

PERFORMANCE AUDIT REPORT

Reviewing the Operations of the Kansas Parole Board

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
December, 1994**

Legislative Post Audit Committee

Legislative Division of Post Audit

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PERFORMANCE AUDIT REPORT

REVIEWING THE OPERATIONS OF THE KANSAS PAROLE BOARD

OBTAINING AUDIT INFORMATION

This audit was conducted by Cindy Denton, Cindy Lash, and Laura Sargent. If you need any additional information about the audit's findings, please contact Ms. Denton at the Division's office.

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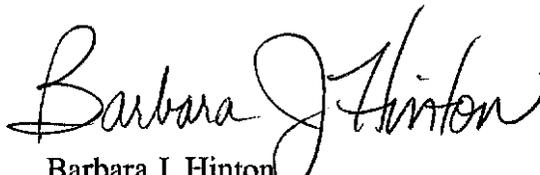
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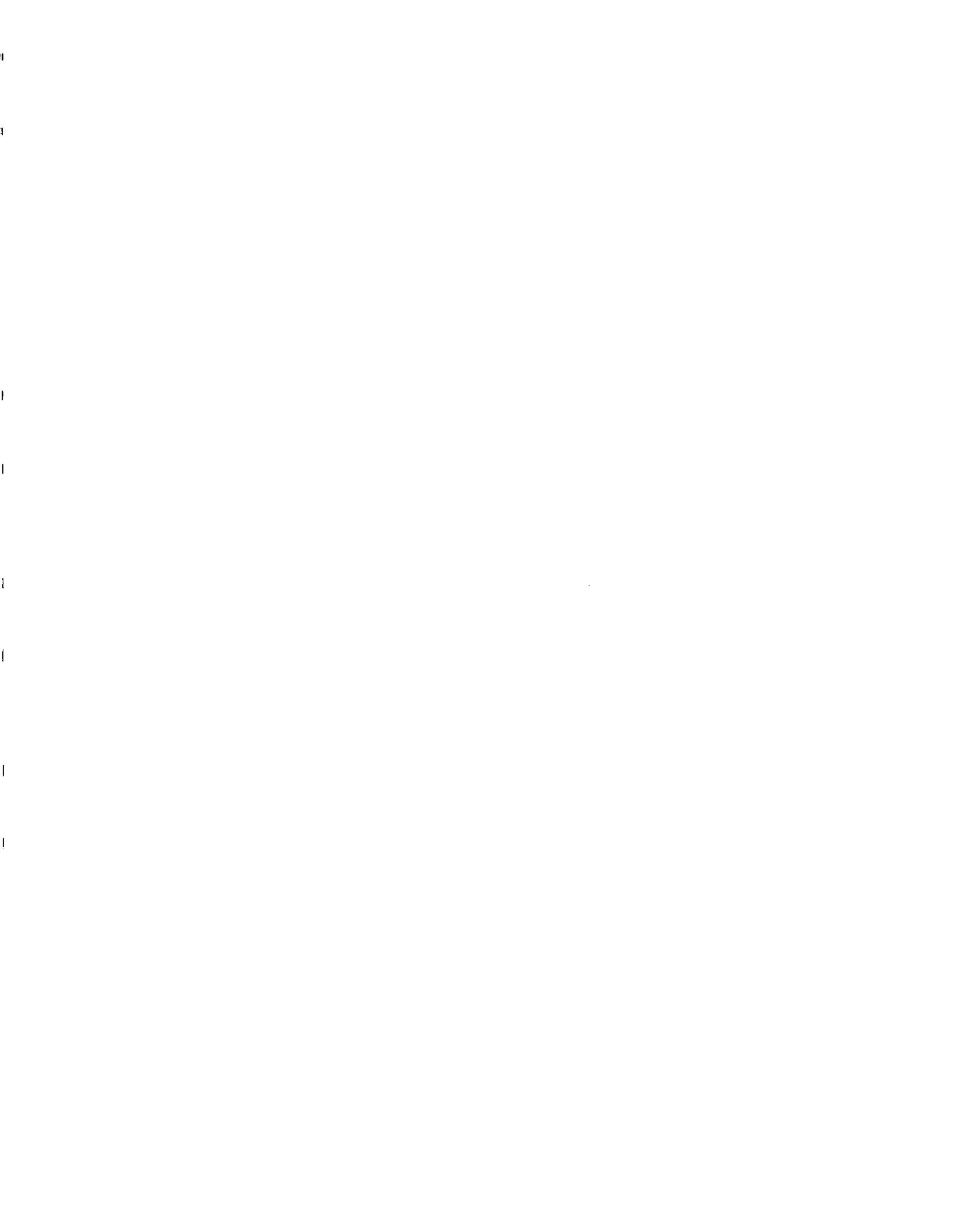
Summary of the Legislative Post Audit's Findings

What effect will the sentencing guidelines enacted by the 1992 Legislature have on the Parole Board's future workload? Although sentencing guidelines change the Parole Board's responsibilities, the Board's overall workload will not be significantly reduced. As the number of parole hearings declines, the number of inmates for which the Board will need to establish post-release conditions will increase. The amount of time involved in writing post-release conditions is about the same as the time required for a parole hearing. Other tasks performed by the Board are not likely to change significantly as a result of sentencing guidelines. Post-release conditions could be established by professional employees who are not Board members. If this were done, the size of the Board could be reduced and significant salary savings could be achieved.

Has the Parole Board established adequate procedures in selected areas to ensure that it effectively manages its finances and operations? The Parole Board has not established adequate procedures to manage its finances and ensure that it operates within its budget. In fiscal years 1993 and 1994, when the agency was running out of money, the Board did not act to reduce expenditures or seek additional appropriations to ensure it could pay all its obligations. If the Board enacted travel policies to ensure that members traveled in accordance with State travel regulations, vehicles mileage expenses could be significantly reduced and the savings could be used to purchase computers needed by the agency. In addition, the Board needs to ensure that new Board members are trained before making parole decisions, that there are adequate policies governing Board members' working hours, and that work is assigned to Board members and completed on a timely basis. Also, certain tasks performed by the Board's staff could be streamlined to eliminate unnecessary activities.

This report contains a number of recommendations to improve the cost effectiveness of the Board's operation. We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or State officials.


Barbara J. Hinton
Legislative Post Auditor



REVIEWING THE OPERATIONS OF THE KANSAS PAROLE BOARD

The Kansas Parole Board consists of five members appointed to four-year terms by the Governor, subject to confirmation by the Senate. The Board has a variety of duties related to inmates' reintegration into or separation from the community. Those duties include holding parole and revocation hearings, and setting conditions the inmate must follow after release. Board members also hold public comment sessions, answer letters from inmates and the public, testify at various court proceedings, and attend meetings related to correctional issues. The Board has a staff of eight to assist it in its duties.

The 1992 Legislature passed sentencing guidelines that could have a significant impact on the nature of the Board's work. During the 1994 legislative session, a House appropriations subcommittee reviewing the Parole Board's budget expressed concerns about the Board's operations. In particular, the subcommittee was interested in assessing how the Board's workload would change under the new sentencing guidelines, and how the Board's operations were being managed. The Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct a performance audit of the Parole Board addressing the following questions:

- 1. What effect will the sentencing guidelines enacted by the 1992 Legislature have on the Parole Board's future workload?**
- 2. Has the Parole Board established adequate procedures in selected areas to ensure that it effectively manages its finances and operations?**

To answer these questions, we reviewed workload, staffing, and budget information from the Kansas Parole Board, as well as Kansas statutes and regulations. We also interviewed agency staff, Board members, and Department of Corrections personnel, and reviewed a sample of inmate files. Finally, we analyzed the Department of Corrections' methodology for projecting future prison populations, and projected the Board's future workload based on this information. In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office except that we did not verify the accuracy of computer-generated information the Department of Corrections used to project inmate populations.

We found that although the number of parole hearings the Parole Board will need to conduct will decline in the future, the Board's overall workload will not be significantly reduced. Instead of conducting parole hearings for inmates sentenced under the guidelines, the Board is required to write conditions which inmates must fulfill during their post-release period. The Board likely will spend as much time writing these post-release conditions as they have spent conducting parole hearings. The number of hearings the Board conducts for offenders who violate their release conditions likely will continue to increase, but other tasks the Board currently

performs probably will not change significantly as a result of sentencing guidelines. Even though the Board's overall workload will not be reduced, the changing nature of the Board's work suggests that the size of the Board could be reduced, and less costly professional staff could be used to accomplish some of the work.

Also, we found that the Parole Board has not managed its finances to ensure that it operates within its budget. In fiscal year 1993 and 1994, when the agency was running out of money, the Board did not act to reduce expenditures or seek additional appropriations to ensure it could pay all its obligations. The Board's annual expense for vehicle mileage could be reduced considerably if the Chairperson enacted travel policies to ensure that Board members traveled in accordance with State travel regulations. Past Parole Board Chairpersons have not ensured that new Board members are trained before making parole decisions, that there are adequate policies governing Board members' working hours, and that work is assigned to Board members and completed on a timely basis. In addition, we found that certain tasks performed by the Board's staff could be streamlined to eliminate unnecessary activities. These findings will be discussed in more detail following a brief overview of the Parole Board.

An Overview of the Kansas Parole Board

Although the history of parole in Kansas dates back to 1864, the modern-day parole system in Kansas was established in 1957. That year, the Legislature created the Board of Probation and Parole, a group composed of five part-time members appointed by the Governor and confirmed by the Senate. Four years later, the Legislature reduced the size of the Board to three members and placed responsibility for deciding who to parole solely with the Board, but kept control over pardons and commutations with the Governor. The structure of the State's parole agency has continued to evolve, as shown below.

- 1974 The Board of Probation and Parole was abolished and replaced by the five-member Kansas Adult Authority. The Legislature transferred the responsibility for supervising parolees and probationers from the Board to the Department of Corrections.
- 1979 Kansas Adult Authority members became full-time employees.
- 1983 The Kansas Adult Authority was reduced to three full-time members.
- 1986 The Kansas Adult Authority was renamed the Kansas Parole Board.
- 1988 The size of the Parole Board was increased to five full-time members to cope with the increased caseload resulting from the Legislature's liberalization of good-time credits for inmates.

The box on page five illustrates the major changes in the parole system from 1864 to the present.

Until 1993, the Parole Board's Responsibilities Centered on Whether to Release Inmates from Prison

Until 1993, all offenders in Kansas were sentenced under what was called an "indeterminate" sentencing system. It was called indeterminate because there was no fixed term of imprisonment for any given crime. Sentences for persons convicted of crimes were established by the court based on minimum and maximum ranges specified in law. For example, the minimum sentence for a class B felony could not be less than five years, nor more than 15 years, and the maximum could not be less than 20 years nor more than life. As a result, if two people committed the same crime, one could get a sentence of five years to life, and another could be sentenced to 10-20 years.

Inmates sentenced under the indeterminate system are eligible for parole after they serve their minimum sentence less any good-time credits. Good-time credits are reductions in sentence given to inmates for good behavior while in prison, and under the indeterminate system they could reduce an inmate's sentence by as much as 50%. Thus, an inmate with a 5-to 20-year sentence could have been eligible for parole in as few as 2.5 years.

Once an inmate is eligible for parole, the Parole Board determines when the inmate should be released from prison, how long he or she should remain on parole, and what requirements he or she will need to fulfill as a parolee. The time on parole cannot exceed the inmate's maximum sentence. Parole decisions are made at parole hearings held at nine correctional facilities across the State each month.

If a parolee does not fulfill parole requirements (a situation referred to as "violating parole"), parole can be revoked and the offender returned to prison. In these cases, the Board determines how long the offender will be reincarcerated before he or she will be eligible again for parole. Parole violator hearings are held weekly by two Board members in Topeka, once a month at Ellsworth, and occasionally at Hutchinson and Lansing.

The Parole Board holds public comment sessions three times a month in Kansas City, Topeka, and Wichita in conjunction with parole hearings. These sessions provide an opportunity for crime victims and their families, friends and relatives of the inmate, and other concerned citizens to submit written and oral comments to the Board, stating their opinions about the release of inmates who are coming up for parole.

The Board also sets conditions for inmates it did not parole but who, by law, had to be released from prison when they reached their conditional release date. A conditional release date is reached after an inmate has served his or her maximum sentence minus any good-time credits earned. Like parolees, those on conditional release could be reimprisoned for the remainder of their full sentence if they fail to follow the Board's release conditions. The Board determines how long the offenders will be reincarcerated before they are eligible for re-release.

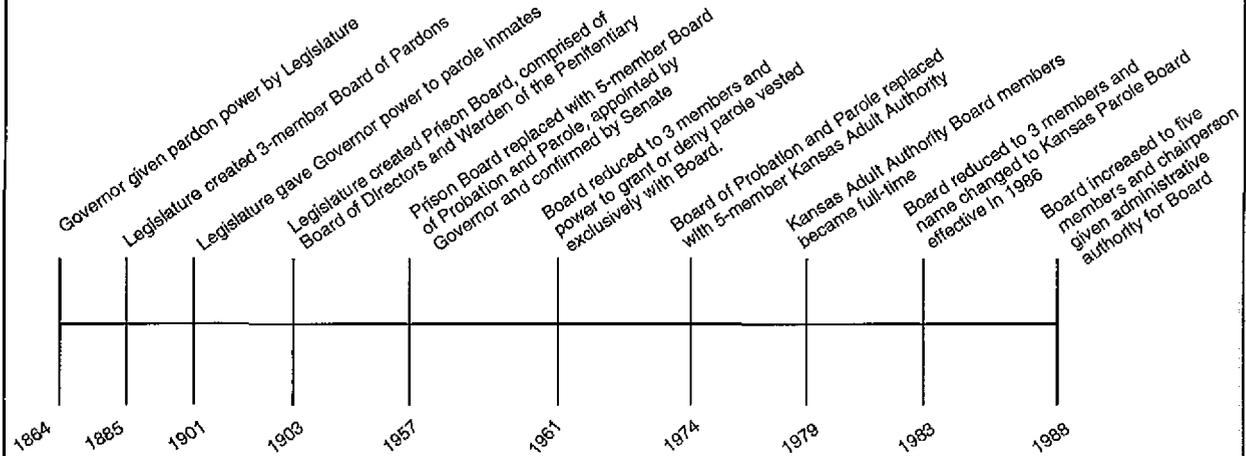
Upon recommendation from an inmate's parole officer, the Board can approve an early discharge from parole or conditional release supervision whenever members think it is prudent to do so. The Parole Board also reviews all executive clemency applications, responds to letters from inmates and the public, testifies at various court proceedings, and attends meetings on correctional topics.

The 1992 Sentencing Guidelines Act Removed the Parole Board from The Decision to Release Most Inmates

The 1992 Legislature passed the Kansas Sentencing Guidelines Act based on guidelines developed by the Kansas Sentencing Commission. Among the goals the Commission considered in developing the guidelines were:

- promoting public safety by imprisoning violent offenders
- reducing sentence disparity to eliminate racial, geographic and other bias
- establishing sentences that are proportional to the severity of the offense
- promoting "truth-in-sentencing"— eliminating the chance that a criminal will receive a long sentence but serve relatively little time in prison.

History of the Parole System in Kansas



The system of releasing inmates, which we know today as "parole," began in 1864 when the Governor was vested with pardon power under the State constitution. The Legislature created the Board of Pardons in 1885 to assist the Governor in reviewing applications for pardons. It met four times per year to review all applications for pardon and to report its conclusions and recommendations to the Governor.

In 1903, the Legislature created a Prison Board comprised of the Board of Directors and the warden of the State Penitentiary. The power to grant parole was vested wholly in the Board, and the warden was given the task of supervising parolees.

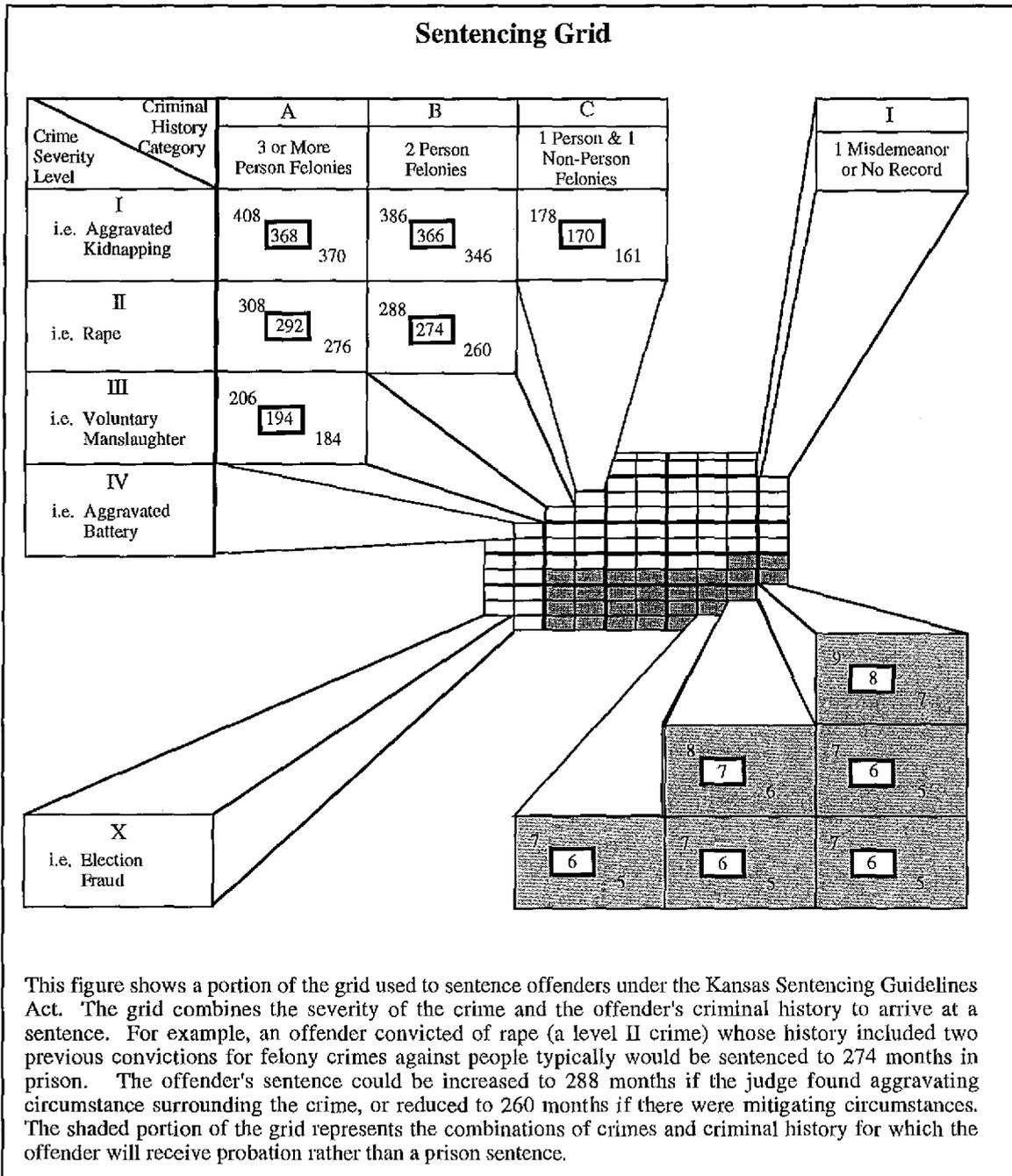
The Prison Board was abolished and replaced with the Board of Probation and Parole in 1957, when the Legislature completely revised the parole system. The part-time Board was appointed by the Governor and confirmed by the Senate for four-year terms. It was responsible for deciding who to parole, and for supervising those placed on parole and probation.

The present Board was created in 1988, and it is similar to the Board of Probation and Parole. The Kansas Parole Board is still responsible for deciding who to parole, but responsibility for supervising those on parole and probation now rests with the Department of Corrections.

The Act, which went into effect in July 1993, significantly changed the role of the Parole Board. Until sentencing guidelines went into effect, Parole Board members were responsible for making difficult and critical decisions about releasing inmates that directly affected the lives of many people and the safety of the public in general. For inmates sentenced under the Sentencing Guidelines Act, the Board no longer makes release decisions. An inmate is released automatically once he or she has served a predetermined sentence (minus any good-time credit) shown on a sentencing grid. When sentencing guidelines were enacted, the amount of good-time credit an inmate could earn was reduced from 50% to 20%. A small portion of the actual sentencing grid is shown on page six to illustrate how a sentence is determined.

The grid groups Kansas crimes into 10 categories. Those categories are shown on the left-hand side of the grid. Across the top of the grid are nine boxes (A through I) which take into account the criminal history of the person being sentenced. Suppose a person is convicted of rape (a level II crime), and that person also has been convicted of two previous felony crimes against persons. The judge would determine

the prison sentence for this person by going down the left-hand side of the grid to level II and across to the box labeled B (two person felonies). Within the box that forms the intersection of crime committed and criminal history, are three numbers to express the number of months that person should be sentenced to prison. The middle number (274 months) is considered the usual sentence for the crime of rape. The judge may decide to go to the higher number if there were aggravating circumstances such as premeditation, or to the lower number if there are mitigating circumstances such as the mental state of the rapist.



Judges also have the authority to "depart from the sentencing guidelines" (assign a sentence that is different from the one specified in the grid) if they find substantial and compelling reasons to do so. The law requires judges to provide written justification for such departures when the sentence is imposed.

The Board's main responsibilities under the sentencing guidelines will be to set the conditions that an inmate must follow once he or she has been released. This task is identical to that of setting release conditions for inmates who were paroled or released on their conditional release date. Just as it did under the old system, the Board also will revoke the inmate's release if he or she violates the conditions of the release. The main difference is that, by law, the Board cannot return the criminal to prison for more than 90 days beyond the date the revocation hearing is held.

A few crimes such as first degree murder and treason, are not covered by the grid sentencing system. These crimes will be handled the same way as crimes committed under the old system, and persons convicted of these crimes will still need parole hearings.

For a number of years, the Parole Board will have to deal with inmates sentenced under both the old and new systems. The graphic on page eight shows the major work activities of the Parole Board under the old system of indeterminate sentencing, and how those activities eventually will change under the new sentencing guidelines. In addition, the graphic on page 10 shows the Board's involvement with inmates given indeterminate and determinate sentences.

The Current Parole Board Is Supported By Eight Staff Members

The Kansas Parole Board consists of five full-time members appointed by the Governor, subject to confirmation by the Senate. The law does not establish specific qualifications for members who serve on the Board. Members serve four-year terms, and no more than three members can be from the same political party. By law, the salary of the chairperson of the Parole Board is the same as the salary of an administrative district court judge. During fiscal year 1994, his salary was \$74,268. The law specifies that the salaries of other Board members will be \$2,465 less than the Chairperson's salary, or about \$72,000.

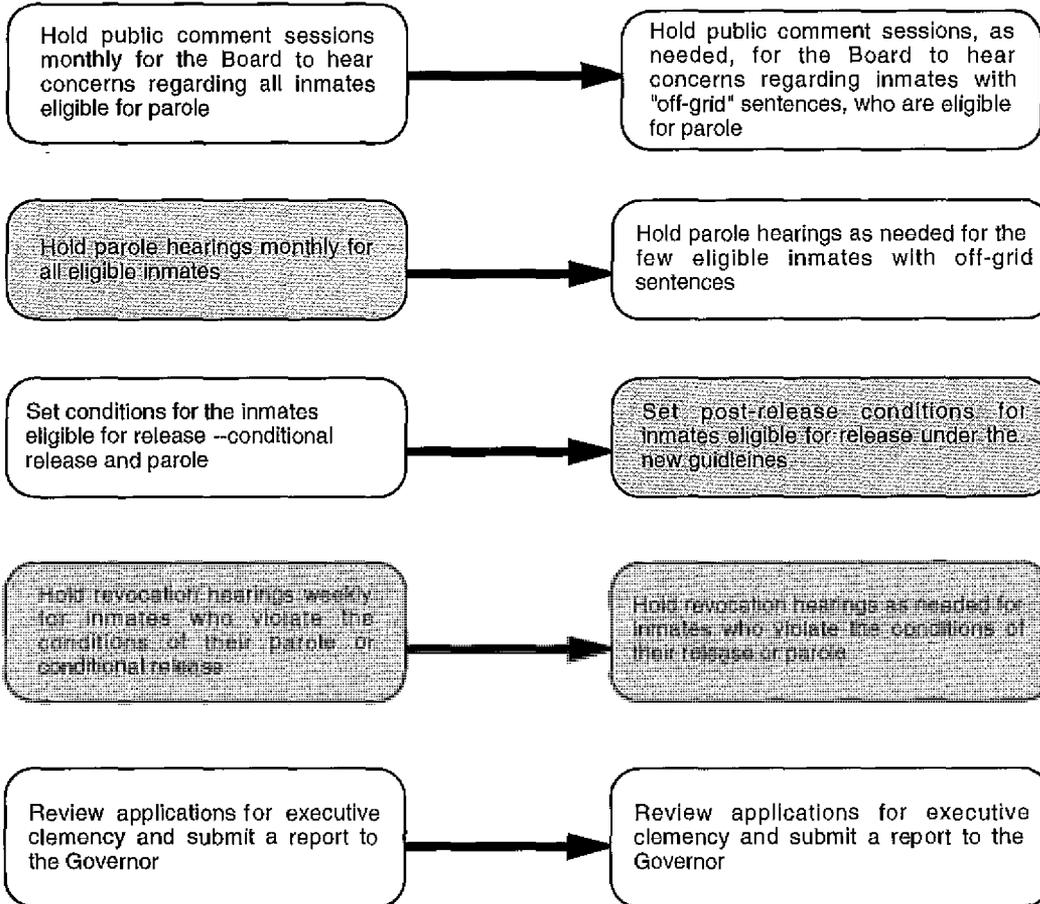
The Board has eight employees to assist it: a director, an assistant director, and six clerical staff. The director oversees the operations of the agency, and serves as an intermediary between the Board and the staff. The assistant director is responsible for the agency's daily fiscal matters, such as payroll and purchasing, and for supervising the six clerical staff members. The clerical staff perform duties related to the Board's work, such as typing certificates and minutes, locating and packaging files for hearings, processing clemency applications, and the like.

The Parole Board's expenditures have shown only modest increases over the past five years. The Board's expenditures are funded entirely from appropria-

How the Kansas Parole Board's Activities Will Change in the Future

These Activities of the Parole Board Under Indeterminate Sentences...

...Eventually Will Be Replaced By These Activities Under Sentencing Guidelines



The main activities of the Parole Board under the two sentencing systems appear in the shaded boxes above. As inmates sentenced under the old system complete their sentences, the emphasis of the Board's activities will gradually shift from conducting parole hearings and deciding whether to release inmates, to writing post-release conditions for inmates who are automatically eligible for release under the sentencing guidelines.

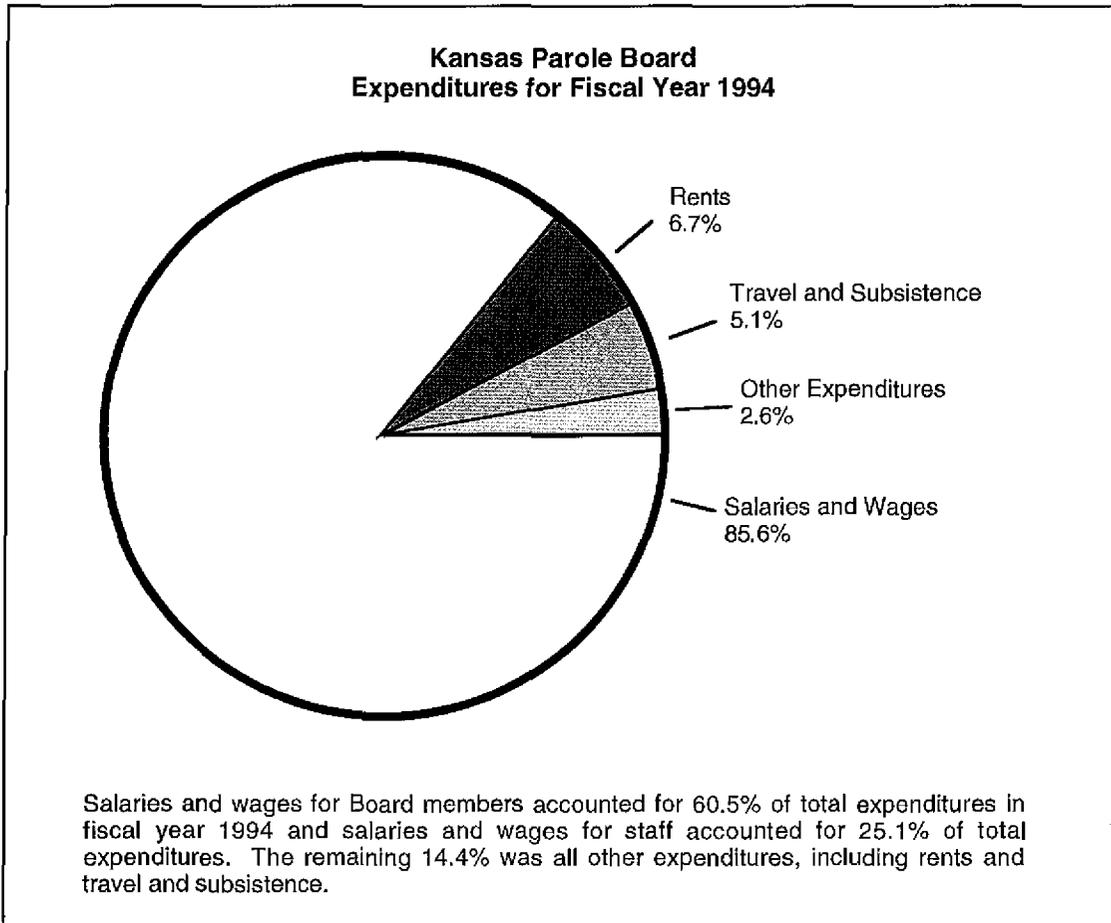
tions from the State General Fund. Over the last five fiscal years, the Parole Board's total expenditures have increased about 12.2% from \$647,000 to nearly \$727,000. Expenditure increases during the period averaged about 3% per year, and generally can be attributed to salary increases provided to all State employees. Expenditures for each of the last five years are shown below.

**Kansas Parole Board Expenditures for
Fiscal Years 1990 through 1994**

<u>Fiscal Year</u>	<u>Expenditures</u>	<u>Percent Change</u>
1990	\$647,027	—
1991	\$670,490	3.6%
1992	\$677,252	1.8%
1993	\$687,273	1.5%
1994	\$726,565	5.7%

Board expenditures increased by \$39,000 or 5.7% from fiscal year 1993 to 1994. A significant part of that increase was because the Legislature appropriated additional funds for the agency to buy computers.

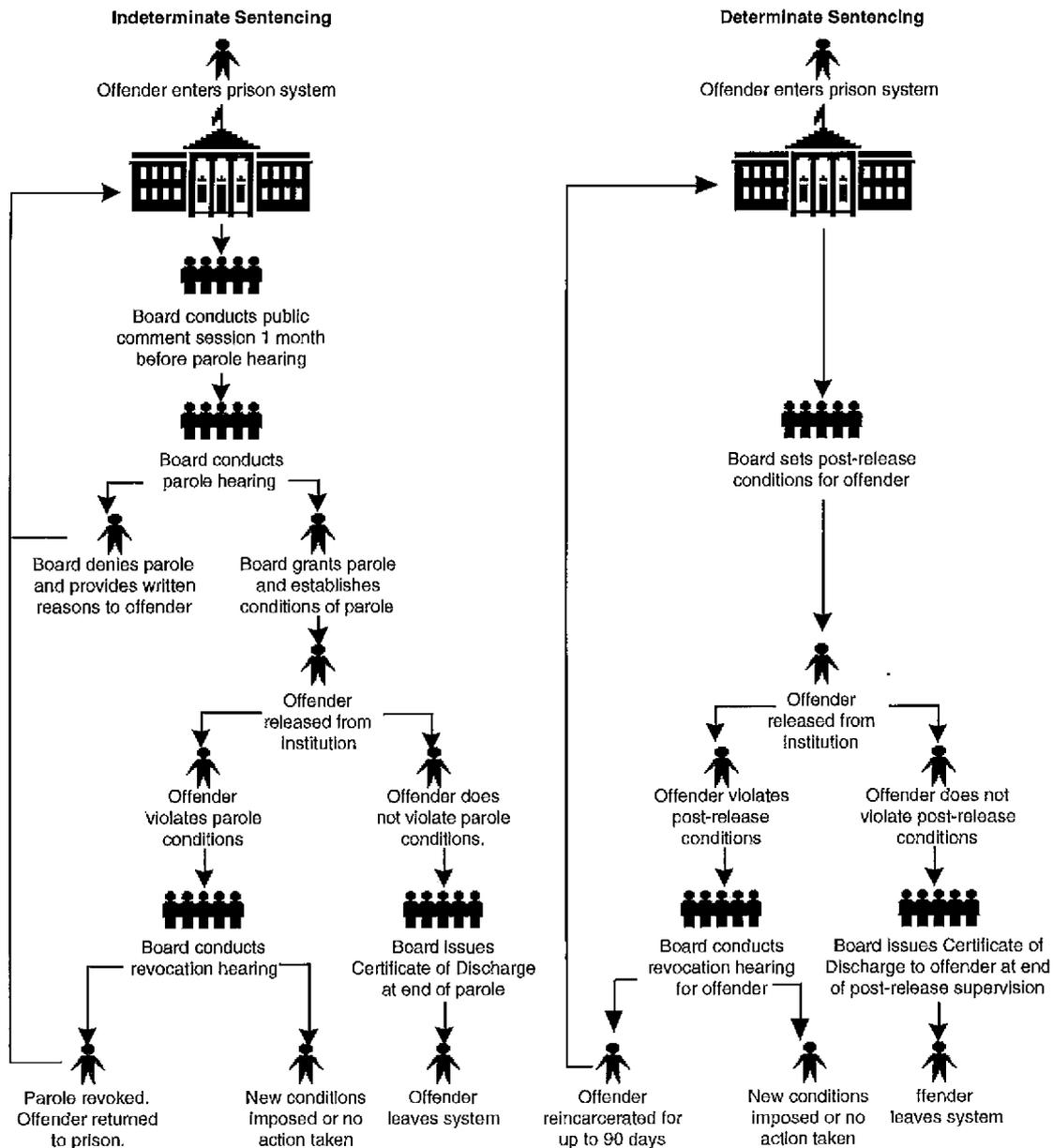
The following chart shows a breakdown of the Board's expenditures during fiscal year 1994.



As the chart shows, salaries for Board members and staff account for about 86% of total Parole Board expenditures. Office rent represents the second largest expenditure category, followed by travel expenses, and other miscellaneous items such as office supplies.

Board Involvement with Inmates Given Indeterminate or Determinate Sentences

The following graphic shows the Parole Board's involvement with inmates sentenced under indeterminate and determinate systems. For an inmate with an indeterminate sentence, the Board conducts a parole hearing and decides when to release the inmate. The release date for inmates with determinate sentences is set by law. For these inmates, the Board is required to set post-release conditions.



Glossary of Terms

For inmates not sentenced under sentencing guidelines:

- indeterminate sentence** length of imprisonment, probation, and parole are not set or "determined" in law. Prison sentences and probation are determined by the sentencing judge. The Parole Board decides when to release an inmate who is eligible for parole.
- parole eligibility** reached when an inmate has served the minimum sentence less good-time credits.
- public comment sessions** meetings the Parole Board holds monthly to receive comments concerning the possible parole of eligible inmates. Meetings are held in Topeka, Wichita, and Kansas City each month.
- conditional release date** the date an inmate must be released from prison because he or she has served the maximum sentence less good time credits. The inmate may have been eligible for parole before this date, but was not paroled by the Board.

For inmates sentenced under sentencing guidelines:

- determinate sentence** type of sentence (prison or probation), length of imprisonment, and length of post-release supervision are determined by law.
- post-release conditions** requirements imposed by the Parole Board that the inmate must fulfill while under supervision. For example, attending AA meetings or not possessing a firearm.
- post-release supervision** inmate is supervised by Department of Corrections staff for a predetermined length of time. Inmate must adhere to conditions imposed by the Department of Corrections and the Parole Board during this time.

For all inmates:

- good-time credits** awarded automatically to inmates based on the amount of time served in prison for the current sentence. Good-time credits accumulate and result in a reduction of the time served in prison. Good-time credits can be taken away from an inmate for disciplinary reasons; for example, good-time credits would be taken away for fighting in prison or for trying to escape. Under the old sentencing system, inmates could earn good-time credits up to a maximum of 50% of time served. Under sentencing guidelines, the amount has been reduced to 20% of the time served.

What Effect Will the Sentencing Guidelines Enacted By the 1992 Legislature Have on the Parole Board's Future Workload?

Although the number of parole hearings the Parole Board will need to conduct will decline in the future, the Board's overall workload will not be significantly reduced because of new responsibilities required by sentencing guidelines. Instead of conducting parole hearings for inmates sentenced under the guidelines, the Board is required to write conditions which inmates must fulfill during their post-release period. The amount of time involved in writing these post-release conditions is about the same as the time required for a parole hearing. The number of hearings the Board conducts for offenders who violate their release conditions will likely continue to increase, but not necessarily because of the new sentencing guidelines. Other tasks the Board currently performs likely would not change significantly as a result of sentencing guidelines. Even though the overall workload of the Board will not be reduced, the changing nature of the work required of the Board suggests that the size of the Board could be reduced, and less costly professional staff could be used to accomplish some of the Board's work. These and related findings will be discussed in more detail below.

Although the Board Will Conduct Fewer Parole Hearings, It's Workload Will Not Be Significantly Reduced Because of New Responsibilities Required by the Sentencing Guidelines

To determine how sentencing guidelines could affect the Parole Board's workload, we reviewed State laws and regulations specifying the Board's responsibilities before and after the new sentencing guidelines were adopted. We also reviewed the Department of Corrections' inmate population projections, interviewed Parole Board members to determine what they did and how long it took to perform different activities, and reviewed inmate files. Finally, we attended public comment sessions, parole hearings, and parole violator hearings to observe firsthand what was done and how long it took.

Predicting the rate at which inmates released under sentencing guidelines will become part of the Parole Board's workload is difficult. At this time, information about people sentenced under the sentencing guidelines is limited.

We used the Department of Corrections' prison population projections for fiscal years 1995 to 1999 to estimate the number of parole hearings the Board likely will conduct each year, as well as the number of inmates for whom Board members will have to write post-release supervision conditions. In making its projections, the Department made a number of assumptions, such as how many prisoners will be admitted each year, the length of their sentences, and the parole rate. Assumptions are always a "best guess," and they become more prone to error when they must be projected for a number of years.

In addition, we projected the number of hearings for offenders who will violate parole, conditional release, or post-release supervision based on the past 10 years of data for such offenders.

Because of the number of assumptions that had to be made, the numbers in the table below should be regarded with caution. Nonetheless, the trend toward fewer parole hearings and more post-release conditions is clear.

Actual and Projected Workload For the Parole Board Fiscal Years 1993 - 1999					
<u>Fiscal Year</u>	<u>Parole Hearings (a)</u>	<u>Post-Release Conditions Written (a,b)</u>	<u>Parole Violator Hearings (c)</u>	<u>Public Comment Sessions</u>	<u>Total</u>
1993 (actual)	4,799	0	1,777	36	6,612
1994 (actual)	3,899	2,297	2,476	36	8,708
1995 (projected)	2,180	960	2,013	36	5,189
1996 (projected)	2,592	1,442	2,199	36	6,269
1997 (projected)	2,480	1,914	2,385	36	6,815
1998 (projected)	2,108	2,214	2,572	36	6,930
1999 (projected)	1,696	2,361	2,758	36	6,851
FY95-99 Change	(-484) -22.2%	(+1,401) +145.9%	(+745) +37.0%	(0) 0%	(+1662) +32.0%

(a) These projections were prepared by the Department of Corrections.
 (b) These figures do not include offenders for whom new conditions may have been written because they violated their existing post-release supervision conditions.
 (c) The figures include offenders who violate conditional release and post-release supervision, as well as parole.

As the table shows, the overall workload for the Board will increase by 32% between fiscal years 1995 and 1999. However, even the fiscal year 1999 workload will involve significantly fewer activities than the Board accomplished in fiscal year 1994, when one Board member was off work for nearly a month because of serious health problems.

Although the Board will conduct fewer parole hearings in the future, much of that work will be replaced by the need to set post-release supervision conditions for inmates released under the sentencing guidelines. As the table shows, far fewer parole hearings are expected to be held in 1995 than actually were held in 1994. This large decline will occur primarily because many of the inmates who would have been eligible for parole hearings in 1995 and beyond were released in 1994, when the sentencing guidelines were applied retroactively to inmates who were already in prison.

Between fiscal years 1995 and 1999, the table shows that the number of parole hearings the Board will conduct is expected to decline by about 22%. This figure does not drop off as fast as might be expected because so many people in prison were sentenced under the old indeterminate sentencing system. In addition, the Board currently is paroling fewer than 25% of the inmates who are eligible for parole, which means most inmates will be carried over for one or more hearings in the future. Finally, more than 500 individuals currently in prison will not be eligible for parole until after 1999.

The table also shows that the number of post-release conditions the Board will have to write for inmates released under sentencing guidelines will go up by nearly 150% between fiscal years 1995 and 1999. (Again, the number of these conditions written in fiscal year 1994 was unusually large because of the implementation of sentencing guidelines that year, and the retroactive application of those guidelines to many of the inmates then in prison.)

Although parole hearings are expected to decline while the number of post-release conditions being written is expected to rise, these two activities combined will stay fairly constant at between 4,000 and 4,400 during fiscal years 1996 through 1999. Board members told us it takes the same amount of time to conduct a parole hearing as it does to review a file and write post-release supervision conditions—about 15 minutes. Thus, from a strict workload basis, these two activities should tend to balance each other out.

The major time difference between conducting parole hearings and writing post-release supervision conditions is related to travel. Board members travel to prisons around the State to conduct parole hearings in person, while post-release supervision conditions are written at the Board's office in Topeka. However, the Board is working with the Department of Corrections to conduct parole hearings by interactive video on a trial basis. By the middle of fiscal year 1995, the Board may be able to conduct parole hearings by video for inmates housed at Ellsworth Correctional Facility. If that effort is successful, six more facilities should come on-line at a later time.

Conducting parole hearing by interactive video would remove the remaining time difference between parole hearings and writing post-release supervision conditions. By spending less time on travel, each Board member could handle more parole hearings or other activities, which would reduce the need to maintain a five-member Board. In addition, conducting parole hearings by interactive video could generate other significant savings in travel and subsistence expenses.

Hearings for offenders who violate their release conditions will likely continue to increase, but not necessarily because of the new sentencing guidelines. About one day a week, Board members conduct hearings for offenders who were released from prison but who violated the terms of their parole or conditional release. During these hearings, which usually are held in Topeka (but sometimes are held in Ellsworth, Hutchinson, and Lansing), the Board reviews the al-

leged violations with the offender, hears the offender's version of events, and decides whether the offender should be reimprisoned or released again to the community. For offenders who are released, the Board also may impose new conditions.

As the third column on the previous table shows, the number of hearings for offenders who violated their parole or conditional release increased significantly between 1993 and 1994. That increase occurred in part because there was a larger "pool" of released offenders who could violate their parole or post-release conditions. The larger pool was created when sentencing guidelines were enacted and inmates were released retroactively. (The increase in violator hearings actually was greater than can be explained by having a larger "pool" of offenders. Department of Corrections officials are working with their parole officers to determine other reasons for the increase, and plan to make this information available for the 1995 Legislature.)

To estimate the number of parole-violator hearings that might be held during fiscal years 1995 through 1999, we looked at whether the gradual decline in parolees and the gradual rise in the number of inmates released under the sentencing guidelines would likely result in more violator hearings. We found that, because paroled inmates generally are under supervision (and thus in the "pool" of offenders who could violate their parole) for three or more years, while inmates released under sentencing guidelines are under supervision only one to two years, the total pool of offenders who could violate their parole in any one year would not change significantly through fiscal year 1999. If parolees and inmates released under the sentencing guidelines violate their parole at about the same rates, the number of violator hearings would not change significantly.

Some Board members have suggested that inmates released under the sentencing guidelines will be more likely than parolees to violate their release—and to do so repeatedly—because they can be reimprisoned for violating their post-release conditions for a maximum of only 90 days. By contrast, offenders who violate parole can be reimprisoned for more than a year as a result of a violation, and for up to the maximum time remaining on their original sentence. Until actual data are available to support this contention, however, this is not an area where anyone can speak with great certainty.

Because of this uncertainty, we based our projections on the historical rate of increase in violator hearings that has occurred over the past 10 years. If Board members are right about inmates released under sentencing guidelines violating their conditional release at a higher rate, our estimates of the number of violator hearings could be understated and would have to be increased. But because these hearings take up only about five days per month for Board members, such an increase still may not have a significant impact on the Board's future workload.

Other aspects of the Board's work will not change markedly under sentencing guidelines. In addition to parole hearings and parole violator hearings, the Board has other responsibilities. These primarily include conducting public comment sessions, answering correspondence, making court appearances, and reviewing requests for clemency and early discharge.

The time needed to conduct public comment sessions eventually will decline. Currently, sessions last from two-to-five hours, depending on the number of people who want to address the Board. As the number of inmates eligible for parole decreases, the Board's sessions eventually will be shorter because the Board will not receive public comments on as many inmates. However, most comments are received on inmates who committed serious or violent crimes, and inmates sentenced for these types of crimes under the indeterminate system will continue to be in the State's prisons for a number of years. In addition, the sentencing guidelines do not apply to offenders convicted of murder or treason. These inmates still will be released at the discretion of the Parole Board, and so will be included in public comment sessions.

The Board's involvement in requests for clemency and early discharge will continue unchanged.

The Size or Composition of the Board Could Be Changed In the Future Because of Significant Changes in the Nature of the Work That Must Be Performed

Until sentencing guidelines went into effect in Kansas, Parole Board members were responsible for making difficult and critical decisions about releasing inmates. Those decisions directly affected the lives of many people and the safety of the public in general. Within this highly visible and emotionally charged environment, it made sense for this decision-making process to be handled by Board members who, through the appointment process, served terms as representatives of the public.

The Board will continue to make parole decisions for inmates sentenced under the old system, as noted in the overview to this report. For inmates sentenced under the Sentencing Guidelines Act the Board will no longer decide whether an inmate should be released. The inmate is released automatically once he or she has served a predetermined sentence (minus any good-time credit). Upon release, all inmates are required to follow nine standard conditions, including things like reporting to a parole officer, getting a job, and paying restitution. Board members also may attach a number of "special conditions" related to an inmate's individual circumstances or problems, that must be adhered to.

We reviewed the files of 30 inmates released under sentencing guidelines to determine what types of special conditions the Board was setting for inmates released under the sentencing guidelines. These 30 inmates were given 51 special conditions; the number per inmate ranged from zero to four. Of those conditions:

- 21 were for attendance at an inpatient drug/alcohol treatment program, Alcoholics Anonymous /Narcotics Anonymous, or random urinalysis
- 16 were for mental health counseling
- 4 required the inmate to have no contact with the victim
- 3 required the inmate to get a job within a certain number of days
- 7 were various other conditions, such as taking medication as prescribed, entering a halfway house, obtaining sex offender counseling, etc.

In nearly all cases, the rationale for the conditions was readily apparent from the file. For example, inmates who completed substance abuse treatment programs in prison typically were required to attend Alcoholics Anonymous/Narcotics Anonymous or submit to random urinalysis upon release. Inmates with drug problems who did not complete a treatment program in prison were required to attend an inpatient program upon release. Inmates who committed violent crimes against people were required to have no contact with the victim. Inmates who were recommended for mental health programs in prison but did not complete these programs were typically required to receive mental health services in the community.

Because the public-safety aspects of the Board's responsibilities have changed dramatically under the Sentencing Guidelines Act, and because the types of post-release conditions being prescribed are more-or-less directly linked to information that is readily apparent in the inmate's files, it appeared to us that these conditions could be written by other professional staff members, rather than by Board members. The level of judgment involved in writing post-release conditions is similar to the level of judgment exercised regularly by social workers, counselors, and others in less highly-paid positions in State government.

By hiring other professional staff to write post-release supervision conditions, the Legislature could reduce the size of the Board by one or two members. Annual salary costs for these new positions would be significantly less than the approximately \$72,000 paid to each Board member.

Conclusion

Although Kansas has adopted a determinate sentencing system that sets absolute release dates for inmates, the State will continue to need a Parole Board for many years to come. Inmates sentenced under the old system, inmates convicted of murder or treason under the new system, and all release violators will continue to be subject to hearings by the Board. However, the Board could be restructured to take advantage of time- and cost-savings that will accrue from advances in video technology and changes in the nature of the Board's work.

Recommendation

The Legislature should consider reducing the number of members on the Parole Board and authorizing its chairperson to hire professional staff to set post-release supervision conditions.

Has the Parole Board Established Adequate Procedures In Selected Areas To Ensure That It Effectively Manages Its Finances and Operations?

The Parole Board has not managed its finances to ensure that it operates within its budget. In fiscal year 1993 and 1994, when the agency was running out of money, the Board did not act to reduce expenditures or seek additional appropriations to ensure it could pay all its obligations. The Board's annual expense for vehicle mileage could be reduced considerably if the Chairperson enacted travel policies to ensure that Board members traveled in accordance with State travel regulations. Also, past Parole Board Chairpersons have not ensured that new Board members are trained before making parole decisions, that there are adequate policies governing Board members' working hours, and that work is assigned to Board members and completed on a timely basis. In addition, we found that certain tasks performed by the Board's staff could be streamlined to eliminate unnecessary activities. These and related findings will be discussed in more detail in the sections that follow.

The Parole Board Has Not Managed Its Finances To Ensure That It Operates Within Its Budget

In fiscal year 1993, the Board overspent its budget by a total of \$9,234, and had to carry that deficit forward into fiscal year 1994. This cycle was repeated in fiscal year 1994, when the Board again overspent its budget and had to carry a \$6,498 deficit into fiscal year 1995.

In fiscal years 1993 and 1994, the Board did not act to reduce its expenditures or seek additional appropriations to ensure it could pay all its obligations. We found that the Board's financial problems occurred because it had not established or followed a number of basic financial management practices, as follows:

- During fiscal year 1993, the Board had no procedures for periodically comparing its actual expenditures to the amounts budgeted and appropriated by the Legislature. Such monitoring would have helped ensure that the Board recognized if and when it was getting into financial trouble, so it could take appropriate action. The Board did not become aware of its financial shortfall until June 1993, when the Division of Accounts and Reports informed the Board that its "account" did not have enough money to cover all the vouchers submitted for payment. At that time (the last month of the fiscal year), it was too late to make any significant adjustments to the Board's fiscal year 1993 expenditures.
- The agency knew a Board member was leaving in fiscal year 1993 and would receive a significant payment for his unused annual leave, but apparently did not plan for that expenditure. In fiscal year 1993, the Board paid more than

\$6,000 for accumulated annual leave time to a Board member whose term expired that year. State agencies are not allowed to budget for such leave payments. When a small agency like the Parole Board has obligations like these, it can be a problem. Nonetheless, the Board knew it would have that financial obligation, and should have planned for it by adjusting its other expenses accordingly. The Board didn't do that. The Board's Director told us he had assumed the separation pay could be absorbed into the agency's budget, as it had been in the past.

**The Parole Board Used
Excess Funds for
Capital Improvements
in Fiscal Year 1992**

Legislators have raised questions about the Parole Board's purchase of furniture in 1992. At the end of fiscal year 1992, the Chairman of the Parole Board used \$10,000 of the agency's unexpended funds to buy Herman Miller furniture. He said he did so because the office's appearance was an embarrassment and he thought the improvements would enhance the organization and the efficiency of the agency. Herman Miller modular furniture is on State contract, and is a legitimate purchase for State agencies. It is, however, more expensive than the modular office furniture produced by Kansas Correctional Industries.

- Although the Board began to periodically compare its expenses to its budget in fiscal year 1994, it did not reduce its spending levels or seek additional appropriations when those comparisons showed the Board was running short of money. The Board's Assistant Director realized in February 1994 that the agency was again going to run out of money. The Director told us he informed the Chairperson about the agency's financial situation at that time, but to the Director's knowledge, no action had been taken to reduce expenditures. The Board also could have sought a supplemental appropriation from the 1994 Legislature to cover its fiscal year 1994 obligations, but the Executive Director told us he was unaware he could do that. However, he also told us he'd been involved in preparing the Board's budgets for a number of years. In addition, the Board's Chairperson at the time was a former legislator who should have been familiar with the appropriation process.

The current Board Chairperson, in connection with the Division of Budget and the Department of Corrections, is writing a guide for developing the Board's budget. This action should help the agency avoid some of the budget problems it has experienced in the past.

- The Board used moneys the Legislature had specifically authorized for fiscal year 1994 to computerize the agency, to cover its other operating costs. For fiscal year 1994, the Legislature appropriated \$17,000 to the Parole Board with the intent that the office become computerized. The Board had planned to use this money to buy used equipment from the Division of Budget. Because of its financial problems, the Board used most of this money to pay for other operating costs instead. The Board ultimately bought only three used computers and printers from the Division for about \$3,000.

During fiscal year 1993 and 1994, the Board spent significantly more than necessary on travel costs, and did not comply with all State travel policies and regulations. Each month, Board members must travel to correctional institutions across the State to conduct parole hearings. Excluding salaries and rent, travel represents one of the agency's largest costs, accounting for about 5% of its total expenditures. During the last five years, the Board's travel averaged about \$34,000 a year. Because travel was one area in which the Board may have been able to reduce its expenses to meet its other financial obligations in 1993 and 1994, we examined the Board's travel policies and practices in greater detail.

We found that the Board had not adopted travel policies specifically for its members and staff. Rather, Board officials told us they followed the general travel policies and regulations adopted by the Department of Administration. To determine the Board's practices in this area, we reviewed the Board's travel expenditures for four months in fiscal year 1994. We also reviewed State rules and regulations, and interviewed current and past Board members and Department of Administration officials. We found problems in two areas:

- The Board reimbursed its members 28¢ per mile to use privately owned vehicles, when State Motor Pool vehicles were available for 19¢ per mile. Parole Board members consistently use their own cars to attend hearings, and are reimbursed at the rate of 28¢ per mile. However, K.A.R. 1-18-1a states that, when a mode of transportation is available that is less costly than driving a privately owned vehicle, mileage reimbursements "shall be limited to the cost of the other mode of transportation." In other words, if a State employee chooses to drive his or her own car when a State car is available, he or she should be reimbursed at the Motor Pool rate of 19¢ per mile. A Department of Administration official told us that, although this policy was not strictly enforced, agencies were encouraged to follow it. The officials also said that many agencies—including the Departments of Administration and Revenue—had adopted this policy.

In fiscal year 1994, the Board spent approximately \$22,500 on private-car mileage. If Board members had used Motor Pool vehicles, or had been reimbursed at the motor pool rate of 19¢ per mile, the Board could have cut its travel costs that year by about 32%, for a savings of more than \$7,200. It's likely that similar savings could have been realized in fiscal year 1993.

- The Board reimbursed its members for driving separate cars to the same location for hearings, when car-pooling would have been less costly. Parole Board members generally traveled in separate cars even though they were going to the same locations on the same day. Board members told us they preferred to use their own cars and not car-pool because they liked to visit friends and family when staying overnight, felt more comfortable in case there was a medical emergency and they needed to return home, and thought State cars were not comfortable for long trips. However, Section 3003 of the Employee Travel

Expense Reimbursement Handbook states that, whenever possible, an agency head or designee should assign more than one employee to a vehicle in authorizing the use of a privately owned or State-owned vehicle.

During fiscal year 1994, if Parole Board members had car-pooled to hearings when they were going to the same locations on the same day, they could have cut their mileage expenses by about 43 percent, for a savings of about \$9,700. If members had car-pooled and been reimbursed at 19 cents per mile, mileage expenses would have been cut by about 61 percent that year, for a savings of almost \$14,000. Again, it's likely that similar savings could have been realized in fiscal year 1993, which would have covered the agency's shortfall that year without affecting its ability to carry out its work.

We also noted that Board members often commute long distances rather than stay overnight when parole hearings are being held for more than one day at a specific location. In all cases we examined, the cost of commuting for each Board member would have been about the same as or less than if he or she had stayed at a hotel and collected per diem.

Past Parole Board Chairpersons Have Not Established Policies and Procedures In a Number of Important Areas

Apparently there has been some confusion or disagreement in the past about the level of authority the Chairperson of the Parole Board can exercise over the activities of the other members of the Board and the operations of the agency. State law gives the Chairperson the authority to organize and administer the activities of the Board. Most of the current members of the Parole Board we interviewed told us that they interpreted the law to give the Chairperson the authority to schedule hearings and assign members to hearing panels.

We interpret the law to give the Chairperson broader authority to set policies and procedures, and to do whatever is necessary to run the agency efficiently and effectively. A 1994 letter from the Department of Administration's Chief Attorney to the current Chairperson of the Board confirmed that the chairperson has the authority to implement policies and procedures designed to eliminate unnecessary costs and to enable the Board to perform its statutory duties cost effectively. Because of the lack of direction from past Chairpersons, the Parole Board has not established adequate policies and procedures in a number of important areas.

The Board has no method for ensuring that new Board members are trained. Parole Board members are faced with making important decisions about whether persons convicted of crimes have served sufficient time in prison and whether they are ready to be released into society. The Board's decisions have implications not only for persons incarcerated and their families, but for the public safety as well.

State law does not require Parole Board members to have any specific qualifications. Because of the critical nature of their decisions, it is especially important that members of the Board receive some sort of training to prepare them to fulfill the duties of their positions.

Before they are scheduled to conduct an actual hearing, we would expect new Board members to receive at least some training in how parole hearings are conducted and what factors to consider when making a parole decision. At a minimum that training should cover some of the following topics:

- The duties and responsibilities of the Parole Board
- The criteria State law has established for the Board to consider in making parole decisions
- How to review an inmate file and what things to look for that will aid in making a decision about whether an inmate is ready to be released
- How to conduct a parole hearing, including protocols and the roles of Board members
- What topics Parole Board regulations require the Board to address during revocation hearings

Board members we interviewed told us that they were not given any sort of training or orientation before they were sent off to parole hearings to make decisions about inmates. One Board member told us that he was told to show up at a correctional facility to begin holding parole hearings for inmates on his first day of work. Board members agreed that training for new members and ongoing training was important. They voiced concerns that no money was available in the agency's budget to take advantage of training opportunities. Two current Board members mentioned that during their first year on the Board they attended a seminar in Colorado, sponsored by the National Institute of Corrections, which they found to be helpful. While such outside training sessions may be helpful to the Board, it appears that much of the training that the Board needs could be developed by the Board's own staff with the assistance of Board members.

The Parole Board has no policies governing working hours for Board members, and its methods of accounting for employee leave time need to be improved. During this audit, we reviewed the Parole Board's controls over annual and sick leave to ensure that leave was accurately recorded in accordance with State policy. It is important to keep accurate records of employee leave because State regulations allow employees who stop working for the State to be paid for unused annual leave up to certain limits, and employees who retire to be paid for a portion of their unused sick leave. This can be a significant expense for an agency like the Parole Board, whose members are highly paid and whose terms expire every four years.

We were unable to determine whether leave was being accurately recorded for Board members, because the Parole Board has not established any policies governing when Board members should be in the office.

Through our observations and discussions with Parole Board members, we noted that members of the Board did not always work the same office hours each week. The nature of the Board's work is such that they may often have to work long hours traveling to and conducting parole hearings and public comment sessions. One Board member told us that there have been times when Board members may work as much as 19 hours in a single day, including travel to and from hearings, and that they might take the next day off. Other Board members said they sometimes use Fridays to run errands that cannot be done during the rest of the week because of travel. One former Board member told us that it was common practice for members of the Parole Board to take time off and not record it as leave time.

**In the Past, the Board Failed
To Submit Annual Reports
As Required by Law**

The Parole Board is required by statute to submit an annual report of its work to the Governor and Legislature at the close of each fiscal year. The annual report is supposed to include statistical and other data of the Board's work.

The Board's first and last annual report was submitted in 1989 for fiscal year 1988. Since that time, annual reports have not been done because past chairpersons were unaware that they should. Because the annual report has not been submitted, the Legislature may not have had the information it needed to make decisions affecting the agency. The current Chairman is working on the annual reports for fiscal years 1994 and 1995.

State personnel regulations do not specifically address what hours unclassified employees such as Parole Board members are required to work. Officials from the Division of Personnel Services told us that unclassified employees generally are expected to work a minimum of 40 hours per week, but that it was up to the individual agency to establish specific policies governing employee working hours. For example, Kansas Corporation Commission officials told us that their policy requires Commissioners to be in the office during normal business hours, or to take leave if they were not at work during those times. Because the Board has no such policy, we could not determine when members should be in the office or when they should be taking annual leave.

Also, we found that the Board did not have good controls to ensure that leave was recorded when it was taken by Board members or by other Board employees. The Board's staff is required to fill out and submit leave slips to the Assistant Director, but during a six-month period tested, we found that 7.5 days of employee leave was never reported to the State Division of Accounts and Reports. We also noted that Board members do not fill out leave slips. They simply tell the Assistant Director when they will not be in the office. This method of reporting and recording leave may not ensure that all leave gets reported within the State's accounting system.

The Board has no systematic method of making sure that pending parole decisions are made as soon as possible. There are a number of reasons why parole decisions may need to be postponed for certain inmates. For example, parole hearings usually are conducted by only two members of the Parole Board. If both members do not agree about whether an inmate should be released, a third member of the Board must review the inmate's file and cast the deciding vote. In other cases, the

Parole Board may postpone a decision until it receives additional information about the inmate, such as an updated psychological evaluation.

It is important that the Parole Board resolve these issues and make decisions as soon as possible. Inmates should not be kept incarcerated longer than necessary and the State should not incur unnecessary costs to feed and house inmates who should be released. We found that the Board has not established systematic procedures to prioritize and assign work to Board members to ensure that cases are resolved as quickly as possible.

We selected a sample of 30 inmates who had parole hearings during fiscal year 1994, but whose cases were continued for additional review by the Parole Board. To see whether the Parole Board appeared to be dealing with these cases on a timely basis, we compared parole hearing dates to the date the Parole Board made its decision. We were only able to review 26 of the cases in our sample because Parole Board members had taken the other four files out of town to conduct parole or revocation hearings.

Although the Parole Board has no specific deadlines within which they must act, out of the 26 cases we reviewed, we found four, or about 15% of our sample, took more than 10 working days before the case was resolved. The longest of these cases took 17 working days to resolve. In these particular cases, it did not appear that long delays were justified, because the Board was not waiting on additional evaluations or information. Each of these cases involved a situation where one or more other Board members needed to review the file and cast a vote. There were five other cases which we could not tell how long it took the Board to resolve because the exact date the Board made its decision was not recorded in the file. Resolving these types of cases should be a priority for the Board and it should establish some systematic means for ensuring the Board members act on them as quickly as possible.

The Board's Staff Could Work More Efficiently If the Agency Was More Highly Automated

As part of this audit we were asked to determine whether the Parole Board's staff was qualified, and whether they were carrying out their duties efficiently and effectively. We found that all employees met the minimum qualifications for the positions they hold.

However, we noted some inefficient work routines performed by the Board's staff. For example, after parole hearings, staff edit and write out the Board's decisions on a sheet of paper. They then type up the handwritten copy. It would be more efficient for the staff to type up the decisions directly from the Board's notes and eliminate the need for transcribing everything by hand before it is typed.

If lap-top computers were used by Board members at hearings to record their decisions and rationale on the spot, it could save the staff as much as two to three

days a month in handwriting and transcribing the Board's decisions. When Board members returned to the office after hearings, decisions could be loaded into a staff computer, edited, and formatted for hearing minutes to be distributed to the State's institutions.

The work time saved by eliminating inefficient work routines could be spent more productively doing things like preparing training packages for new Board members. The current Chairperson is taking an active role in streamlining office procedures and making the agency more efficient.

Conclusion

Because past Parole Board Chairpersons have not assumed a strong role in actively managing the agency, it has overspent its budget and carried a deficit forward in each of past two fiscal years. Board officials had to use much of the money the Legislature appropriated to computerize the agency during fiscal year 1994 to cover cost overruns in other areas of the agency's budget. In just one area, travel, the Board could have saved enough money to cover its deficits and to buy needed computers if it had enacted and adhered to policies that are consistent with State rules and regulations. In addition to travel policies, there are a number of other areas where the Board needs to enact stronger controls to ensure that the Board operates in the most cost-effective manner.

Recommendations

1. To ensure that the Parole Board operates in a cost-effective manner the Chairperson of the Board should:
 - a. Ensure the Parole Board complies with all State travel regulations and policies.
 - b. Work with other Board members and the Division of Personnel Services to establish a uniform policy governing what hours Board members are required to be on the job, and when they will be required to take leave for absences.
 - c. Work with Parole Board staff to establish in-house orientation and training for new Board members.

- d. Develop procedures to ensure that files awaiting some sort of final action before a parole decision is made are promptly assigned to Board members and resolved on a timely basis.
 - e. Continue to take an active role in developing policies and procedures and streamlining the staff's work.
2. To ensure that it has equipment needed to eliminate inefficient practices, the Parole Board should consider using potential savings generated by more cost-effective travel practices to purchase additional computers needed by the agency.
3. To most effectively accomplish computerization the Parole Board should work with the Information Resources staff in Department of Corrections to determine what types of equipment and information linkages with the Department would be most beneficial for the Board.

Appendix A

Agency Response

On November 4, we provided copies of the draft audit report to the Kansas Parole Board. Their response is included as this appendix.

Steven J. Davies, Ph.D.
Chairperson

Joan Bengtson, LMSW
Vice-Chairperson

Christopher N. Cowger
Member

James L. Francisco
Member

Sherman A. Parks, Jr.
Member

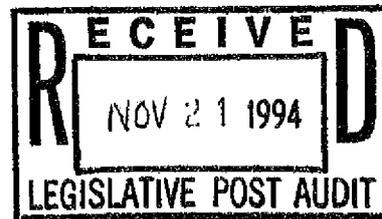


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Micah A. Ross
Director

Sandra K. Smith
Assistant Director

November 22, 1994



Barbara J. Hinton
Legislative Post Auditor
Merchants Bank Tower
800 S.W. Jackson, Suite 1200
Topeka, Kansas 66612-2212

Dear Ms. Hinton:

Enclosed is the Kansas Parole Board's response to the draft copy of your completed draft performance audit report, Reviewing the Operations of the Kansas Parole Board. Our response includes comments, corrections and clarification we have on the draft copy.

The Board would like to express our thanks to you for the cooperation of your staff throughout the entire audit. If you have any questions, feel free to call Assistant Director, Sandra Smith or me at 296-3469.

Sincerely,

A handwritten signature in cursive script that reads "Micah A. Ross".

Micah A. Ross
Director

MAR:jb
enclosure

INTRODUCTION

I. Previewing the Operations of the Kansas Parole Board.

1. On page 1 paragraph the review lists the duties of the Board.

The Board felt the following duties should also be listed; public comment sessions, answering letters from inmates and public, annual file reviews, appearing in court, writing post release and conditional release conditions, holding special hearings, conduct hearings for inmates from other states, review and testify relating to Habeas Corpus appeals, attend a multitude of meetings (such as sentencing guidelines, sexual predator, Substance Abuse, Kansas Department of Corrections and others), respond to Governor letters and others.

2. On page 2 paragraph 1 states the Parole Board didn't manage its finances to ensure that it operates within its budget.

The Board wanted to point out that the previous chair of the Board did go to the legislature for additional funds and was told to ask for funding in 1995. The previous chair also tried to meet with the Governor at the end of the 1994 session with no results.

II. Section: An Overview of the Kansas Parole Board

A. History

1. On page 3 it is stated that The Kansas Adult Authority was renamed the Kansas Parole Board in 1983 and it really was 1986. (page 3)

B. Until 1993, the Parole Board's Responsibilities Centered on Whether to Release Inmates from Prison. (pages 3 & 4)

1. On page 4 paragraph 1 discusses "parole decisions are made at parole hearings held at correctional facilities across the state each month."

The Board felt it should be pointed out that there are nine parole hearing sights to which the Board travels monthly.

2. On page 4 paragraph 2 the first sentence reads, "if a parolee does not fulfill the Board's requirements, parole can be revoked and the offender returned to prison."

The Board felt it should read "if a parolee does not fulfill the requirements of the Board, requirements imposed by the Parole Officer or general conditions of parole; parole can be revoked and the offender returned to prison."

The third sentence reads "parole violator hearings are held weekly by two Board members in Topeka."

The Board felt that it should be noted that additionally, the Board conducts parole violator hearings once a month at Ellsworth Correctional Facility and occasionally at Hutchinson and Lansing.

It should be kept in mind that parolees and conditional release inmates when in prison can only receive passes of up to one year if they have committed C, D, or E felony. Inmates who have received a sentence of an A or B felony can be passed by the Board for a period only up to three years.

It is possible that the inmate\parolee could be seen and passed several times by the Board before they are finally released. In addition, under post release violation the Board can only impose a pass of up to 90 days from the date they are seen.

3. On page 4 paragraph 3 the first sentence states "The Parole Board holds public comment sessions three times a month in conjunction with parole hearings."

The Board felt the locations of these hearings should be pointed out, which are Kansas City, Topeka and Wichita.

4. On page 4 paragraph 4 it states "The Board also sets conditions for a small number of inmates it did not parole but who, by law, had to be released from prison when they reached their conditional release date."

This small number for FY '94 was 267.

5. On page 4 paragraph 5 it states "The Board can approve an early discharge from parole or conditional release supervision whenever members think it is prudent to do so."

The Board felt this should read, Upon recommendation from an inmates Parole Officer, "The Board can approve so. " Additionally, it is the policy of the Kansas Parole Board to only consider early discharge for inmates convicted of C, D and E felonies after one year. A and B felonies are considered after two years.

6. On page 4 paragraph 5 it reviews what the Parole Board does.

The Board felt the following working tasks should also be included; public comment sessions, answering letters from inmates and public, annual file review, appearing in court, writing post release and conditional release conditions, holding special hearings, conduct hearings for inmates from other states, review and testify relating to Habeas Corpus appeals, attend a multitude of meetings (such as sentencing guidelines, sexual predator, Substance Abuse, Kansas Department of Corrections and others), respond to Governor letters and others.

C. The 1992 Sentencing Guidelines Act Removed the Parole Board from the Decision to Release Most Inmates.

1. On page 4 paragraph 6 some goals of the Kansas Sentencing Guidelines Act are listed.

The Board feels these goals should be studied in-depth. Two of the areas that are most in question are (1) reducing sentence disparity to eliminate racial, geographic and other bias and (2) establishing sentences that are proportional to the severity of the offense. It is felt that before statements are made that these have been achieved, a close study by the legislative branch should be conducted.

The Board feels the area of good time should be reviewed. It is the Board's feelings that time should be added on and not taken off. This is the "bad time" concept. By following "bad time", the inmate would be sentenced to 10 years. The victim and public would know the inmate would serve 10 years and may have more time added on if they do not follow the guidelines created by our prison system.

The Board feels the "bad time" concept should be studied in depth by the Kansas Sentencing Commission and the Legislative branch.

2. On page 5 paragraph 1 it states The Act, which went into effect in July 1993, changed the role of the Parole Board.....Under the Sentencing Guidelines Act, the Board no longer decides when an inmate should be released.

The Board wishes to point out that this only applies to inmates who committed crimes after July 1, 1993, or those inmates who were eligible for the retroactivity provisions of the sentencing guidelines act.

The Board sets parole conditions on guideline inmates. Under the sentencing guidelines act, the Board decides when an inmate is released when they have parole violated subject to the ninety day limitation.

3. On page 7 paragraph 2 it covers the Board's main responsibilities under the sentencing guidelines.

The Board feels it should be exposed, that the Board also must see inmates at revocation hearings. The Board cannot return the inmate to prison for more than ninety days from the date they hold the revocation hearing. It is possible for an inmate to come into the system and be moved from institution to institution prior to seeing the Parole Board. If the inmate is in the institution ninety days before appearing before the Board and the Board passes the inmate for ninety days, it is possible for the inmate to serve a total of one hundred and eighty days before being returned to society.

4. On page 7 paragraph 4 it states "In a number of years, the Parole Board will have to deal with inmates sentenced under both the old and new system."

The Board feels this needs to be studied in depth to find a time frame that all of us can operate under. The Kansas Parole Board does not have the funding to conduct such a study, therefore, the study would need to be conducted by legislative guidelines. This study should be conducted soon so proper planning can be made for future Boards and future spending. A time frame must be established.

D. The Current Parole Board is Supported by Eight Staff Members

1. On page 7 paragraph 5 salaries of Kansas Parole Board members are discussed.

The Board felt it should be brought out that the salaries are set at the same salary rate as District Court Judges, the Board of Tax Appeals, and the Kansas Corporation Commission.

2. On page 7 paragraph 6 the report points out that the Kansas Parole Board has six clerical staff members.

The Board has reduced this to five at the present time to help make up a carry over deficit from FY 1994. The position should be filled January 15, 1995.

3. On page 8 paragraph 1 it states the expenditure increases over the past 5 years averaged about 3%.

The Board calculates an average of 2.25%.

4. On page 9 paragraph 2 it points out that office rent represents the second largest expenditure in the Board's budget.

The Board felt it needs to be pointed out that it is mandated by the state on where it will be located and the rent it will pay. This area can't be reduced.

E. Board Involvement with Inmates Given Indeterminate or Determinate Sentences

1. On page 10 Drawing - the drawing shows the flow of an inmate within indeterminate sentencing. It shows the inmate reaches a level where the "Board denies parole and provides written reasons to offender."

The Board felt that it should be pointed out that once the Board denies parole and provides written reasons to the offender, it is possible for the offender to receive a pass decision and be seen several additional times by the Board.

F. Although the Board will Conduct Fewer Parole Hearings, it's Workload Will Not Be Significantly Reduced Because of New Responsibilities Required by the Sentencing Guidelines.

1. On page 12 paragraph 3 is states "At this time, information about people sentenced under the guidelines is limited."

The Board wanted to point out that at this writing the Board has acted on more than 2,500 inmates that fall under the guidelines.

2. On page 12 paragraph 4 it points out that the Kansas Department of Corrections makes the projections under the sentencing guidelines.

The Board feels these projections are hard to do. When the guidelines first came into effect the estimate was 760 inmates would fall within the guidelines. At this writing the Kansas Parole Board has seen over 2,500 of these guideline inmates.

3. On page 13 the table; it was pointed out that "the numbers in the table should be regarded with caution."

The Board feels the word "caution" must be emphasized, since these numbers have been severely underestimated in the past.

4. On page 13 paragraph 3 it states "However, even the fiscal year 1999 workload will involve significantly fewer activities than the Board accomplished in fiscal year 1994, when one Board member was off work for nearly a month because of serious health problems."

The Board felt using the instance of one board member being ill and the other Board members having to cover those duties as a justification for a smaller Board shows a lack of understanding of the actual situation. The remaining Board members worked during that time well over a forty hour week in order to cover the duties of the ill member. In fact with travel time, a sixty to eighty week would not be uncommon. Another consideration to address is the possibility of a smaller Board, having one or two members becoming ill, which is a strong possibility in such a high stress job as this. If this should occur with a smaller Board, the business of the Parole Board would come to a complete stop, taking long hours at a later time to fulfill the statutory requirements.

By statutory requirements, it is a necessity to conduct hearings at each correctional facility on a monthly basis. This is not left to the judgment of members of the Board or any other state official. Even though the four member Board during times of serious illness of one of the other members (actually three of the five members have been seriously ill at some time during their tenure) has been capable of conducting the required tasks, extended periods of this kind of work load could and should not be tolerated.

5. On page 13 paragraph 4 it states that "far fewer parole hearings are expected to be held in 1995 than actually were held in 1994."

The Board felt it needed to point out that because most of the less serious offenders, have been released under the sentencing guidelines act, the parole board now only sees the most serious offenders consequently fewer are being paroled. If these inmates are not paroled another hearing must be granted in the future.

6. On page 14 paragraph 1 it states "the Board currently is paroling fewer than 25% of the inmates who are eligible for parole."

The Board feels that the percent is less than this at the present time and will decrease in the future due to the type of inmate the board sees. It should also be pointed out that SB-525 does not allow the Board to parole a sex offender until requirements of that act are fulfilled. Therefore, the inmates stay longer. It should also be kept in mind that just because an inmates is parole eligible does not mean he/she is parole suitable.

7. On page 14 paragraph 5 the writings express the feelings that interactive video would be a great thing for the Parole Board to use.

The Board felt it should be pointed out that the previous chairman of the Board appeared before the Joint Committees of the House and Senate on Computers and Telecommunications to request statutory authority to conduct parole hearings by interactive video on a trial basis. Such legislation was passed. The request was made only for the Norton and Larned facilities because of the increased expense being incurred for the use of the Governors' planes.

The cost of the use of the plane to any state agency increased from \$295.00 per flight hour to \$360.00 per flight hour over a three year span.

It was recommended to be done only on a trial basis, because of serious concerns by the existing Board members concerning the lack to viewing the entire situation at the time of the hearing. The Board members felt it was essential to view expressions and body language of the inmate as well as all staff present at the hearing. Accepting the practice without the proper trial period, could greatly injure the purpose of the Parole Board's existence.

In reality, the expenses for travel of the Board members must be evaluated in the light of human contact and judgment of the conditions of the existing prison system. The value of visits by outside personnel has more objectives than just hearing the inmate's story.

8. On page 14 paragraph 6, the report discussed parole violator hearings.

The Board felt it should point out that one day a week, board members conduct hearings for offenders who violate the terms of their parole, post release, or conditional release. These hearings are held weekly at RDU in Topeka, and once a month in Ellsworth, and occasionally at Hutchinson and Lansing.

9. On page 15 paragraph 5 it is stated it takes only about four days a month for violator hearings.

The Board felt it is generally 5 days a month but at times it takes 6 to 7 days a month for the hearings.

10. On page 15, paragraph 6, the review pointed out the Board's responsibilities.

The Board felt these responsibilities should be expanded to include public comment sessions, answering letters from inmates, special hearings, writing post release and conditional release conditions, appearing in court, answering Governor's mail, annual file reviews, and reviewing and acting upon Clemency and early discharge requests.

11. On page 16, paragraph 1, the review discusses public comment sessions.

The Board felt it should be noted these sessions are currently statutory. Therefore, the Kansas Parole Board is statutorily obligated at the present time to conduct these hearings. Because of the current public concern, these public comment sessions have been growing larger and it is felt that trend should continue.

12. On page 16 paragraph 4 it states " Until sentencing guidelines went into effect in Kansas, Parole Board members were responsible for making difficult and critical decisions about releasing inmate."

The Board felt it should be pointed out they are still responsible for these difficult and critical decisions. There are still inmates who fall under the old guidelines and the Board must put conditions on inmates who fall under the new guidelines.

13. On page 16, paragraph 5, it states "As noted in the overview to this report, however, under the Sentencing Guidelines Act the Board no longer decides whether an inmate should be released."

The Board felt that to this sentence should be added "New crimes after July 1, 1993."

14. On page 17 Conclusion.

The Board agrees and supports the conclusion of Post Audit on page 17.

15. On page 17, Recommendations.

The Board does not feel the number of members of the Board should be reduced at this date. It is felt this should be explored at a later date when there are much fewer inmates who still fall under the old system. But , it should be pointed out again that the Board should not be reduced at this date.

Has The Board Established Adequate Procedures in Selected Areas to Ensure that it Effectively Manages its' Finances and Operations?

1. On page 18 paragraph 3 the report points out that in FY 1993, the budget was over spent by \$9,234.00 and in FY 1994, the budget was over spent by \$6,498.00.

Because the budget in FY 1993 was over spent by \$9,234.00, the Board had to carry that amount over into FY 1994. In actuality, the agency was under budgeted by \$2,736.00 for FY 1994.

2. On page 18 paragraph 4 it states in FY 1993 and FY 1994, the Board did not act to reduce its expenditures or seek additional appropriations to ensure it could pay all its obligations.

The Board wanted to point out that during FY 93, the previous chairman, director, assistant director met with Accounts and Reports and requested a monthly expenditure report of the agency's finances, in order to monitor the expenditures. The previous chairman, as Lt. Governor, received such a monthly expenditure report in the Lt. Governor' office; and therefore requested an identical report for the Parole Board. No report was ever received after the request was made.

3. On page 18 paragraph 6 it states "The agency knew a Board member was leaving in FY 1993 and would receive a significant payment for his unused annual leave, but apparently did not plan for that expenditure."

The Board feels it should be stated that the agency, although aware of large expenditures accrued during the time a member leaves, is not allowed to budget for these expenditures. It is assumed the increased funds will be absorbed by cutting expenditures elsewhere in operating costs. This practice makes it impossible to submit realistic, trim budgets without seriously shorting necessary operating expenses.

The previous chairman's philosophy was that although members should be expected to be thrifty in their expenses, none should be asked to sacrifice large amounts of time away from their responsibilities of their family or community in order to facilitate drastic cuts in travel or operating expenses.

4. Page 19 Box. "The Parole Board used excess funds for Capital Improvements in Fiscal Year 1992."

The Board wishes to point out that no inquiries have ever been received from the Legislators or Governor for expenditure of furniture in 1992, directly contrary to the statement made in this insert.

In reality, the previous chairman requested from the legislature authorization to use unexpended funds for capital improvements in fiscal year 1992. The legislature approved this request by passage of a special provision amendment to the Board's appropriation bill. Also, in reality, the primary purpose of Herman Miller partitions was to increase security within the agency, providing supervised entrances and exits. The secondary purpose was to stimulate employee morale which appeared to be low at the time. Boxes of files were strewn about in walkways and stacked around desks, again presenting a threat to security of those files. To this day adequate filing receptacles are lacking.

Since this type of furniture is on state contract, and utilized in nearly all offices located in Landon State Office Building as well as other state offices, the Chair was not aware of a large discrepancy in costs. The report also points out the Board used funds to paint the office. The Board wishes to state the Landon Office Building paints its offices every five years free. This was a free paint job!

5. On page 19 paragraph 2 the report brings out the Kansas Parole Board didn't seek additional appropriations when the Board was running short of money.

The Board wishes to point out that the previous Chairman of the Parole Board did instruct the Executive Director and the Assistant Director to seek a supplemental appropriation for FY 1994. After such a request was made, the Department of Administration denied the request.

6. Page 19 paragraph 4 states the current chairperson is working with Division of Budget and Kansas Department of Corrections in developing guidelines for the Boards budget process.

The Board needs to express that the current chairman, the Board, the Director and the Assistant Director are all working together with other agencies to improve the budget process.

7. On page 20 paragraph 1 it states that salaries and wages and travel represents one of the agency's largest cost.

The Board wishes to point out that rents are a larger cost than travel and the rents are controlled and mandated by state government.

8. On page 20 paragraph 2 it states that the Board had not adopted travel policies specifically for its members and staff.

The Board still feels it follows the regulations set forth by the Department of Administration. It is felt all agencies should follow the same policies. KAR 1-18-1a.

9. On page 20 paragraph 4 it states that in FY 1994 the Board spent approximately \$22,500 on private car mileage.

Over the past five years the Board's travel averaged about \$34,000 per year.

10. On page 20 paragraph 5 the report discusses it would be less costly to car pool.

The Board felt it should be noted that some Kansas Parole Board members live in different communities and hence pooling is difficult in many instances. Additionally, one of the members also served as Lt. Governor of the State and had responsibilities with those duties. Another Board member served as an elected School Board Member which required him to return to Topeka for evening meetings.

11. On page 21 paragraphs 1 & 2 it is stated that the Expense Reimbursement Handbook states that, whenever possible, an agency head or designee should assign more than one employee to a vehicle in authorizing the use of a privately owned or State-owned vehicle.

It is the concept of the Board that the Kansas Parole Board operates and set policy as a Board. Under Kansas Statutes the only authority of the chairman is limited to organizing and administering the activities of the Board. Previously, this has been interpreted to mean setting the Board's schedules and making hearing assignments for the Board.

In 1994, the Governor's Chief of Staff wrote a letter requesting of the Department of Administration's Chief Attorney about the level of authority of the chairperson of the Board. Even though the opinion states that the chairperson has the authority to implement policy, the opinion of the attorneys on the Board and the Board past chairman is that this is incorrect. The statute, set by the Legislature, can only be changed by the legislature.

In regard to the overspending by the board in FY 94, the chairman and vice-chairman of the Board, realizing the necessity of the timely exit of one of the Board members who was to leave, tried unsuccessfully to visit with the Governor about this issue. It could be shown that if this particular member would exit the board on the date of expiration of his term, an estimated amount of \$12,000 saving to the Boards budget would be realized. Repeated attempts to meet with the Governor were unsuccessful, resulting in a failure to save \$12,000, easily covering the \$6,498 deficit.

After careful reading of the report, the previous Chairman stated that he sensed an obvious prejudice of this panel to be little the dedicated efforts of the members of this Board. The necessary rigors of the Board members are such that many evenings are required to be spent away from families. The current members of the Kansas Parole Board have repeatedly gone the extra mile to ensure that the regulations set by state lawmakers have been followed, and followed with respect for those laws. It is a necessary evil of society that such a vast system is even needed, but as long as the current prison system exists, along with the current parole system, I firmly believe we owe it to Kansas to ensure these procedures are carried out with respect and those people who serve in these roles are allowed to live as near normal and complete lives as possible. Please consider carefully any changes to the present system which would cause further impositions or hardships on the members of the Kansas Parole Board.

12. On page 21 paragraph 5 and 6 it reviews the role of the chairperson of the Parole Board.

The Board feels there is confusion and disagreement about the level of authority of the chair of the Parole Board. The Board request that the Legislative Branch end this confusion and disagreement by clear statutes relating to the chair's duties.

13. On page 22 paragraph 5 it states the Parole Board has no policies governing work hours for Board Members and its method of accounting for employee leave time need to be improved.

The Board feels that even in the absence of a policy the current Kansas Parole Board members have used annual and or sick leave when appropriate.

14. On page 23 in paragraph 1 the report states that "One Former Board Member told us that it was common practice for members of the Parole Board to take time off and not record it as leave time."

It is the feeling of the present Board that while it might have been a practice for a few past Kansas Parole Board members, but it is not the policy of the current Kansas Parole Board members.

15. On page 23 the Box

In the past the Board failed to submit annual reports as required by law.

The Board is finishing the annual report for FY 1994 and it shall be submitted before December 15, 1994.

16. On page 23 paragraph 2 it discusses the 40 hour work week and unclassified employees such as Parole Board Members.

The Board felt it should be noted that all the current Kansas Parole Board members work on average a minimum of 40 hours per week or more.

17. On page 24 paragraph 4 the report discusses the length of time it takes to resolve a case. The report indicates it is too long.

The Board felt is should point out that this length of time has been made shorter. But there are some cases that take longer due to the crime. The Kansas Parole Board members feel that their decisions are extremely important both to the public at large and the inmate. Hence studying and reviewing the inmates file in order to make a more reasonable rational decision even if it takes additional time in doing so is important.

18. On Page 25 - Paragraph 2 the report states the current chairperson is taking an active role in streamlining office procedures and making the agency more efficient.

It should be pointed out that the positive work mentioned above has been pursued by not only the chair but by the Board and staff as a whole.

19. On page 25 - Box

The report points out in #1. To ensure that the Parole Board operates in a cost effective manner that chairperson of the Board should.

- a. Ensure the Parole Board complies with all state travel regulations and policies.

The Board has requested copies of all state travel regulations and policies and is in the process of contacting other agencies to see how they conform to the state policies. Once all of the information is received the Board will review the data and formulate a policy for the Kansas Parole Board.

- b. Work with other Board Members and the Division of Personnel Services to establish a uniform policy governing what hours Board members are required to be on the job, and when they will be required to take leave for absences.

The Board has requested all policies relating to this issue from the Division of Personnel Services. Once the data is received and reviewed the Board plans on writing a policy to cover this recommendation.

- c. Work with Parole Board staff to establish in-house orientation and training for new Board members.

The Board has discussed this training issue and has been working with self and staff to develop a new in-house training program for all new Kansas Parole Board employees.

- d. Develop procedures to ensure that files awaiting some sort of final action before a parole decision is made are promptly assigned to Board members and resolved on a timely basis.

The Board along with the Staff have been working on these procedures for the last three months. The procedure being used at the present time is showing promise and with refinement should resolve the problems mentioned in the recommendation. Once the final process is finalized the Board will secure a written document of the procedure.

- e. Continue to take an active role in developing policies and procedures and streamlining the staff's work.

The Board and staff will continue to work together in developing policies and procedures and streamlining all Kansas Parole Board work.

2. To ensure that it has equipment needed to eliminate inefficient practices, the Parole Board should consider using potential savings generated by more cost-effective travel practices to purchase additional computers needed by the agency.

The Board will work to secure computers for the agency through this avenue of saving. However, the Board hopes the legislative Branch sees the many needs of the Kansas Parole Board, such as computers, and helps the Board acquire the needed computers for the agency.

3. To most effectively accomplish computerization the Parole Board should work with the Information Resources staff in Department of Corrections to determine what types of equipment and information linkages with the Department would be most beneficial for the Board.

The Board and staff have set up meetings with Information Resources staff in the Kansas Department of Corrections to help determine the proper equipment needed in the agency. This has been found to be an excellent process.

