectives of parole should have been strongly opposed to such limitations being placed upon them. But, according to the officials at KSP, the KAA strongly supported the 1979 legislation. Furthermore, the Chairperson of the KAA indicated that she liked the present, more determinant sentencing system. Apparently, the KAA is operating under a concept of parole and objectives that are quite different from those offered by the American Correctional Association:

> "There must be sufficient flexibility in the laws governing sentences and parole to permit the parole of an offender at the time when his release under supervision is in the best interests of society" (1966: 115).

> "If the parole system is made up of competent members and staff and receives suitable reports from the institution, it is feasible to give the parole board complete discretion to release at any time within the maximum sentence fixed by legislation or the court. . .the fixing of minimum sentences on a mechanical basis negates the principle of parole release on an individual basis and is a barrier to competent parole board action" (1966: 117).

The preceding passages suggest a number of possibilities about the views of the legislature and the KAA. The limiting of the KAA's discretion by statute would suggest that the legislature displayed a lack of confidence in the KAA's competency. The support of that statutory limitation by the KAA would suggest a lack of confidence in their own competency. Or, there could be very different reasons for the State of Kansas and the KAA departure from recommended parole practices after only five years. These questions

will be examined later. The KAA would also appear to be operating under a principle of parole different than that of release on an individualized basis. The evidence demonstrating the principle of parole under which the KAA is operating will be the first major area of discussion.

One of the first clues to the operating principles of the KAA would be the way in which they deal with the two different sentencing systems. According to O'Leary, "It is not unusual for two or more sentencing codes to be operating simultaneously within a state, each establishing parole eligibility by a different formula" (1976: 32). This is the case currently in Kansas. The former system allows for the complete discretion of the KAA to deal with each case on an individual basis to determine the optimum time for release. The present system limits this discretion for three of the five felony categories. If the KAA were following the principle of individualized consideration, which has been inferred by the KAA's definition of parole in its own publication (refer back to page 2); then the KAA would consider inmates sentenced under the former system differently than those sentenced under the present system. According to the officials at KSP, such is not the case. The Chairperson of the KAA openly admitted that they consider all inmates as if they were sentenced under the present statute. Their purpose was to promote uniformity and "fairness" in the amount of time served for crimes. These two considerations are not part of a treatment philosophy that seeks to individualize decisions about offenders. A treatment philosophy does not see the optimum time for release as occurring at the same time for all inmates.

The second clue to the actual operating philosophy of the KAA is the manner in which they consider parole eligibility for class D and E felons. Under statute, these are the two types of offenders for which the discretion of the KAA is still unlimited. But according toKSP officials, the KAA sets

parole eligibility dates for these men by using virtually the same formula that is required to be used for class B and C felons.

Figure 2 also lends some interesting observations. The drastic and continual decline in the number of parole hearings was noted earlier. What is even more important is the time period in which this decline began. The statute that set minimum terms for class B and C felons did not take effect until January 1, 1979, and only affected felons sentenced after that. The decline in parole hearings that has been contributed to the setting of minimum terms actually began in the year previous to the effective date of the legislation. The KAA was operating in anticipation of the new statute and in direct contradiction to the statute that was in force at the time. Furthermore, those felons sentenced under the 1979 statute would not be eligible for parole under the time table (see Table 1) until late 1980 or 1981. The drastic decline in parole hearings in 1979 and 1980 demonstrates how rapidly the KAA adopted the guidelines of the new statute as their own. The fact that the KAA chose to use such standardized time-served formulas, when they were not required to do so by law, indicates the dominant philosophy of the KAA in the parole decision-making process.

The dominant philosophy of the KAA can be observed by determining the factors that the KAA gives the most weight in the decision-making process. The officials at KSP were very definite in their perceptions of what these factors are. All three of the officials interviewed at KSP indicated that the offense, the sentence, and the time served on the sentence were the major determinants in the KAA's decision. Two of the three major areas of consideration outlined by the chairperson of the KAA dealt specifically with the one given at KSP. The KAA indicated that the "other" factors, such as

institutional adjustment, were considered last. At KSP, the feeling was that these factors are given minimal, if any, consideration. The emphasis on such factors as the inmate's offense severity, length of time served, etc.; means that the "prognosis for parole is based completely on his past. . ." (Schmidt, 1977: 12). Contrast these findings with some of the statements found in the KAA's Handbook on Parole and Related Procedures that is given out to the public, inmates, and families of inmates:

> "The ability to get along with staff members and other inmates in the institution is a good indication of how one will get along on the outside with others" (1979: 6).
>
> "If an inmate has a good work record in the institution it too is an indication that he or she will be a good worker on parole" (pg. 6).
>
> "The Kansas Adult Authority places considerable weight on the completion of self-improvement programs" (pg. 6).

The actual factors that the KAA places the most weight on seem to be in contradiction with some of those given in one of the KAA's official publications.

These results parallel those of Janet Schmidt in her study of the decision-making process of the U.S. Board of Parole. Schmidt found that, "Insofar as overall effect on the parole decision is concerned, length of sentence and time served are the most important factors" (1977: 62). The Chairperson of the KAA indicated that the decision on how much time is to be served is based upon the seriousness of the crime, a somewhat arbitrary decision that is made by the board members. Schmidt also concluded that, "Offense and offense severity thus appear to be the major determinants of the amount of time to be served" (1977: 126). Apparently, the KAA does not differ significantly from the U.S. Board of Parole in the factors used to determine whether or not to grant parole.

Punishment vs. Rehabilitation

The consideration of characteristics that deal for the most part with an inmate's past suggests that the ideological stance of the KAA towards the offender is one of punishment. By contrast, the treatment ideology places the greatest emphasis on the inmate today and a prognosis for his behavior in the future. His past is background information that shows where the inmate has come from. The emphasis the KAA places on an inmate's past suggests a philosophy that behavior changes are non-existant. "If seriousness is the most important consideration, then retribution (punishment and deterrence) becomes the reason for imprisonment" (Schmidt, 1977: 127). The statements of the KAA and institution officials indicate that such is the case in Kansas.

If, then, the amount of time served according to the seriousness of the crime is the most important criteria for parole; what purpose do the contradictory statements found in KAA publications serve? The answer is obvious. The statements by the KAA that parole is another step in the treatment process and that all aspects of an inmate's behavior are considered in the process serve to perpetuate the facade of rehabilitation. The parole decision-making process then appears much more complicated than it actually is. Highly-paid professionals are needed to make such complicated decisions. Janet Schmidt refers to the facade of rehabilitation as "mystification." The alleged use of complicated criteria in the parole decision-making process ". . .serve as fillers or rhetoric, designed to satisfy inquiring social scientists and other concerned persons" (Schmidt, 1977: 21). Other concerned persons would, of course, include those most affected by parole, the inmate and his family. While everyone is confused by the facade, a safe shelter for

the parole board, it is the inmate and his family that are often most confused.

A strong case can be made to portray the parole process, and especially the parole hearing, as a ritual. The official process has been described in Figure 1. The data presented seems to describe a very different process. It would appear that the decision regarding parole is often made before the hearing has begun. If an inmate has not served the arbitrary amount of time set by the parole board for his crime, he will not receive a parole. Institution officials at KSP have stated that, in their opinion, the KAA pays little attention to an inmate's behavior during incarceration. The evidence also suggests that very little worthwhile information is gathered at the public hearings. One must wonder how much knowledge of a particular inmate the KAA can gather in a fifteen to twenty minute interview at the institution. With a large number of cases to consider and a large amount of information to digest each month, the amount of time the KAA spends on each individual case is probably small. When the decision regarding parole is made on criteria such as offense and time served, one need not spend a great deal of time weighing criteria. Either the inmate is eligible or he isn't, according to statute and the KAA's unwritten time-tables. The information gathering process and the hearing itself thus become an official ritual, another part of the facade.

The only time that the inmate's behavior during incarceration becomes a factor in the decision-making process is when he meets the time-served criterion. It is then that a very difficult situation for the inmate can be observed. At this point, this author must rely on past personal experience in dealing with the KAA. That experience includes sixteen months as a member

of a Unit Team at KSP, preparing pre-parole reports and appearing alongside the inmates at their hearings before the KAA. It was noted earlier by KSP officials than an inmate's good conduct and participation in "treatment" programs meant little if he had not "done the time." But, if that inmate is eligible for parole according to the standards of the KAA; his lack of participation in "treatment" could be cause for keeping him incarcerated. The inmate must decide early in his incarceration whether or not to play the game. The game consists of maintaining a clean disciplinary record and participating in a number of "treatment" programs to show that he is attempting to "help" himself.

Herein lies the contradiction in the KAA's attitude towards behavior during incarceration. Demonstrated attempts to better oneself through participation in educational programs, job training, or various self-help programs will not gain the inmate a parole date that is earlier than his minimum; even when his offense by law does not require that he serve a minimum term. This view has been supported by statements of institution officials as well as personal experience. But a lack of effort on the inmate's part or a disciplinary record will, in many instances, extend his parole release date. On the one hand, bad behavior will keep an inmate in, but good behavior will not necessarily earn the inmate his release.

It is logical, if the KAA is following a "treatment" philosophy, to retain an inmate in confinement whose institutional behavior suggests that he he has not made an attempt towards changing his behavior. It is not logical to fail to recognize efforts towards changing behavior, unless the KAA is following a punishment philosophy. The KAA appears to use the rhetoric of the "treatment" philosophy when it conveniently suits their purpose. If the KAA is operating under a punishment or retribution philosophy, then behavior during incarceration is not important. The only important criteria are those

that are related to the amount of time served and the inmate "paying his debt to society". The punishment philosophy has been shown to be the dominant philosophy of the KAA. Until, of course, they are faced with a particularly recalcitrant inmate; then the KAA falls back upon the rhetoric of rehabilitation.

A Research Proposal

Further research could be designed to further support the contention that the KAA operates under a punishment philsophy most of the time. Such a proposal for research would include extensive quantitative data to support the qualitative data of this project. Access to the parole hearings at the institutions would be necessary, as would access to inmate records. It should take three to four months of observation to determine the unwritten minimums of the KAA for various categories of crimes, in conjunction with the statutory minimums. Then, an attempt to predict whether or not the inmates scheduled to appear before the KAA will receive parole would be made prior to the hearing. The prediction would be based solely upon the criteria proposed in this project; offense, original sentence, and time served on that sentence. If the results of this project are accurate, one should be able to predict the decision of the KAA prior to the hearing.

Impact Upon the Institutions

The manner in which the KAA administrates the parole decision-making process has a substantial impact upon the institutions of the state. "The

parole board by its parole revocation practices and its releasing policies controls a substantial part of the flow of inmates both into and out of custody" (Carter, McGee, Nelson, 1975: 354). The population totals at KSP in Figure 2 show the effect of the parole releasing policies of the KAA. The population has been rapidly increasing to a level that institution officials have indicated is unmanageable. While part of the blame for the increase is due to an increased use of incarceration by the criminal courts, it is clear that much of the blame lies with the KAA. The statements by institution officials point out the effects on the population of having more inmates doing more time because of the releasing policy of the KAA. The entire penal system will soon be feeling the effects of overcrowding. At this time, the KAA appears to be more concerned with pressure from the Attorney General and the public for longer sentences than by pressure from the DOC for relief from the overcrowding and the subsequent problems that arise from it. How long this trend will continue cannot be predicted. A speculative answer would be that this conservative trend of the KAA will continue until some major incident occurs at the institution to bring the problem of overcrowding into the public arena. This would probably be the only situation whereby the KAA could relax its releasing policy with any degree of security. If the incident was serious enough, there might be enough support generated by interest groups for earlier releases to outweigh the influence of the Attorney General and his interest groups.

There is another effect of tight releasing policies that can be as negative upon the institution as that of overcrowding. David Duffee provided a concise analysis of the problem when he stated:

> "Because of the sequential relation of prison and parole agencies in the criminal process, there may be greater administrative problems when the prison is slightly more liberal than the parole agency. In these situations, offenders will "stack up" in prison even though the prison officials believe they are ready for release. Morale for both prison staff and offenders may suffer under these circumstances" (1980: 297).

Overcrowding as an administrative problem has already been discussed. The problem of morale becomes a key issue. The data seems to indicate that KSP is at least making an attempt to follow a rehabilitative philosophy. Most officials believe that the inmates are ready for release much sooner than does the KAA. This disagreement is a source of constant and sometimes heated conflict between the two agencies. This conflict was very evident from statements made by officials of both agencies. This constant state of conflict cannot be conducive to maintaining good morale among the prison staff, especially since they are more or less at the mercy of the KAA. The statements of the KSP officials indicate a feeling of futility about the parole process and its effect on their work. These feelings cannot help but be picked up by the inmate population. The inmates are much more astute than many give them credit for. It is difficult for the prison staff to work at bringing about behavior changes in the inmates when they know that their efforts are futile. And it is very difficult to convince inmates that they should try some of the programs offered when the inmate knows there is little to be gained. Man is a somewhat lazy creature. It is often difficult to get him to attempt anything, even when he might benefit from it individually, unless there is some incentive for doing so. There should be some recognition for an individual's efforts, especially in areas such as education and vocational training which require a commitment on the part of the individual to complete. The present environment at KSP appears to be one of frustration,

anger, confusion, and futility for both inmates and staff. That is a very unhealthy and dangerous environment in a maximum security institution housing over a thousand men. The KAA apears to be increasing this unhealthy environment via their release procedures rather than lessening it.

The KAA As A Political Body

The KAA has thus far been depicted as a body that is unprofessional, arbitrary, contradictory in their behavior, and overly sensitive of criticism. The reasons why the KAA acts as it does are tied to its membership and its position in the political arena. Guidelines for the membership of the KAA are outlined in statute and have already been discussed. So has the background of the current members. The guidelines are designed to provide for a board that has some knowledge of the field of corrections or human behavior but, more importantly, to be a cross section of professions to represent the public's interests. According to Giardini,"the most desirable method of selecting candidates for a board of parole is by means of competitive examinations open to those who have made a career of penal administration and correctional service" (1959: 399). This selection method would produce a highly professional and knowledgeable board. Clearly it is not the method of selection in Kansas. Only one member could be said to have had made something of a career of corrections.

The appointment method in Kansas is more akin to a purely political appointment than one of competitive appointment of the most knowledgeable and experienced people. The members are appointed by the governor, a system that has been widely criticized. "Opponents view gubernatorial appointment as creating a lack of coordination with the corrections system, undue

sensitivity and appointment of the unqualified due to political pressures" (O'Leary, 1976: 16). The KAA's lack of coordination with the corrections system and undue sensitivity have been discussed earlier. Whether or not the membership of the KAA is unqualified depends upon what one views their purpose to be. If the purpose is to decide upon just punishment for offenders and protect the public image of the governor who appointed them, the current membership is probably well qualified. If, on the other hand, their purpose is to release those offenders who appear to be ready for release without exposing society to undue risk as is their statutory mission, the current membership does not appear to have the necessary qualifications. A former state legislator and a former mayer of a small city are not the most qualified individuals to determine the optimum release date based upon the interpretation of many subjective behavior observations by many different professionals. But, in fact, the true mission of parole in Kansas is governed more by the unwritten concept of punishment than by the statutory and public statements about optimum release dates. The current membership of the KAA is highly sensitive about their positions.

Whenever a parole board must make a decision regarding the release of an inmate, it must consider the possible risk to the community that the man represents. "The assessment of risk also involves the risk to the parole board membership" (Carter, McGee, Nelson, 1975: 205). Because the members of the KAA are politically appointed to their position, a very financially lucrative position, they have a vested interest in the success or failure of their parolees. Too high a failure rate or a few highly publicized failures and the membership may not be reappointed. One KSP official noted that the current membership of the KAA is the most conservative that he has ever

experienced. It is also the highest paid parole board in history. The earlier part-time boards that received a small salary and expenses may not have felt as concerned about keeping their positions as a full-time board member with a starting salary of $32,000 a year. The elevation of the KAA to a full-time, highly-paid position may be one of the major factors contributing to its undue sensitivity to influence.

During the past few years, the KAA has become the focus of criticism by the Kansas Attorney General in his efforts to change the sentencing system in Kansas to determinate sentences. The KAA has been thrown into the public eye and their decisions closely followed. "The possible threat to the parole system following an act of serious parole violation is also a matter of concern to the parole board member" (Ohlin, 1951: 32). With the Attorney General calling for the abolishment of the KAA, the membership does not want any incident that could be used as ammunition against them. It is important that the KAA operate in such a way as to minimize as much criticism as possible. Given the current political climate, operating under a punishment philosophy that has offenders serving longer sentences is the best way to minimize criticisms.

Since the membership is appointed by the governor and is responsible to him, it should be the responsibility of the governor to insulate them as much as possible from pressure so that they may make the best decisions. The early conflict over the public hearing between the KAA and the Attorney General demonstrates that the governor was unable to effectively insulate the KAA from outside pressure. Without solid support from the governor, the KAA is left to fend for themselves in the political arena. Protection of their agency and their positions has become an overriding task for the

current members of the KAA. "As a consequence of the very nature of their task and the political climate in which they operate parole boards tend to become increasingly conservative" (Carter, McGee, Nelson, 1975: 354). The results of this research indicate that the KAA has indeed become more conservative in their decisions. The current political climate in which they are operating has left them no other option. As it is currently established in Kansas, the KAA is a political body and thus subject to the shifting winds of politics.

The Ideology of the Justice System

The cause of the contradictions and conflict found in the system of parole in Kansas lies in the contradictions and conflict found throughout our system of criminal justice. "The conflict of ethical ideas such as the opposition between principles of rehabilitation and punishment serves to shape the final decision" (Ohlin, 1951: 23). The criminal justice system and our society as a whole has never totally agreed upon the principles and goals of our system of justice. The system has been trying to resolve the opposition between principles of rehabilitation and punishment since the formation of the American Prison Association in 1870. The true mission of our correctional system is still a matter of debate. In 1967, the President's Commission Task Force Report on Corrections noted that "[n]otions of punishment still underlie much of corrections today, particularly in popular views of what ought to be done with those who commit criminal acts" (1967: 2). Almost ten years later in their work Corrections in America, the authors observed; "American corrections is caught, and often immobilized, in the binds of multiple, conflicting goals: punishment vs. rehabilitation, free will vs. determinism, institutional incapacitation of offenders vs. their

reintegration into community life" (Carter, McGee, Nelson, 1975: 376). It is proposed that in 1982 American corrections is still caught in the binds of multiple and conflicting goals. The contradictions within the parole process in Kansas are a result of these conflicting goals and having to satisfy the advocates of both sides. The KAA is struggling to operate within a system characterized by a constant state of confusion. A state of confusion that goes much deeper than the conflicting ideas of our elected officials who make policy. Its roots lie deep in the ideological doctrine of the American system itself.

Walter B. Miller has said, "Ideology is the permanent hidden agenda of criminal justice" (1977: 467). This ideology has its foundation in the concepts of free will and punishment attributed to popular eighteenth century philosophers such as Cesare Beccaria. It was this ideology of criminal justice coupled with the strong work ethic of nineteenth century America that produced that unique American invention, the prison. The opening of the Auburn prison in New York in 1816, changed forever the method of managing criminal offenders in this country. Punishment by hard labor in mass confinement became an ideological doctrine that has persisted in the American system for almost two centuries. This ideological doctrine still influences much of our correctional system today as the hidden agenda. "The ideology of parole is part of the ideological fortress that mystifies the experience and practice of control and imprisonment" (Schmidt, 1977: 134). The ideology of punishment attributed to the eighteenth century philosophers, referred to as the Classical School of Criminology, still appears in the statements of the Attorney General of Kansas, the membership of the KAA, and so many others today.

The arguments over the goals of our criminal justice system are not based upon fact or well-grounded research. These arguments are ideological in nature; emotionally charged arguments that have no basis in reality. The advocates on both sides cannot recognize the failure of the system as the result of a faulty ideological doctrine. They cannot recognize that the constant conflict does effectively immobilize the criminal justice system. As the system grows more ineffective, the call for clear objectives and goals is not heard. The ideological arguments intensify. The current Attorney General of Kansas believes that his system of determinate sentencing will effectively reduce crime and protect society and he has growing support. No matter that determinate sentencing has been a part of our criminal justice system for varying periods since Auburn with results that are not significantly better than other types of sentencing that have been attempted. Determinate sentencing is part of his world view and he believes it is the right way, in spite of all evidence to the contrary.

How can the criminal justice system, of which the KAA is an integral part, resolve the dilemma? Walter B. Miller offers a solution:

> "If the process of formulating and implementing policy with respect to crime problems are heavily infused with ideological doctrine, and if this produces a variety of disadvantageous consequences, the moral would appear to be clear: work to reverse the trend of increased ideological intensification, bring out into the open the hidden ideological agenda of the criminal justice enterprise, and make it possible to release the energy now consumed in partisan conflict for a more direct and effective engagement with the problem field itself" (1977: 483-4).

A very concise statement of the problem and very logical solution. But even Miller recognized it as "both overly optimistic and overly simple" (1977: 484). The beauty of his solution is that it is simple, logical, and obvious.

Precisely why it is probably impossible to implement. But, as indicated earlier, the problem goes much deeper than the American system of criminal justice. The problem lies at the very heart of the American social structure. The ideological doctrine of the American system itself must be altered. "If, indeed, our system of criminal punishment helps to maintain our social structure; then the only significant changes in that punitive system will be made through alterations in our basic notions of social justice rather than of criminal justice" (Duffee, 1980: 379).

FIGURE I. Flow chart of official parole-making process

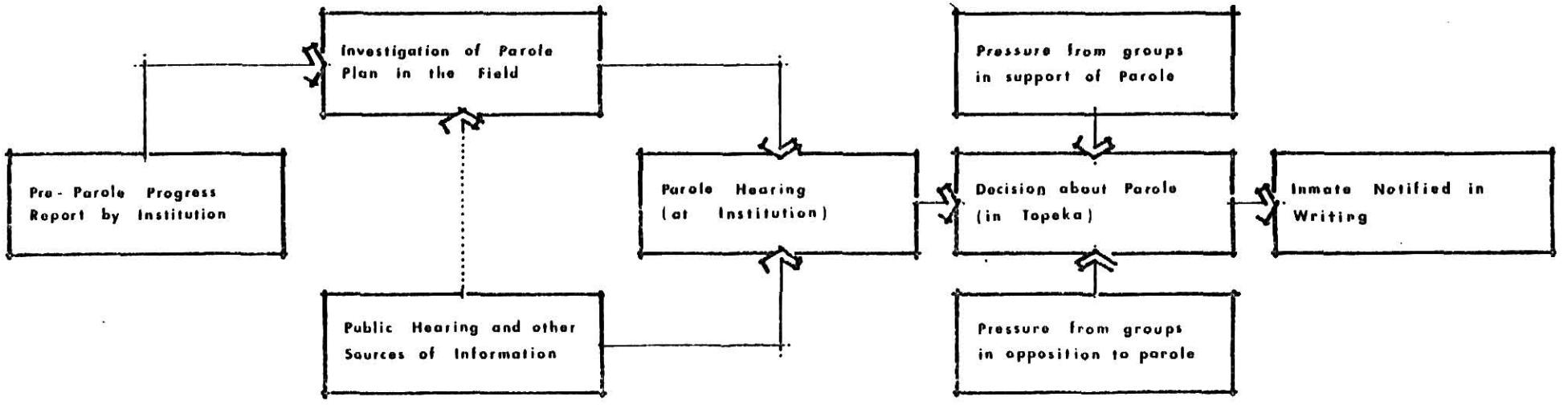
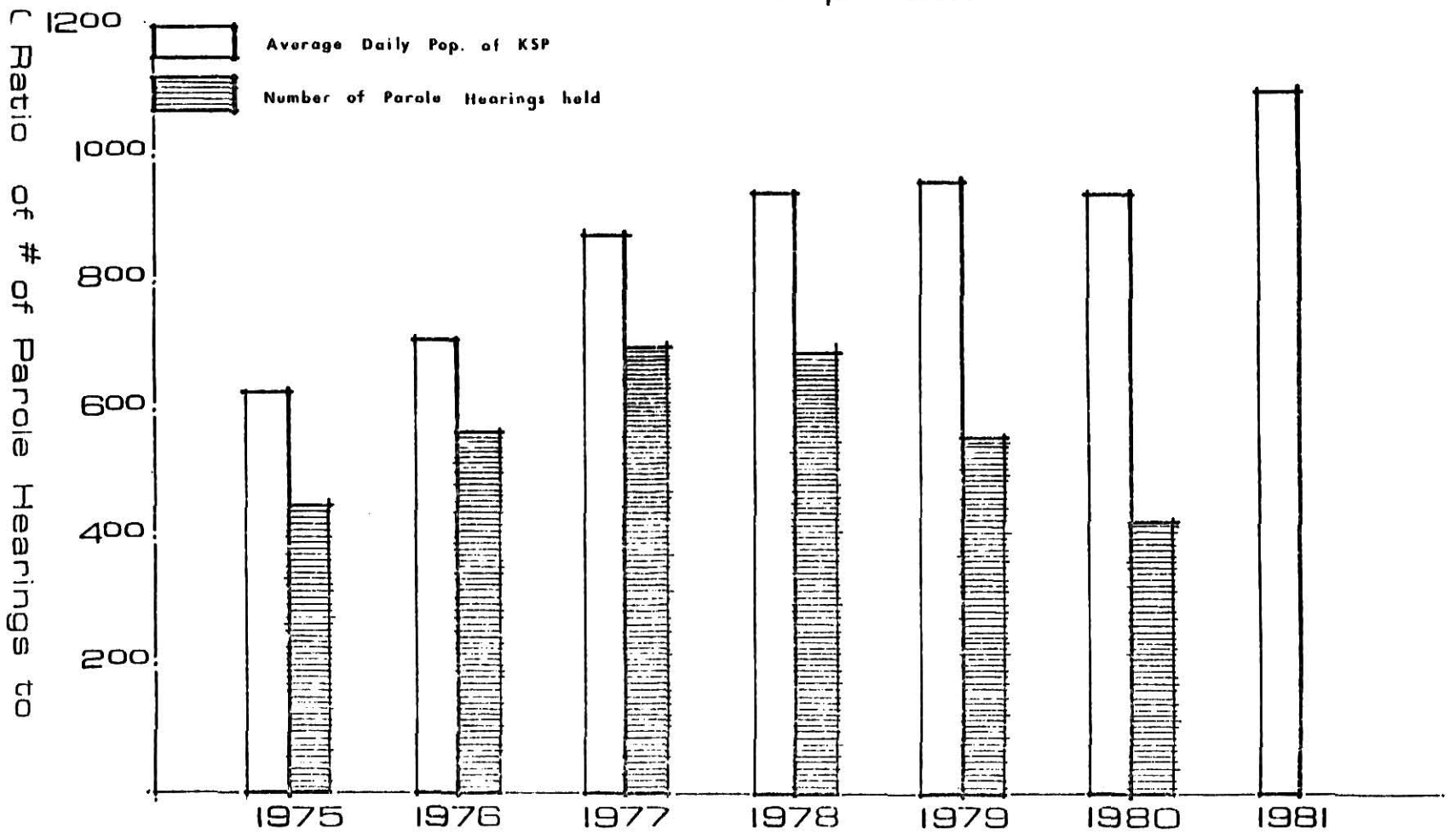


FIGURE 2. Comparison of Parole Hearing to Institution Population



KANSAS ADULT AUTHORITY
Good Time Table

SENTENCE Minimum (or) Maximum	GOOD TIME EARNED Year	Month	MUST SERVE Year	Month
1 Year	0	2	0	10
2 Years	0	6	1	6
3 Years	1	0	2	0
4 Years	1	6	2	6
5 Years	2	0	3	0
6 Years	2	6	3	6
7 Years	3	0	4	0
8 Years	3	6	4	6
9 Years	4	0	5	0
10 Years	4	6	5	6
11 Years	5	0	6	0
12 Years	5	6	6	6
13 Years	6	0	7	0
14 Years	6	6	7	6
15 Years	7	0	8	0
16 Years	7	6	8	6
17 Years	8	0	9	0
18 Years	8	6	9	6
19 Years	9	0	10	0
20 Years	9	6	10	6
21 Years	10	0	11	0
22 Years	10	6	11	6
23 Years	11	0	12	0
24 Years	11	6	12	6
25 Years	12	0	13	0
26 Years	12	6	13	6
27 Years	13	0	14	0
28 Years	13	6	14	6
29 Years	14	0	15	0

Felony Class of Crime	Range of Penalties Minimum		Maximum
A	Life		Life
B	5-15	to	20-Life
C	1- 5	to	10-20
D	1- 3	to	5-10
E	1	to	2- 5

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APPENDIX 1

Kansas Adult Authority
Room 910
535 Kansas Avenue
Topeka, Kansas 66603
913 296-3469

Testimony of the Kansas Adult Authority
concerning Senate Bill 43

Chairman Reilly and members of the committee:

The members of the Kansas Adult Authority appreciate this opportunity to present our views concerning the provisions of Senate Bill 43. We share the concern of all that the Kansas parole system serve the primary purpose of public protection, and that its operation be as open and understandable as possible. While Senate Bill 43 on its face appears to increase the public's role in the parole process, our study of the bill leads us to believe that it would, in reality, result in unforeseen and ironically negative results. We wish today to raise these concerns for your consideration.

A brief bit of background at this point might be helpful. As you are aware, the Kansas Adult Authority is the five-member parole granting and clemency review agency in Kansas. During the past four years alone, the operations of the authority have been studied in intimate detail by two separate interim legislative committees. The first of these, in 1977, resulted in 1978 legislation which changed the Authority from part-time to full-time status. Other changes in parole statutes required us to conduct "initial hearings" when inmates first enter prison, which had the practical effect of doubling our workload. The second of these interim committees, meeting during the 1980 interim just past, reviewed parole laws and our procedures in detail and recommended no legislation that would change our operations.

Also, during 1980 the Authority began holding, for the first time in its history, public hearings on a monthly basis. The hearings are designed to allow any member of the public or interested party to comment in any way on the desirability of parole for those becoming eligible for parole during the next month. These hearings have drawn an excellent response, with frequent attendance by law enforcement authorities, crime victims, families of inmates and the press. We believe these hearings have provided much better public knowledge of the parole process for those who attend, and the members of the Authority have received much valuable information which has been

useful in our parole decisionmaking. We plan to continue these hearings in the future.

Turning now to the specific provisions of Senate Bill 43, we note that sections 2 and 3 would have the greatest impact on parole in Kansas. We shall not discuss the merits of new section 4, which is largely current language transplanted from another section, although we do note the change to a 30 year mandatory sentence for class A felons. This proposed change is a legislative policy issue of the most sensitive sort, as I am sure you well know from your lengthy consideration during the past 4 sessions.

Section 2 would open virtually all records concerning parole to public inspection. As you can tell from the stricken language, most of the records currently gathered by or used by the Authority are privileged, and may only be disclosed under limited circumstances. The language of section 2, while attempting to open the records, is questionable to us from both a technical and a policy point of view.

At the outset, we wish to point out that the Kansas Adult Authority maintains no separate record system of its own. We rely on the file compiled by the Department of Corrections for each inmate and place our parole materials in these files. As a result the only time the Authority has records "in its possession" is at the time of a hearing or when they are temporarily checked out to us. At all times these records are considered to be under the control and jurisdiction of the Secretary of Corrections.

The larger issue in section 2 is the desirability of opening virtually all parole-related materials to public disclosure. At the present time, the Authority gathers many comments in advance of parole consideration based upon an assurance of confidentiality for the commenter. The preparole reports we request from the judge, county attorney, police officials and victims carry our promise that any comments on the parole fitness of a particular inmate will not be revealed to that inmate. Additionally, scarcely a day goes by in our office when a letter or a phone call is not received wishing to comment on a prospective parolee, but desiring the comment not to be divulged to the inmate. Many potentially dangerous and explosive situations have been avoided by the gathering of frank and confidential information in this manner. Many judges, law enforcement officials and victims have told us that they would not continue to comment if this policy should change and that they feared the possibility of the inmate knowing their comments. In fact, at our monthly public hearings, a large percentage of those attending will pick up and return confidential comment forms rather than make a public statement.

In summary, we believe that section 2 of Senate Bill 43 would have the ironic and unfortunate result of shutting off or substantially impairing one of our most vital sources of information. We believe the current combination of open public comment sessions plus the ability to keep sensitive comments confidential allows us to make the most informed decision.

Our concerns with section 3 are again both practical and philosophical. Instead of the usual parole hearing conducted at the institution, section 3 mandates an open, public parole examination of the inmate conducted in an adversary fashion. These public parole hearings would be held at two locations, and would require extensive transporting of inmates to the two hearing sites specified in the bill. Additionally, several notices by registered mail and legal publication would be required prior to the hearing of each individual.

The practical impact of section 3 on the day-to-day operations of the Authority would be tremendous. To put things in perspective you should note that the Authority conducts more than 2600 hearings of all types per year at present, or an average of 10 for each working day. The great bulk of these are parole hearings. To take this large block of hearings and transform each one into a potentially long and adversary hearing will slow the entire operation of our agency down substantially. We would anticipate the necessity of adding hearing officers and support staff to conduct matters such as the initial hearings we presently provide.

Another practical consideration is the additional costs required by section 3. Completely aside from the cost of the added staff we believe would be necessary, we calculate the added costs of registered mail and required legal publications at nearly $70,000 annually. At the present time the area parole officer hand-delivers the case material to the judge, prosecutor and law enforcement officials involved, and tries to contact the victim, if possible. We cannot see how the changes in Senate Bill 43 improve upon this system.

Even if we disregard the enormous practical problems we see arising from section 3, we have deep philosophical questions about its wisdom. We have searched in vain for another state which has created a parole system like that envisioned by Senate Bill 43. We candidly fear that these provisions would transform the parole interview process from a straightforward administrative hearing into a near-judicial retrial of the matter at the end of the sentence. It seems to us that this is the logical conclusion from the language which provides for presentation of evidence and cross-examination of the inmate by the prosecutor or attorney-general. In fact, if the provisions of Senate Bill 43 were to become law, we have serious questions as to whether every parole eligible inmate might likewise be entitled to call witnesses, present evidence, and have the right to appointed legal counsel at state expense. These are major policy questions which we believe should be carefully explored before the entire fabric of the parole system undergoes the radical alterations proposed here.

Summing matters up, the members of the Authority fully respect the ability of the legislature to create whatever sort of parole system it feels is best. However, we would be lax in our duties as public servants if we did not tell you that we believe Senate Bill 43 creates a system which is a major departure from commonly understood concepts of parole. As unfortunate side effects, we are convinced it would bog down a relatively well-run state process, provide substantially higher costs, and dry up some of the most needed sources of information which currently help us protect the public.

Thank you.

APPENDIX 2

DEPARTMENT OF CORRECTIONS POLICY ANALYSIS

There are many major issues addressed in this proposed legislation. S.B. 43 is a radical departure from current policy and the full impact must be measured. Constitutional questions, matters of public safety, institutional security problems, and a significant dollar cost to the state all should be closely scrutinized. The Department of Corrections will examine only those issues that directly effect institutional security, public safety, and fiscal impact. They are outlined as follows:

I. INSTITUTIONAL MANAGEMENT AND SECURITY

A. Allowing public access to all inmate records, directly results in opening a wide range of highly sensitive material to inmates.

B. Public access to inmate records opens certain reports that must be held confidential to insure their honesty, depth, and protect the writers against possible reprisals.

II. PUBLIC SAFETY

A. Specification that parole hearings be held only in Topeka and Hutchinson raises the potential for escape, increasing risk to both staff and the public.

B. There are additional security problems concerning where inmates will be housed before and after parole hearings.

III. COST

A. The cost to the Department of Corrections for transport of inmates and security staff to Hutchinson and Topeka would be at least $111,834.

B. The proposed increase in the minimum sentence from 15 to 30 years will add 400 inmates over a 15-year period. Based on current construction and operating costs, this would require an expenditure of 28.4 million dollars.

SB 43: PAROLE PROCEDURE MODIFICATION & 30-YEAR MINIMUM FOR ALL CLASS A FELONIES

DISCUSSION:

Under current law the Kansas Adult Authority has access to all inmates records kept by the Department of Corrections. There are many types of records contained in these files, however, those of a more sensitive nature include psychiatric and medical reports, family history information, county and defense attorney reports, and numerous institutional management and security records. All information in the inmate file, with the exception of conviction data and parole release information, has traditionally been closed to the public.

Under current regulations, as promulgated by the KAA, monthly parole hearings are held at the institution in which the inmate is incarcerated. These are also closed to the public, except the Adult Authority has established several mechanisms for allowing public access to the parole process.

Finally, under current law, any individual convicted of a Class "A" felony will receive a life sentence, for which a minimum of 15 years must be served.

OUTLINE: This bill

1. Allows public access to all records contained in an inmate's file.
2. Requires that parole hearings be open to the public.
3. Allows public comment on the proposed parole at the time of the hearing.
4. Specifies that the Attorney General, and the prosecuting attorney from the county of case origin may present evidence and cross examine the inmate.
5. Requires that parole hearings be held in Hutchinson and Topeka.
6. Requires that all individuals convicted of a Class "A" felony serve a 30-year mandatory minimum sentence before they can become parole eligible.

APPENDIX 3

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

February 12, 1981

The Honorable Edward F. Reilly, Jr.
Chairman, Senate Committee on
Federal and State Affairs
Statehouse
Topeka, Kansas

In re: Senate Bill 43

Dear Senator Reilly:

As indicated to the committee on February 11, 1981, I would prepare a written memorandum concerning our position in reference to the bill. The bill, although containing several possible technical errors, is sound in its principle and theory. The goal which SB 43 reaches for is to provide a criminal justice system which is responsive to the people of the State of Kansas. As indicated to the committee, SB 43 could be implemented within the current structure of post-conviction proceedings without effectively abolishing the Kansas Adult Authority. Thus, Senate Bill 43 is proposed to the committee should the committee not feel inclined to endorse a system of presumptive sentencing in the State of Kansas. Senate Bill 43 would change the existing structure in several significant ways. Firstly, lines 88 through lines 103 would open to public inspection all records in the possession of the Kansas Adult Authority and which are relied upon in determining whether an inmate should be released or not released on parole. The committee had some concern that such available information would possibly result in the release of confidential information to an inmate which may thereafter result in the injury to the "confidential informant." We would stress that only that information which is presented to and relied upon by the Adult Authority in making a determination as to parole would be made available for public inspection. It is difficult to imagine how any authority could rely on an ex parte communication which is confidential in nature and not released to the individual about whom the complaint is made. In short, should the spouse of an inmate write a letter

essentially stating "My husband is an alcoholic who beats the children and should not be released from prison." the possibility exists this letter may be submitted and reviewed by the Adult Authority and may form a basis for their decision when the inmate would have absolutely no opportunity to rebut the contents thereof or show the same to be false. It was suggested to the committee that language may be drawn into the bill which would seal certain records if a determination should be made that the release thereof would create the reasonable potential for injury to any person or persons.

Lines 210 through 240 propose to open parole hearings to the public. It goes without saying the public would be interested in only a minority of the 2,000 parole applications processed yearly. However, in those instances in which a county or district attorney or court wishes to provide input and cross-examine an inmate, such should be allowed. This office has no desire to require the Adult Authority to present a full public hearing regarding matters of which no actor in the criminal justice system indicates an interest. K.S.A. 21-4606 provides a number of criteria which a court must consider prior to imposing a sentence which places a convicted felon under the auspices of the Secretary of Corrections. This procedure is an adversary one in which input is presented in open court. To the contrary, although K.S.A. 22-3717(3) lists a number of criteria to be considered, the Adult Authority's power is succinctly stated in K.S.A. 22-3717 as follows:

> ". . . the Kansas Adult Authority shall have power to release on parole those persons confined in institutions who are eligible for parole when, in the opinion of the Authority, there is reasonable probability that such persons can be released without detriment to the community or to themselves."

The above decision is currently being made in a vacuum. Although this office has no desire to take part in nor interfere with the judicial-like proceedings by which the Adult Authority votes on paroles, certainly the evidence-gathering procedure and hearing process should be one open to public inspection.

The proposed bill additionally contains two other significant changes in existing law. One found in lines 287 through 292, which mandate that the Adult Authority shall send notice of the granting of a parole

along with a recent photograph of the paroled inmate by registered mail to the appropriate sheriff and/or police chief. Additionally lines 303 through 307 contain a change regarding the sentence of individuals convicted of Class A felonies, making such individuals eligible for parole after thirty (30) calendar years of confinement. The memo constitutes a brief summary of my testimony of February 11, 1981, and if I may provide the committee with additional information, please do not hesitate to contact me.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN

Thomas D. Haney
Deputy Attorney General
Chief, Criminal Division

TDH:may

APPENDIX 4

KANSANS FOR EFFECTIVE CRIMINAL JUSTICE, INC.
220 W. 33rd., Suite # 201
Topeka, Kansas 66611
(913) 266-3963

February 11, 1981

Chirman, Senator Ed Reilly, Jr.
and Members's - Senate Federal
and State Affairs Committee

Mr. Chairman and Members of the Committee:

My name is Stan Gibson and I am appearing here today on behalf of Kansans For Effective Criminal Justice, Inc., in support of SB 43.

The primary thrust of KECJ is to serve as a citizen action - advocacy group in the area of criminal justice. One of our main areas of concern is the effectiveness and accountability to the citizens of Kansas by the Adult Authority and the determining factors used in the parole process.

Section 2 of the bill is a step in the right direction by making the reports and records open to public inspection upon granting of the parole. We also wholeheartly support the provisions of Section 3, paragraph (3) regarding the open public hearing. Of particular significance is the new paragraph (4) of the same section that deals with notification procedures. We strongly feel that the county or district attorney, law enforcement personel, and victim of the crime or next of kin should be given the opportunity to provide input into the hearing.

I am sure there are those who will say that this bill infringes on the rights of the offender. To that we would reply,

> "it is time that measures are taken to restore the balance between protecting the rights of the offender and those of the victim and society."

In closing, I would like to quote from an address by Chief Justice Warren Burger to the American Bar Association this past week. I'm sure you all read the news accounts of that speech and the Chief Justice's call for changes in the justice system. I quote,

> "Like it or not, today we are approaching the status of an impotent society whose capability of maintaining elementary security on the streets, in schools and for the homes of the people is in doubt',

end quote.

We urge you to take that first step towards improving a portion of that system by passing SB 43 for the benefit of all Kansans.

APPENDIX 5

APPENDIX 5

BEHAVIOR SPECIMEN

DATE: February 19, 1981

TIME: 9:30 am to 12:00 pm

SETTING: A small meeting room on the second floor of the Topeka Public Library in Topeka, Kansas. There was one large table in the center of the room with chairs around the table and around the walls of the room.

OBSERVER'S LOCATION: Seated at one end of the table.

INTERACTANTS: The Chairperson of the KAA (A); a woman (B) and her husband (C), parents of an inmate; an older man in a business suit (D); and an additional observer.

At 10:30 am, two attorneys from the Attorney General's office entered (E) & (F).

The couple appeared to be in their early '50's. Both were dressed casually, the husband in work clothes as if he had taken off work to attend this hearing. The two attorneys were dressed in very expensive looking suits.

This hearing is held once a month at this location. It is always held at this time although the day of the hearing is different. The date of the hearing is usually announced in the major newspapers of the state two weeks in advance. This hearing is open to the public.

The rule enforcer is the Chairperson of the KAA who presides over the hearing.

SOCIAL OBJECTS: The purpose of this hearing is for the representative of the KAA to gather information from the public on inmates who are scheduled for hearings in the upcoming month. Persons attending the hearing may offer information about a particular inmate or about parole in general. The KAA tape records the hearings and provides forms for written statements.

RULES OF CONDUCT: The hearing is conducted in the manner of an open public forum. Each participant, in turn, is given an equal amount of time to offer his or her testimony for the record or ask questions of the KAA representative.

Sequence of interaction begins on next page.

Sequence of Interaction

U 1: Hearing was called to order by A. Read from a prepared statement explaining procedure of public hearing as an information gathering process, a brief explanation of the parole process, and of parole.

U 2: (B) We are here on behalf of our son. We are thankful for his chance for parole and sure that he would do fine on the outside. We would be able to offer a job and support on our farm. I have letters of support to give you from friends and relatives in Atchison. Will having a job help him?

U 3: (A) We like to have jobs for men before they leave.

U 4: (B) We have job offers for him.

U 5: (C) Most of those are part-time offers.

U 6: (B) We would like to have him parole to our home in Lancaster, but he wants to work in Topeka; if it would be alright for him to commute.

U 7: (A) Well, depending upon where he paroles to, there is usually a fifty mile radius of his place of residence.

U 8: (B) He has studied refrigeration at Lansing, and would like to continue on the outside. We will offer a place to live and any other help we can.

U 9: (A) The board likes to see that the person on parole has support from the community and friends. Not just financial, but people who are there to help when he needs someone.

U 10: (B) Well, he has his grandmother, an uncle, and of course we will help anyway we can. What more can we say or do for our son? What more would you like to know?

U 11: (A) There really isn't anything I can tell you as far as what you can do for your son when he is released. What you have given me will be helpful in our decision. When the parole officer comes to investigate the parole plan you should make sure that some of these offers have been finalized.

U 12: (B) We want to do everything we can for him. We just don't know what to do. This is all Greek to us. He is not that bad, he doesn't belong in Lansing.

U 13: (D) I am not here for any one particular person. I would like to say a few words in general if it is in order.

U 14: (A) Yes, that is perfectly alright.

U 15: (D) I have noticed that there are a number of men coming up for parole that have committed crimes against children. In my opinion, any man who has committed a crime against a child should never be considered for parole. Any application for parole for any of these men should be thrown in the trash can where it belongs. Too many of these have been released and hurt children. In my opinion, these men should never be released. That was all I wish to say. (He left the room upon completion of his statement, as did the couple.)

U 16: (The two attorneys entered the room about 10:30)
(E) We have two people we would like to discuss. The first is _____ from Montgomery County. The DA from that county called and could not be here so he asked us to represent him. The DA wants the KAA to consider the severity of the offense and the amount of time served. The crime is more severe than it looks in the charges. He shot his wife and one inch either way and it would have been murder. His effective date of sentence was March, 1980, and the DA feels that one year is not enough time served for something as serious as this. He is considered a dangerous individual to the community and his ex-wife. The second individual, _____, is sentenced on multiple burglary charges. He is to be considered a career criminal and has had outstanding charges in other states. His effective date of sentence was March, 1979, and the DA feels that is not enough time served and that he would not be a good parole risk. He has already served one parole unsuccessfully in Georgia. We do not feel that he has done enough time. That is all we have. (The two attorneys left the room and no one else appeared to give testimony before 12:00 pm. The meeting was ended at noon.)

APPENDIX 6

APPENDIX 6

BEHAVIOR SPECIMEN

DATE: February 23, 1981.

TIME: 9:30 am to 12:00 pm

SETTING: The County Commissioners Hearing Room in the Wyandotte County Courthouse in Kansas City, Kansas. It is a large room with the appearance of a courtroom. A large dais faced wooden benches, spearated by railing that ran the width of the room. There was a gate in the middle of the railing. There were three rows of benches separated by an aisle down the middle.

INTERACTANTS: Two board members of the KAA (A) & (B), seated behind the dais; two law enforcement officials from Franklin Co., Kansas (C) & (D); and seven individuals representing one inmate, the mother (E), the family minister (F), a brother (G), his fiancee and her child (H), a younger sister, and two women from the Criminal Justice Ministry (I).

The two law enforcement officials were dressed in plainclothes. The rest of the participants were informally dressed in sports clothes, slacks and shirts for the men and pant suits for the women. The two board members of the KAA were dressed in suits.

This hearing is held once a month at this location. It is always held at this time although the day of the hearing is different. The date of the hearing is usually announced in the major newspapers of the state two weeks in advance. This hearing is open to the public.

The rule enforcers are the board members who preside over the hearing. Board member A did all of the talking.

SOCIAL OBJECTS: See Appendix 5.

RULES OF CONDUCT: See Appendix 5.

Sequence of interaction begins on next page.

Sequence of Interaction

U 1: (The same prepared statement read in the Topeka was read by A.) Go ahead and speak right up.

U 2: (C identified himself as a Lt. from the Dept. of Public Safety in Ottawa, Kansas.) I am primarily concerned with fire investigations. I feel that the county attorney did not take into account the fires set by _____ when he was originally sentenced. During one of the burglaries he was convicted of, he set a fire to cover his crime. It was not on the conviction as arson because it was plea-bargained out. He has been a suspect on other arson cases. We think that a dangerous pattern has evolved, that of committing arson to cover burglary. We feel he should not be let out.

U 3: (D identified himself as a Lt. from the Ottawa Police Dept.) I have known _____ since he was a juvenile. He has been committing burglaries during all that time. I don't feel that he has spent enough time or gotten the right help. He has committed many burglaries in Ottawa. We cleared hundreds of burglaries when he was arrested. He was only convicted of the one burglary due to a plea-bargain. He has been in trouble since he was a juvenile and we do not feel that he is ready to be released.

U 4: (A) Let me clear something up. We know that plea-bargaining goes on. But we are bound by law to consider only the offense that the man was convicted of. It would be illegal to consider him on crimes that he was not charged with or convicted of.

U 5: (D) I understand that, but we feel that this information is important. Will the parole office be contacting us about his release?

U 6: (A) Yes, he will be contacting you shortly.

U 7: (E) I just wanted to speak on behalf of my son, _____. I feel that he is ready to rejoin society. He is a good boy and I know he will do alright if you let him out.

U 8: (F) I am interested in ____ case. I have known the boy a long time and he is a member of my church. I have seen a great change in him the last three years he has been in. I have a job waiting for him when he is released, and of course, the church. I think that I have seen in _____ that he has changed and is ready to be released and stay out of trouble.

U 9: (G) He is a good person but just got mixed up with the wrong crowd and got into trouble. Before he was incarcerated, he had a good job and went to work. But he was mixed up with this young woman who had his son. They planned to get married but had lots of problems and he got into trouble.

U 10: (H appeared carrying a baby) I want to get married to _____ so we can take care of our baby. He needs to be out on the streets so we can be together. I think that he can make it on the streets.

U 11: (I) This family has really tried to maintain family ties and support. I have worked with a number of families of inmates and this family has tried harder than any I have worked with to help and support their son. It is a very close family and will really try to do everything they can for him. (All of the participants left the room and no one else appeared to give testimony. The hearing ended at noon. The two board members passed the time from about 10:30 to noon by conversing with each other and frequent trips to the coffee machine in the hall.)

APPENDIX 7

KANSAS ADULT AUTHORITY
Room 910, 535 Kansas Avenue, Topeka, Kansas 66603
Ph. 913 - 296-3469

COMMENT FORM

(To be returned to the Authority at the Public Meeting or Mailed to the Address Shown above.)

(INSTRUCTIONS: Persons who wish to comment on the prospective parole of an individual should place their remarks in the space provided below. All comments made on this form will be included in the inmate's central file and will be considered CONFIDENTIAL, and for use only by the Kansas Adult Authority in making a parole decision.)

PLEASE COMPLETE ALL PORTIONS BELOW:

1. NAME OF INMATE ON WHOM YOU ARE COMMENTING: _____

2. IN WHAT CAPACITY ARE YOU COMMENTING? (e.g., family of inmate, friend of inmate victim of crime, family of victim, friend of victim, law enforcement official, interested citizen)

_____

3. ARE YOU PERSONALLY ACQUAINTED WITH THE INMATE? _____

4. COMMENTS CONCERNING THE SUITABILITY OF INMATE FOR PAROLE: _____

_____

_____

_____

_____

_____

_____

_____

_____

(Comment on back, if necessary)

5. YOUR NAME AND ADDRESS (So that the Authority may contact you if questions arise)

_____

(Name) (St. Address) (City, State, Zip Code)

THE POLITICS OF PAROLE

by

JEFFREY ROBERT MCDADE

B.S., Kansas State University, 1976

AN ABSTRACT OF A MASTER'S REPORT

submitted in partial fulfillment of the

requirements for the degree

MASTER OF ARTS

Department of Sociology, Anthropology and Social Work

KANSAS STATE UNIVERSITY
Manhattan, Kansas

1982

ABSTRACT

The purpose of this study was to investigate the functioning of Kansas Adult Authority and the parole process in general in the state of Kansas. Observations were made at hearings of the KAA; personal interviews were conducted with members of the Authority, prison officials, and other participants in the criminal justice system. Relevant state publications and scholarly sources were reviewed.

Results indicate: (1) the KAA operates under a philosophy of punishment rather than expressed goals of rehabilitation; (2) this philosophy effects the state correctional institutions by causing overcrowding and problems of morale; (3) the source of these problems seems to be the political context in which the Kansas Adult Authority operates.

Interpretation of these findings in accord with other scholarly analysis emphasizes the role of ideology and practical political concerns as the dominant force in the activity of the Kansas Adult Authority. As suggested by Walter B. Miller, the conclusion of this study is that until these facts are confronted and worked out in a more rational fashion, it is unlikely that there can be any significant change or improvement in the present system.