

PERFORMANCE AUDIT REPORT

Reviewing Reasons for Recent Increases In the Number of Former Inmates Returned to Kansas Prisons

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
August 1997**

Legislative Post Audit Committee

Legislative Division of Post Audit

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August 11, 1997

To: Members, Legislative Post Audit Committee


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This report contains the findings and conclusions from our completed performance audit, *Reviewing Reasons for Recent Increases in the Number of Former Inmates Returned to Kansas Prisons*.

We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials.

Sincerely,


Barbara J. Hinton
Legislative Post Auditor



EXECUTIVE SUMMARY
LEGISLATIVE DIVISION OF POST AUDIT

Question 1: What Factors Have Contributed to the Recent Increase in the Number of Former Inmates Being Returned to Kansas Prisons?

The number of parole violators being returned to prison increased substantially in fiscal year 1994, before declining in fiscal years 1995 and 1996 and then rising again in fiscal year 1997. During the past five fiscal years, total annual admissions to Kansas prisons increased about 14%, from 4,306 to 4,913. During that same time period, the number of parole violators returned to prisons increased about 22%, from 1,397 to 1,703. Although the parole violators make up a relatively large percentage of the number of people admitted to prison, their impact on prison populations isn't as large because they are returned for a relatively short period of time—usually from 90-180 days. page 7

The Department's implementation of a parole grid in fiscal year 1996 apparently caused a significant drop in the number of parole violators returned to prison that year. The parole grid outlines the options a parole officer can use to discipline a parolee when he or she violates the conditions of parole. The options are based on the parolee's level of supervision and type or severity of the parole violation. The grid was implemented in October 1995 to ensure that parole officers were treating parole violators uniformly. Parole officers we spoke with said some officers misinterpreted the Department's directive to "make the grid work," to mean "don't revoke anybody's parole except in extreme circumstances." As a result, the number of parole violators returned to prison in the months immediately following implementation of the grid may have been unusually low. page 9

A slightly higher parole revocation rate in fiscal year 1997 accounted for about 90% of the increase in the number of parole violators being returned to prison. The rate at which parole was revoked increased from 2.2% in fiscal year 1996 to 2.6% in fiscal year 1997. The increase in the revocation rate likely was caused by several things: page 10

- *The Department changed its parole grid in fiscal year 1997 to require automatic revocation for certain offenses such as resisting or eluding an officer, or confirmed usage of PCP. It also made failure to successfully complete an inpatient treatment program an "aggravated" offense on the parole grid, which gives parole officers the option of recommending parole revocation.*
- *The Department increased the number of "contacts" and the number of drug screens required of parolees—to provide greater assurance that parolees were following the conditions of their parole. With more field contacts being made and more drug tests being administered, parolees have more "chances" of being caught violating the*

conditions of their parole, which can lead to special conditions or sanctions being imposed, or recommendations to revoke parole.

About 9% of the increase in the number of parole violators returned to prison can be attributed to an increase in the total number of people on parole.

The passage of Senate Bill 360 in April 1995 increased the number of days parole violators stay in prison from 90 to 180. Department officials said they requested this change to provide greater incentive for parolees to comply with the conditions of their parole. This change could deter some parolees from violating their parole and the number of revocations could drop. At the same time, however, the number of available prison bedspaces could decline because the parole violators being returned to prison could be there for a longer period of time. The bedspaces won't turnover as frequently, which could have a negative impact on prison capacity.

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Question 2: Has the Department Used Sanctions Such as Community Corrections Before Bringing Parole Violators Back Into Prison?

More than half the parole violators in our sample were returned to prison even though other disciplinary options were allowed. In reviewing a sample of 120 parole violators who had been returned to Kansas prisons during October-December 1995 and 1996, we found that 41 parole violators, or about 34% of our sample, had committed an offense that automatically required the parole officer to recommend parole revocation under the Department's parole grid. A total of 67 parole violators, or 56% of our sample, had their paroles revoked and were returned to prison even though other options were allowed under the Department's parole grid. The remaining 12 parole violators, or 10% of our sample, had been returned from other states.

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Of the 67 parole violators who were returned to prison even though other disciplinary options were allowed, nearly three-fourths had committed three or more violations of their parole conditions, usually failing to report to their parole officer or testing positive for alcohol or drugs. We also found that nearly three-fourths of these violators had special conditions or sanctions imposed on them for previous violations—sometimes multiple times—before they committed the violation for which their parole was revoked.

There were 19 cases where parole officers didn't use alternative disciplinary actions even though they could have. While we can't say that alternatives to revocation should have been used for this group, we didn't find any indications that the things they did were worse than the other 48 cases where sanctions were used. However, the violations that they committed were enough to convince members of the Parole Board that parole should be revoked.

In total, more than one-fourth of the parole violators in our sample had been referred at some point to community corrections programs. *Community corrections is one of several options parole officers have available to try to address parolees' problems and get them to abide by the terms of their parole agreements. The Department of Corrections had contracted with all 29 community corrections programs across the State to give all parole officers access to the services offered by these programs.* page 23

We found that parole officers made referrals to community corrections programs in 31 of the 120 cases we reviewed; or about 26% of the time, most often for substance abuse counseling and intensive supervision. Parole officers told us they occasionally have used housing programs provided through community corrections, but such housing options are limited to only a few programs, and most available bedspaces are used by courts for probationers. The Department hasn't used community corrections' electronic monitoring programs very often, again, because the services are filled up by the courts with offenders who have been placed on probation. However, the Department has contracted with a private company to provide electronic monitoring services for up to 35 people at a time.

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APPENDIX A: Condition Violation Alternative Grid Adopted by the Department of Corrections page 27

APPENDIX B: Prison Population versus Capacity page 31

APPENDIX C: Agency Response page 33

This audit was conducted by Trish Pfannenstiel, Tracey Elmore, and John McIntyre. If you need any additional information about the audit's findings, please contact Ms. Pfannenstiel at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call (785) 296-3792, or contact us via the Internet at: LPA@mail.ksleg.state.ks.us.

Reviewing Reasons for Recent Increases in the Number Of Former Inmates Returned to Kansas Prisons

Inmates who have been released from prison on parole have certain conditions they must meet to be able to remain free. These conditions may include obtaining employment, remaining drug free, refraining from the use of alcohol, and the like.

Parole officers from the Department of Corrections supervise inmates while they are on parole. When a parolee under the Department's supervision violates the conditions of his or her release, parole officers and their supervisors decide whether to recommend to the Kansas Parole Board that this person should have his or her parole revoked.

According to Department of Corrections' statistics, 254 more former inmates were brought back to prison during the first eight months of fiscal year 1997 than during the same time period a year earlier, or a 27% increase. With prison populations once again nearing capacity, and Department officials expressing the need for additional prison beds, legislators have expressed an interest in knowing what factors have contributed to the recent increase in the number of parolees being brought back into the prison system. Specific concerns include:

- whether the Department is using alternative disciplinary measures before recommending that someone's parole be revoked
- whether the Department is recommending revocation after only minor violations of parole conditions
- whether the Department is recommending revocation shortly after the inmate is released on parole, or shortly before the parolee would be discharged from the Department's supervision

To provide this information and address these concerns, this performance audit addressed the following questions:

- 1. What factors have contributed to the recent increase in the number of former inmates being returned to Kansas prisons?**
- 2. Has the Department used sanctions such as community corrections before bringing violators back into prison?**

To answer these questions, we reviewed the Department's policies and procedures regarding the parole process and parole revocation. We also interviewed Department officials and a sample of parole officers across the State. In addition, because no summary statistics are available about the reasons why parole violators were returned to prison, or about the number or types of other conditions or sanctions that might have been imposed before their parole was revoked, we reviewed a sample of files for parolees who were readmitted to Kansas prisons during the fourth quarters of 1995 and 1996 for violating the conditions of their parole. We analyzed this informa-

tion to determine what alternative disciplinary actions were used before parole was revoked, how often community corrections was used as a disciplinary alternative, the reasons parole was revoked, conditions violated that led to revocation, and the like.

In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office, except we didn't test the accuracy of the computer data provided by the Department of Corrections about admissions to prisons, parole violators being returned to prison, and prison populations. However, we did note that the Department has policies and procedures for coding and entering such data into the computer system.

Our findings begin on page seven, following a brief overview of the process for handling parolees who violate the conditions of their parole in Kansas.

Overview of the Process for Handling Former Inmates Who Violate the Conditions of Their Parole

When inmates are released from Kansas prisons, they are subject to a period of "post-release supervision," or parole, during which time their behavior is monitored by the Department of Corrections. Before inmates are released, the Parole Board establishes certain conditions each must follow in order to remain free. Those conditions include such things as:

- reporting on a regular basis to the parole officer
- finding or keeping a job
- not using illegal drugs (and agreeing to be tested)
- not possessing or transporting a weapon
- following all federal, State, and local laws
- working towards completing a secondary education, if applicable
- agreeing to pay restitution, court costs, and the like

Some inmates are released on parole to other states, and are subject to the rules and regulations of the state to which they are released. Because the Kansas Department of Corrections doesn't have direct supervision or control over these out-of-State parolees, we focused our audit work primarily on Kansas parolees. Also, when we refer to parole violators in this audit, we are referring only to those parolees who were readmitted to Kansas prisons for violating the conditions of their parole, and not to parolees who were readmitted because they received a new sentence.

To Ensure That Former Inmates Meet the Conditions of Their Parole, The Department Has Parole Officers and Supervisors In Three Parole Regions Across the State

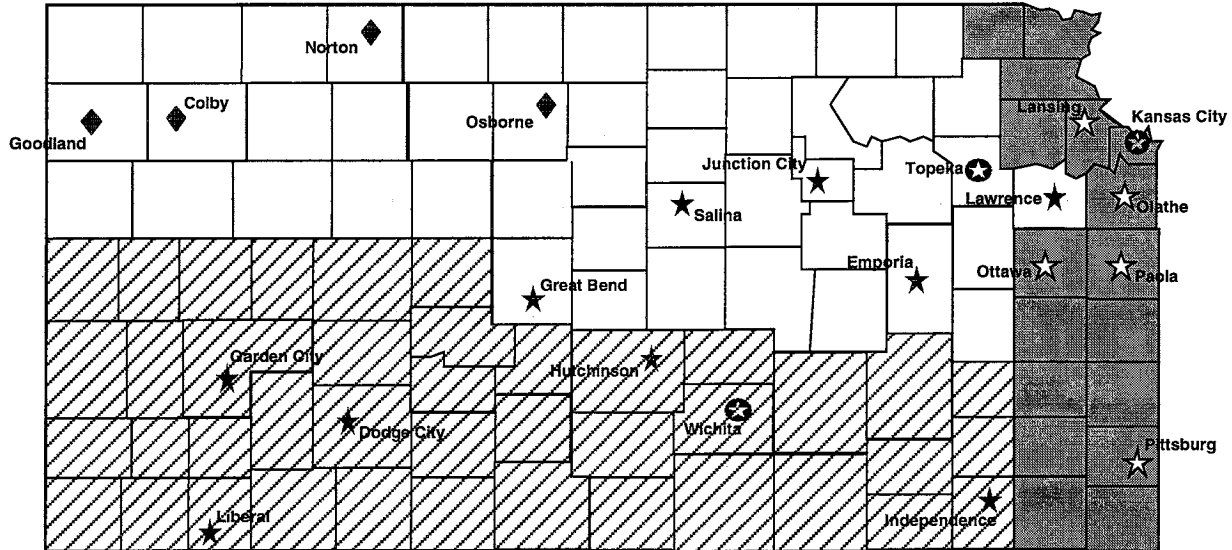
The State is divided into three parole regions with regional offices located in Kansas City, Topeka, and Wichita. The Department also has satellite parole offices across the State. In all, the Department had 109 parole officers during fiscal year 1997. Of those, 86 handled regular caseloads, 10 were part of a special enforcement unit, and 13 were supervisors or regional directors. The following map shows the three parole regions in Kansas, the number of parole officers, and the average number of people on parole in each of those regions during fiscal year 1997.

The Department's parole officers are responsible for ensuring that parolees follow parole conditions and don't become a threat to the public. They're also required to know the whereabouts of each parolee under their supervision.

In addition to parolees from Kansas prisons, Kansas parole officers also supervise former inmates released from prisons in other states who are paroled to Kansas, and probationers from other states permitted by courts to relocate to Kansas, in accordance with the interstate compact agreements.

Parole Regions in Kansas

- ★ Regional Parole Offices
- ★ Satellite Parole Offices
- ◆ Parole Offices Contracted Through Northwest Kansas Community Corrections



- Northern Parole Region (16 parole officers with an average caseload of 961 in FY97)
- ▨ Southern Parole Region (40 parole officers with an average caseload of 2,147 in FY97)
- Eastern Parole Region (30 parole officers with an average caseload of 1,103 in FY97)

Note: Caseloads shown here do not include parolees or probationers from other states supervised by Kansas parole officers.

Former Inmates Who Violate the Conditions of Their Parole May Have Additional Conditions or Sanctions Imposed, or May Have Their Parole Revoked

When a parolee violates the conditions of his or her parole, the parole officer has three options available:

- impose additional special conditions
- impose sanctions
- recommend that parole be revoked

If the parolee's actions aren't very serious or don't involve committing a new crime, parole officers may allow them some latitude—and may repeatedly impose additional conditions or sanctions—before recommending that parole be revoked. Under the first two options, the parolee continues to be supervised outside prison. The types of additional conditions and sanctions that can be imposed are listed in the graphic at right.

The Kansas Parole Process

Granting Parole

An inmate becomes eligible for parole.

Inmates are eligible for parole after they serve their minimum sentence less any applicable good time credits.



The Kansas Parole Board sends a list of names of inmates who will soon be eligible for parole to newspapers for publication. Then, the Board conducts monthly Public Comment Sessions in Wichita, Topeka, and Kansas City.

These sessions are held to give crime victims and their families, inmates' families, community members, and other interested persons the opportunity to express their opinions about the possible parole of inmates.

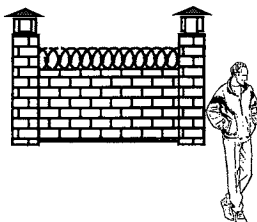
The Board conducts parole hearings to decide whether an inmate should be released on parole.

The hearing is held the month before an inmate is eligible for parole. At the hearing, the Board considers the following to decide whether to grant parole.

- crime for which the inmate is incarcerated and prior criminal history
- inmate's participation in prison programs and disciplinary record
- plan for what the inmate will do when released on parole
- comments received about the inmate during Public Comment Sessions
- capacity of the State's prisons



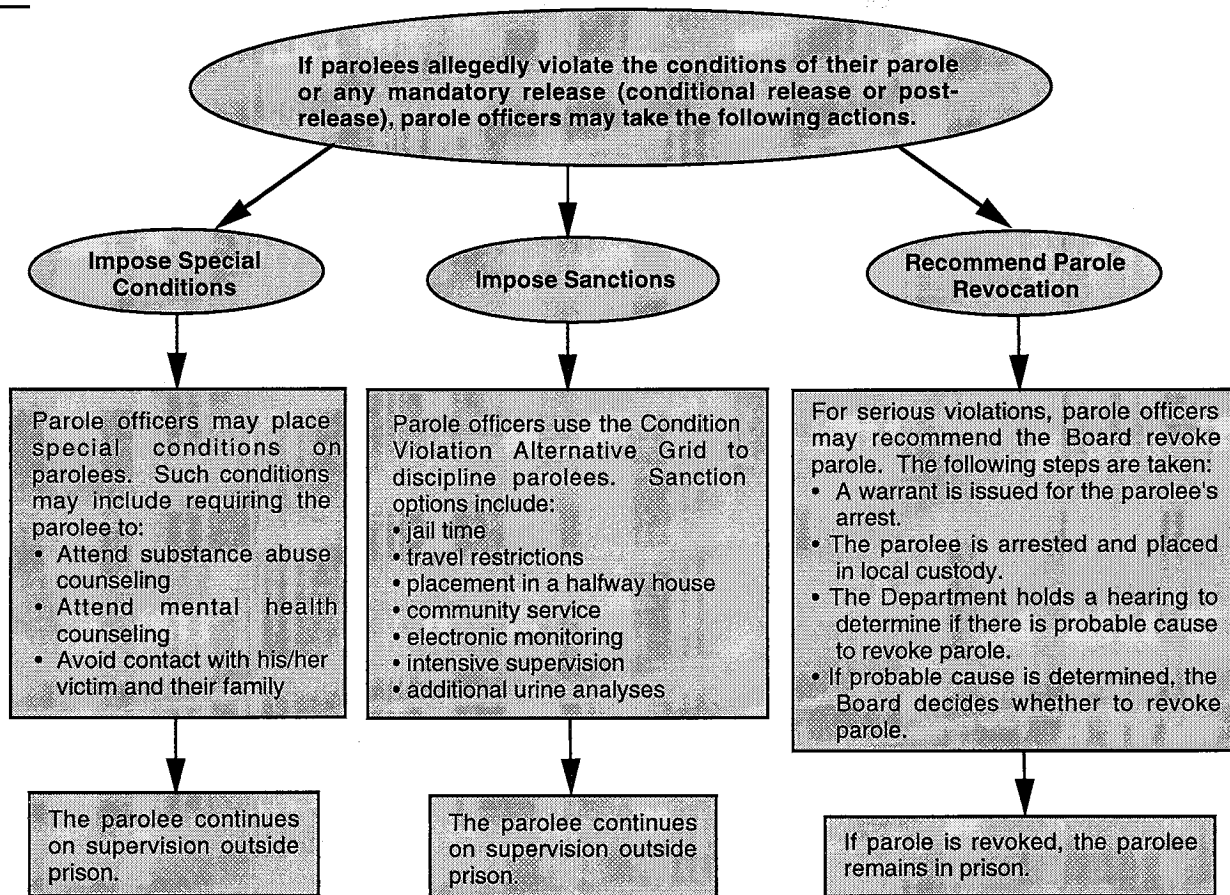
Setting Parole Conditions



After the Board's decision, the inmate is either released on parole or remains incarcerated.

If paroled, the inmate is released into the community under the supervision of a Department of Corrections parole officer. The Board sets conditions that the parolees must meet while on parole. Those conditions include such things as maintaining employment, not using illegal drugs, not possessing a weapon, and not committing any new crimes. Parolees must meet regularly with parole officers to report progress at meeting these conditions.

Revoking Parole



For very serious violations such as possessing a weapon, the parole officer may recommend that parole be revoked after the first violation. In such cases, the former inmate is arrested and generally placed in a local jail, and a hearing is held to consider whether there is sufficient cause to recommend revoking parole. If so, the parolee is transferred to a prison facility, where he or she awaits an official revocation hearing before the Parole Board. The graphic on page five also describes this process.

The Kansas Parole Board makes the final decision about whether someone's parole is revoked. Officials from the Parole Board told us the parole officer must provide sufficient evidence that the parolee is a threat or danger to the public before the Board will revoke his or her parole. In almost all cases, they said, the Board follows the parole officer's recommendation to revoke someone's parole. Department officials also said parolees generally waive their rights to a "probable cause" hearing before the revocation hearing because they realize the evidence against them is so overwhelming.

Parole violators sentenced under sentencing guidelines whose parole is revoked for reasons other than a new conviction will remain in prison for 90 to 180 days from the date of the revocation hearing. Parole violators sentenced before sentencing guidelines can be kept in prison until they reach their conditional release or sentence expiration date, or until re-paroled by the Parole Board.

What Factors Have Contributed to the Recent Increase in the Number Of Former Inmates Being Returned to Kansas Prisons?

After several years of increase, the number of parole violators being returned to prison declined during fiscal years 1995 and 1996 before beginning to increase again in fiscal year 1997. The decline in fiscal years 1995 and 1996 was likely due to the Department's implementation of a parole grid which gave parole officers guidelines on when to recommend revoking parole. About 90% of the increase in the number of parole violators being returned to prison in fiscal year 1997 can be attributed to slightly higher revocation rates, and most of the remaining increase is due to having more people on parole. The increase in revocation rates can probably be attributed to changes in Department of Corrections policies which emphasized more frequent drug testing and contacts with parole officers, and made certain violations more likely to result in parole revocations. It didn't appear to us that parole violators were being returned to prison for less serious reasons during fiscal year 1997. These and related findings are discussed in more detail in the following sections.

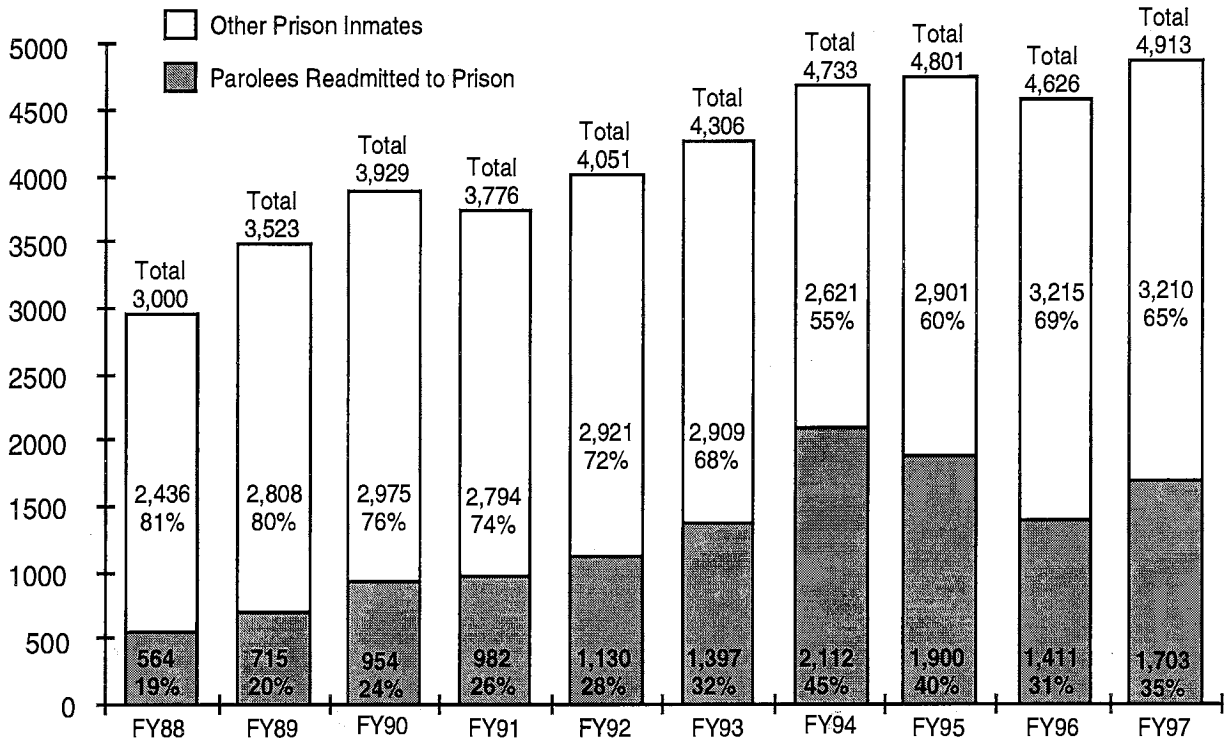
The Number of Parole Violators Being Returned to Prison Increased Substantially in Fiscal Year 1994, Before Declining in Fiscal Years 1995 and 1996 and Then Rising Again in Fiscal Year 1997

During the past five fiscal years, total annual admissions to Kansas prisons increased by about 14%, from 4,306 to 4,913. During that same period, the number of parole violators who were returned to prison increased by about 22%, from 1,397 to 1,703. The charts on page eight show the trend in admissions and the makeup of the prison population over the last 10 fiscal years.

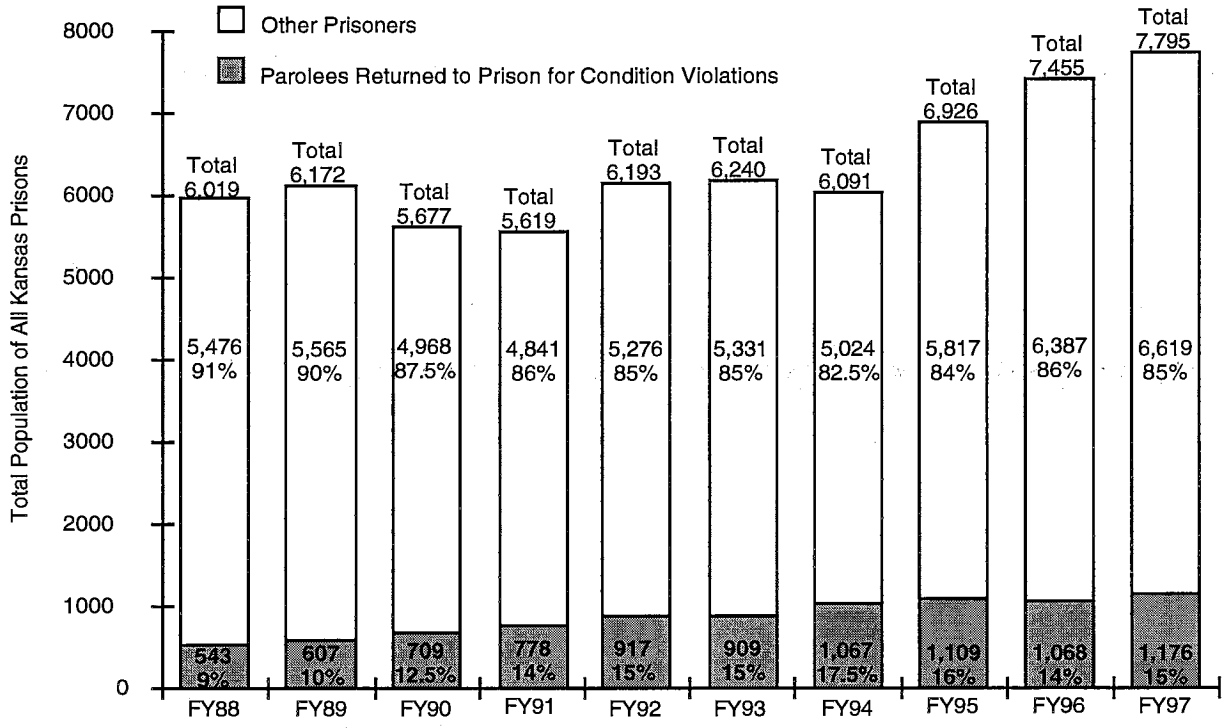
As the chart on the top of page eight shows, the number of parole violators re-admitted to prison as of June 30 each year increased for several years, until it peaked in 1994. During fiscal years 1995 and 1996 those numbers declined, but then began to increase again in fiscal year 1997. Parole violators have made up about 30%-40% of the new prison admissions in recent years.

Although it's true that parole violators make up a relatively large percentage of the number of people admitted to prison, their impact on prison populations isn't as large as the admission numbers would suggest. For example, from fiscal years 1996 to 1997, parole violators accounted for all the increase in new admissions, but only about one-third of the increase in total prison populations. Their impact is less than expected because parole violators are returned to prison for a relatively short period of time—usually from 90-180 days. Thus, it could take as many as four parole violators to account for the same amount of bedspace as one prisoner admitted for committing a new crime.

Parolees Readmitted to Prison as a % of Total Prison Admissions in Fiscal Years 1988 to 1997



Parolees Returned to Prison as a % of Total Prison Population On June 30 of Each Year



The chart on the bottom of page eight shows that, since fiscal year 1991, parole violators consistently have accounted for about 15% of the population as of June 30 each year. That percentage grew from 14% to 15% between 1996 and 1997. The percentage of parole violators in the total prison population has remained low because, as the number of parole violators has increased, so has the number of other offenders being sent to prison.

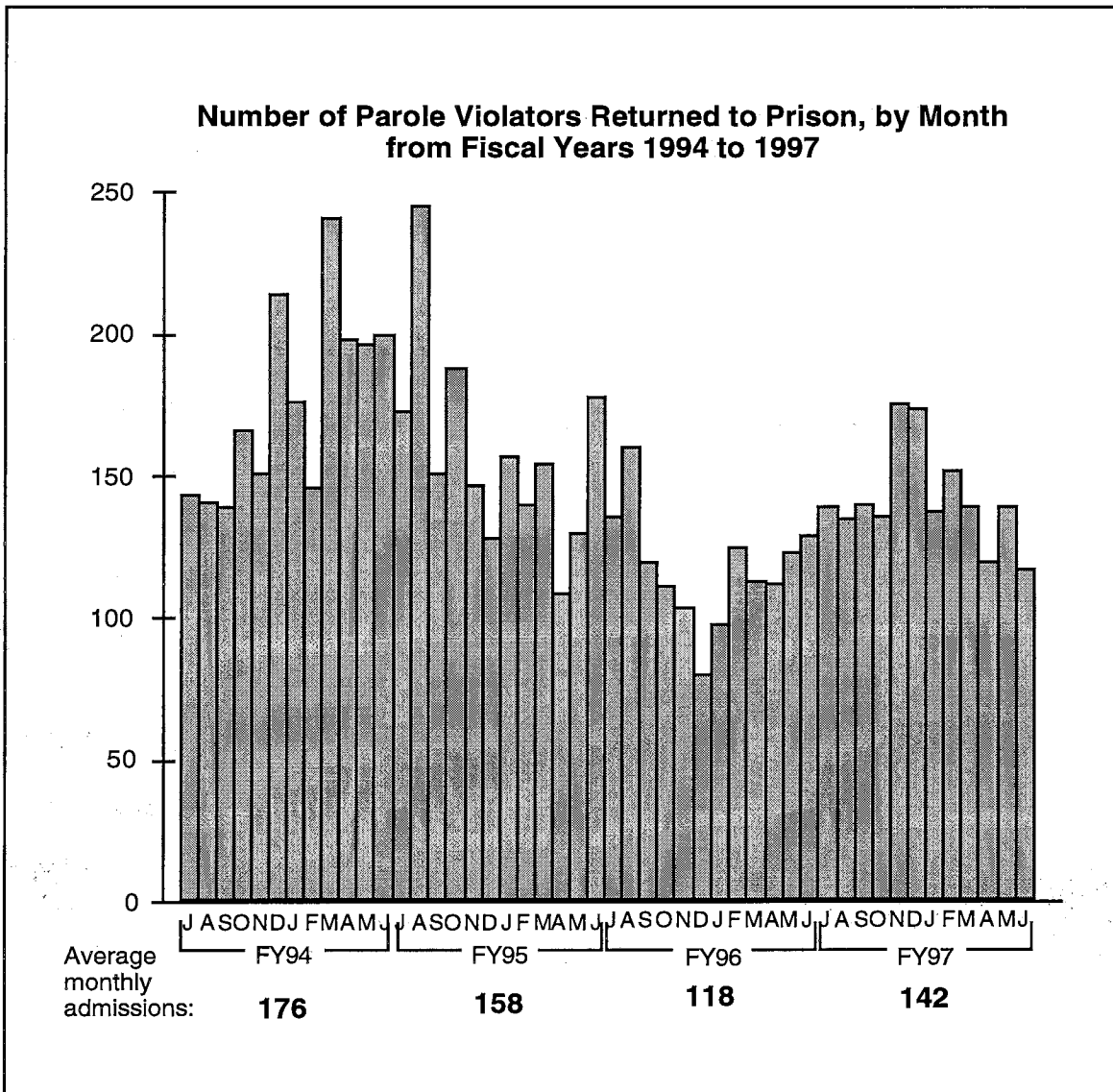
Although we didn't specifically set out to explain the reasons for increases in the number of parole violators before fiscal year 1995, one likely reason is the enactment of sentencing guidelines. Sentencing guidelines, which went into effect in July 1993, required the Department of Corrections to release a large number of inmates retroactively. This increased the number of former inmates on parole in Kansas during that period.

Also, sentencing guidelines provided an incentive for some parolees to commit parole violations to get their sentences converted. Here's why: those guidelines were retroactively applied to inmates who were still in prison, but not to former inmates who were already out on parole. One result of this retroactive provision was that some people on parole might be better off if they committed a technical violation, were returned to prison, and had their old sentence converted to a "guidelines" sentence. In many cases, the offender likely would receive a new sentence that was considerably shorter than the old sentence.

**The Department's Implementation of a Parole Grid
In Fiscal Year 1996 Apparently Caused a Significant Drop
In the Number of Parole Violators Returned to Prison That Year**

In October 1995, Department officials adopted a parole grid for parole officers to follow in deciding what actions to take when parolees violated the conditions of their parole. For the various types of offenses, the grid provides a list of disciplinary actions a parole officer can take, such as requiring intensive supervision, electronic monitoring, community service work, detention in local jails, or recommending that parole be revoked. Under the grid, the sanction selected depends on the supervision level of the parolee and the type and severity of his or her violation. Department officials told us they established this grid to help ensure that parole officers were treating parole violators uniformly. (A copy of the current parole grid is presented in Appendix A)

Parole officers we spoke with said some officers misinterpreted the Department's directive to "make the grid work," to mean "don't revoke anybody's parole except in extreme circumstances." As a result, there may have been an unusually low number of parole violators returned to prison in the months immediately following implementation of the parole grid. The graph on the next page shows there was a significant drop in the number of parole violators returned to prison in November and December 1995.



As the graph shows, the average number of parole violators returned to prison was at its lowest in December 1995 then started to increase, with sharp increases in November and December 1996. (The profile on page 11 describes the prison disturbances that happened just before this, which may have had an effect on the number of parole violators readmitted to prisons during these two months.)

**A Slightly Higher Parole Revocation Rate in Fiscal Year 1997
Accounted for About 90% of the Increase in the
Number of Parole Violators Being Returned to Prison**

Our review showed that the recent increase in parolees being returned to prison reflected a combination of two factors. First, about 1.5% more former inmates

Prison Disturbances May Have Caused a Several-Month Backlog in the Number of Parolees Returned to Prison in Late 1996

In late September and early October 1996, inmates at the Hutchinson, Lansing, and Norton prisons caused disturbances in prison operations. Some inmates were dissatisfied with the food service at their facility, and stopped going to meals. Originally this was a "peaceful" demonstration, but some inmates at Lansing and Hutchinson started setting small fires, breaking glass, and throwing things. During this same period, some inmates at Norton barricaded themselves in the facility's restricted unit.

Because of these disturbances, the Department locked-down parts of the Hutchinson and Lansing prisons, and transferred some inmates from Lansing and Norton to Ellsworth Correctional Facility, which usually houses parole violators being returned to prison. Because these transfers caused a shortage of bedspaces for parole violators, the Department left

parolees in local jails until the disturbances were resolved, damages were repaired, and all inmates were returned to their assigned prisons.

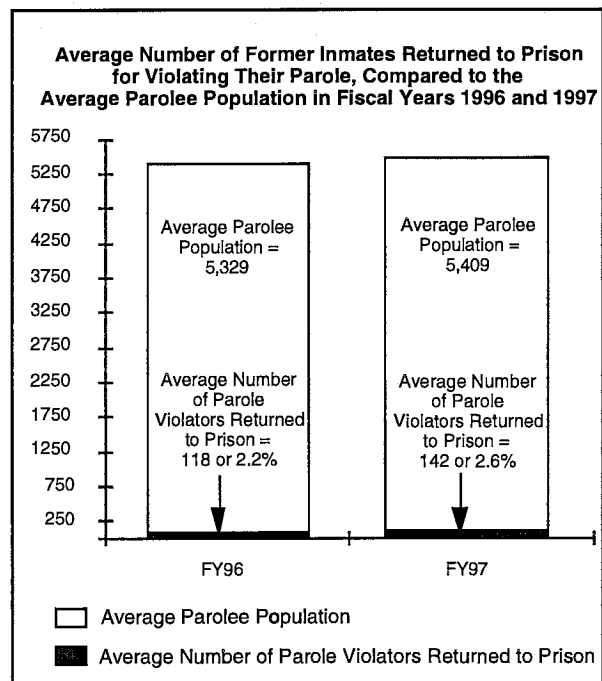
In mid-October, the prisons returned to normal, and the Department started transferring parole violators from the jails to Ellsworth. Those who'd been waiting in local jails the longest were transferred first; it took several weeks to transfer them all.

When we looked at the Department's admissions statistics in November and December 1996 for parole violators, we noticed the numbers increased significantly during these two months. Based on the information we obtained about the disturbances, we concluded that keeping some of the parolees in local jails and waiting to transfer them may have been a factor in this short-term increase.

were on parole in fiscal year 1997, or about 80 more people per month than there were in fiscal year 1996. With more people on parole, there are more "potential" parole violators in the population. We determined that this factor alone accounted for about 9% of the increase in the number of parole violators returned to prison.

Second, a slightly higher percentage of the people on parole in fiscal year 1997—2.6% compared with 2.2% in fiscal year 1996—had their parole revoked. We determined that this factor accounted for about 90% of the increase. The figures for the parolee population and parole revocation rates are shown in the chart at right.

We examined the files of 120 people whose paroles had been revoked—60 during fiscal year 1996, and 60 for the same time period in fiscal year 1997—in part to help determine whether there were any discernible differences between those two years in the reasons why parole violators were returned to prison. Because we would expect the



Department to be more strict on a person who was paroled from a rape or murder conviction than on a person who was paroled for a burglary, we tried to select our sample in a way that would give us the same number of each type of crime in each year we examined. For some parolees, all the reasons why they were returned to prison were included in the "statement of official charges" completed by parole officers. For others, parole officers may have listed only one or two "official" reasons, but we identified others from information available in the file. The following table summarizes all the reasons we could identify.

**Comparison of Parole Revocation Reasons for a Sample of People
Whose Parole Was Revoked
During the Second Quarter of Fiscal Years 1996 and 1997**

	<u>2nd Qtr.</u> <u>FY 1996</u>	<u>2nd Qtr.</u> <u>FY 1997</u>
Reasons for parole revocations:		
Failing to report to a parole officer	45	41
Alcohol/Drug Abuse	42	46
Failing to attend treatment	26	21
Absconding (disappearing)	25	23
Assault/Battery	14	10
Possessing a Weapon	7	3
Leaving the area without permission	8	12
Not Being Employed	5	10
Other Reasons	36	65
Average Number of Reasons Listed		
For Recommending Revoking Parole	3.5	3.9
Average Number of Days Between:		
Release and Revocation	544	431
Revocation and Discharge	1,527	1,510
Number of Parolees Returned:		
Within 60 days after release	3	1
Within 60 days before discharge	2	4

The table shows that most people in our sample had multiple reasons for having their parole revoked, but there didn't appear to be any apparent pattern to suggest why the number of parole violators being returned to prison had increased between fiscal years 1996 and 1997.

To help determine what factors may have contributed to the increased revocation rates, we also looked for changes to statutes or Department policy that went into effect during that time period. In addition, we talked to a sample of parole officers and their supervisors to find out if there had been any changes in Department directives or philosophy.

Based on our reviews and discussions, we identified a number of factors that could have affected the number of parole violators being returned to prison in fiscal year 1997. These included changes in the types of violations that result in parole re-

vocation, and changes in the types of requirements being imposed on parolees. Although such changes likely had some effect on the increased revocation rates, it's difficult to tell how much they may have influenced the total numbers. These areas are discussed below.

The Department changed its parole grid in fiscal year 1997 to make some violations subject to automatic parole revocation, and to make others more likely to result in parole revocation. Among other things, this change, made in October 1996, required automatic revocation for certain offenses, such as resisting or eluding an officer, confirmed usage of PCP, and failure to attend sex-offender treatment. Department officials told us these changes were made to codify current Department practice. Most parole officers we talked to agreed they'd already been recommending revocation for these types of violations.

Department officials also changed the grid to make failure to successfully complete an inpatient treatment program an "aggravated" offense, which gave parole officers the option of recommending parole revocation for such offenses. They told us this change was made because parole officers needed more leverage to get parolees to complete these programs.

Since April 1995, the Department has increased the number of "contacts" and the number of drug screens required of parolees. The Department issued new policies encouraging more field contacts between a parolee and his or her parole officer, and more frequent testing for drugs. Department officials told us they made these changes to provide greater assurance that parolees were following the conditions of their parole and didn't represent a threat to the public's safety.

The Department doesn't track what effect its policy changes have on prison admissions. However, Department statistics show that the monthly average number of field contacts between parolees and their parole officers have increased about 23%, from 1,970 in fiscal year 1996 to 2,415 through March 1997. The average number of parolees tested for substance abuse increased about 27% during that same period, from 1,515 to 1,928.

**During Our File Review, We Looked at
When Parolees in Our Sample
Had Their Parole Revoked**

One concern that led to this audit was that parole officers may have recently begun recommending parole revocation, without sufficient justification, for a large number of parolees either shortly after they were released from prison, or shortly before they were to be discharged from the Department's supervision.

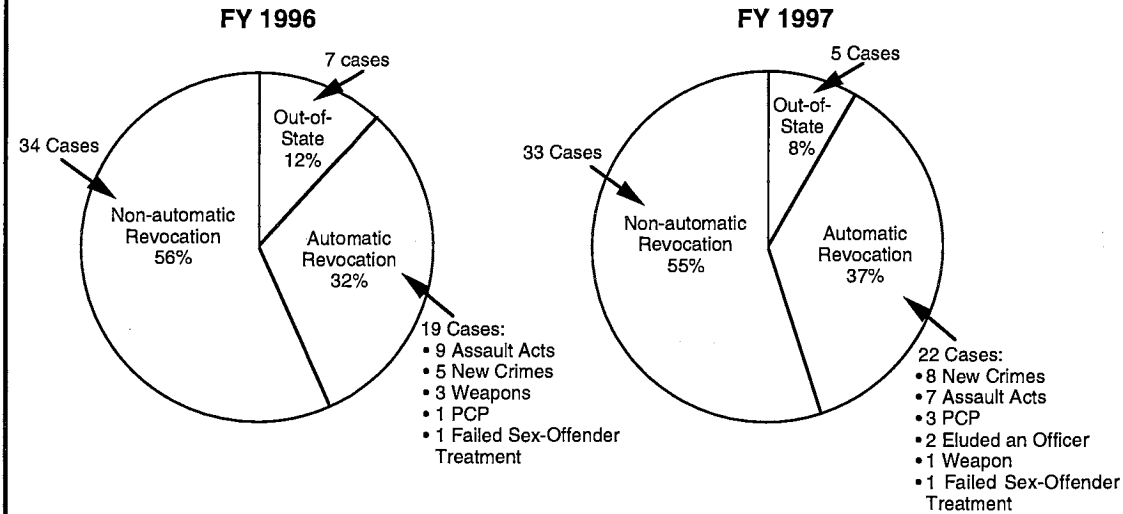
To help address this concern, we looked at a sample of 120 files for parolees whose parole was revoked between October and December of 1996 and 1997.

Our review showed that 10 of 120 parolees in our sample, or 8%, had been re-admitted to prison within 60 days of being released from prison or of being discharged from parole. For these 10 people, the reasons their parole was revoked included the following:

- trying to strangle another resident in a treatment program
- testing positive for PCP
- assaulting a woman
- failing to report to the parole officer, plus either hiding from a special enforcement agent, testing positive for alcohol or drugs, or being convicted of domestic violence
- failing to report to the parole officer, report an address, complete community corrections, or pay restitution to the crime victim

Based on the information obtained from our file review, it appeared that the recommendations to revoke parole in these cases were justified.

Parole Revocations



In October 1996, the Department of Corrections revised its parole grid to require parole officers to automatically recommend revocation for certain violations. Such violations include: resisting or eluding an officer, confirmed use of the drug PCP, and failure to attend sex-offender treatment. During this audit, we reviewed a sample of cases—60 from the last quarter of 1995, and 60 for the same period in 1996. The above charts show how many of the sampled cases involved automatic revocation of parole.

With more field contacts being made and more drug tests being administered, parolees have more “chances” of violating the conditions of their parole (i.e., failing to report to a parole officer, or failing a drug test). Such parole violations can lead to special conditions or sanctions being imposed, or to recommendations being made to revoke parole.

The Three Parole Regions Operate in a Similar Manner

During this audit, we interviewed Department officials from each of the three parole regions to determine if there were differences in how they managed parolees. We found none. Officials in each region appeared to have the same goal—providing public safety while treating offenders fairly—and each region followed the Department’s parole grid.

In addition, we looked at parole revocation rates for each region to determine if one region might be revoking parole in more cases. The Southern Region has a larger caseload than either the Northern or Eastern Regions, so the Southern Region has a larger number of parole revocations. But, when we calculated the revocation rates, each region had a similar rate. We concluded the regions were fairly consistent in how often they recommended parole revocation, and no region seemed to use revocation excessively when compared to the other regions.

It didn’t appear that our sample of parole violators were being brought back to prison in fiscal year 1997 for less-serious offenses. In addition, it didn’t appear that the Department was quick to return parolees to prison, or to return them without good reason. Often, in fact, we noted that parolees committed numerous violations and had been disciplined by one or more special conditions or sanctions before their parole was revoked and they were returned to prison.

During our review we did note some cases where, at first glance, it ap-

peared the parolee may not have needed to be brought back to prison. When we reviewed these cases in more detail, however, we generally found there was a justifiable reason for the parole revocation. The following are a couple of examples:

.....the official reasons listed for recommending parole revocation for one parolee were failure to report to a parole officer, and failure to report a change of address. These reasons may not appear to be particularly serious, but this person was a convicted sex offender who had never followed any of the standard conditions of his parole. Once he was released from prison, he never reported to his parole officer, was arrested for domestic violence, was released on bond, was arrested again, and the Department issued a warrant for his arrest.

.....the official reasons listed for another parolee were failure to report to a parole officer and testing positive for drugs. While on parole, she had been arrested twice for prostitution, and also had outstanding charges in another Kansas county where she had failed to show up for court. The parole officer issued a warrant for her arrest, and recommended that parole be revoked.

Parole violators in our sample for fiscal year 1997 were returned to prison somewhat faster than in fiscal year 1996. On average, parole violators in our 1997 sample were returned to prison 431 days after they'd been released, compared with 544 days in 1996.

Faster returns to prison could reflect the fact that parolees have more "chances" of being caught committing violations, now that the number of required field contacts and drug tests has been increased. They also could be an indication of less tolerance of parolees' misbehaviors. In addition, the longer average time "out on parole" for 1996 also could be reflecting parole officers' reluctance to recommend parole revocations for several months after the parole grid was first implemented. As a result, we couldn't draw any specific conclusions about these numbers.

Changes to the law in 1995 increased the impact of parole revocations on prison bedspaces and capacity. Between July 1993 and May 1997, parole violators generally spent up to 90 days in prison once the Parole Board revoked their parole. However, with the passage of Senate Bill 360 in 1995, people whose parole has been revoked now are sentenced to 180 days in prison. Department officials said they requested this change to provide a greater incentive for parolees to comply with the conditions of their parole.

Because of the prospect of being returned to prison for six months, this change could deter some parolees from violating their parole conditions over the next few years. That could mean a drop in the number of parole revocations.

At the same time, however, the number of available prison bedspaces could decline because the parole violators being returned to prison could be there for longer periods of time. The bedspaces won't turnover as frequently, which could have a negative impact on prison capacity.

**The Joint Committee on
Corrections and Juvenile Justice
Recommends Prison Expansion that
Could House Some Parole Violators**

The Joint Committee on Corrections and Juvenile Justice was established during the 1997 legislative session to monitor, review, and study various issues and programs of the Department of Corrections and the Juvenile Justice Authority. Under the law, this Committee will be abolished December 1, 1999.

One of the Committee's duties is monitoring the Department's prison inmate population. During the 1997 session, the Committee met several times and made recommendations regarding parole and probation violators sent to prison. Among other things, the Committee recommended that the Department contract to build a 200-bed, low-cost, special population unit. This facility, which would have minimum security, could be used to house parolees.

The 1997 Legislature approved the Committee's recommendation. The Department currently is working on a request for proposals from contractors to build the facility, and expects the unit to be complete sometime after July 1998.

People whose parole is revoked could occupy prison bedspaces for longer than the statutory 180-day revocation period. Current law states that revocations "shall be for a 180-day period of confinement from the date of the revocation hearing before the (parole) board (underlining added)." Because most parole violators are put in jail or prison when they are arrested, and don't have a revocation hearing until the next scheduled monthly Parole Board meeting, the actual period of incarceration may be up to 30 days longer than this 180-day period. For example, for 10 of the cases we reviewed, the average time a parole violator was in prison before his or her revocation hearing was held was about 25 days.

The law allows the Department of Corrections to reduce the period of confinement by up to 90 days based on the parole violator's behavior while in prison. The law doesn't allow the Parole

Board to reduce the amount of time a parole violator spends in prison by the amount of time in jail or prison before the revocation hearing was held; however, it does allow the time to be counted against the parolee's sentence.

Conclusion

As of June 30, 1997, Kansas prisons housed nearly 1,200 parole violators, which accounted for about 15% of the prison population. Parole violators also accounted for all the increase in new admissions to prison that year. The Department of Corrections did "crack down" somewhat on parole violators in 1997 by emphasizing more frequent drug testing and contacts with parole officers, and by making certain violations more likely to result in parole revocations. However, we didn't see anything to suggest parole officers were recommending revocation without good reason. On the contrary, we often saw that parolees repeatedly were caught using drugs, skipping out on required treatment programs, failing to report to their parole officers, and disappearing for a time or altogether, before their parole officers recommend revocation.

Has the Department Used Sanctions Such as Community Corrections Before Bringing Parole Violators Back Into Prison?

More than half the parole violators in our sample were returned to prison even though Department guidelines allowed other disciplinary options. However, three-fourths of these people had had special conditions or sanctions imposed for previous violations of their parole. We didn't see any noteworthy differences between this group and the other 19 cases in our sample where no sanctions were imposed before parole was revoked. Often people in both groups had violated three or more conditions of their parole at the time they were returned to prison. Community corrections was used as an alternative sanction in more than one fourth of the cases we reviewed. However, services available from community corrections are limited, and may not be a suitable alternative when a return to prison is the only thing that will stop someone from violating the conditions of his or her parole. These and related findings are discussed in more detail in the following sections.

More Than Half the Parole Violators in Our Sample Were Returned to Prison Even Though Other Disciplinary Options Were Allowed

Our sample of 120 parole violators was taken from the "universe" of parole violators who'd been returned to prison during October-December 1995 and 1996. When we examined the reasons why they'd been returned to prison, we found that 41 parole violators, or 34% of our sample, had committed an offense that automatically required the parole officer to recommend parole revocation under the Department's parole grid. Those offenses include the following:

- possession of a weapon
- conviction of a new felony
- confirmed usage of PCP (a hallucinogenic drug)
- resisting or eluding a law enforcement officer or a special enforcement officer
- failing to attend a sex offender treatment program
- threats of violence or misdemeanor assault
- conviction of a new crime, with a prior conviction or history of violence

A total of 67 parole violators, or 56% of our sample, had their paroles revoked and were returned to prison even though other options were allowed under the Department's parole grid. Those options can range from requiring a parolee to report in more frequently, to requiring community service work, to requiring a parolee to attend an inpatient treatment program. (The remaining 12 parole violators [10% of our sample] had been returned from other states, so little information was available about them.)

We reviewed the information available in the files to try to determine why paroles had been revoked for these 67 parolees, instead of special conditions or sanctions being imposed that would have kept them out of prison.

Some Kansas Parolees Are Challenging for Parole Officers to Manage

During our file review, we noted that some parolees in our sample were "colorful" individuals, creating a challenge for their parole officers again and again to find ways to get them to follow parole conditions. The following stories highlight some of the more interesting cases we reviewed.

Some parolees in our sample committed new crimes after being released on parole. Under the Department's parole grid, such circumstances usually require parole officers to revoke parole for the offender. The following are examples of cases where this happened.

- One parolee was released from prison after being convicted for taking indecent liberties with a child. Early in his parole period, this individual tested positive for alcohol, which he was required to avoid. He also left the State without permission from his parole officer. Then, he was arrested and charged with theft and burglary. When the authorities found him, he was drunk with two teenage girls.
- Another parolee was in an inpatient drug treatment program when she absconded. While at-large, she was arrested for two counts of first degree murder and robbery. The charges were later dismissed.

Department policy requires parole officers to recommend parole revocation for parolees caught with a weapon. In our sample of 120 cases, we found 9 parolees whose parole was revoked for this reason.

- One parolee was out of prison after being convicted for armed robbery. His disciplinary record showed a lot of problems, both in and out of prison, and he consistently refused to follow the conditions of his parole. Finally, he was arrested in another state for possession of a pump shotgun.

Many of the parolees in our sample had their parole previously revoked, some several times. Based on our review, it appeared parole officers were less tolerant with parolees who had a history of parole revocations.

- One parolee had been in and out of jail for over 10 years for drug-related crimes and various battery charges. During the time period of our review, his parole had been revoked six times before the revocation we reviewed. This time his parole officer recommended parole revocation because he failed to report for a substance abuse treatment program and he was arrested for domestic violence.

Of the 67 parole violators who were returned to prison even though other disciplinary options were allowed, nearly three-fourths had committed three or more violations of their parole conditions. We reviewed the files for the parole violators in our sample to determine all the violations they had committed that led to their return to prison. For some parolees, all these violations were included in the "statement of official charges" completed by parole officers. For other parolees, parole officers may have listed only one or two "official" reasons, but we identified other violations from information available in the file. The table on page 19 summarizes all the violations we could identify for these 67 individuals.

As the table on the facing page shows, failure to report to a parole officer and testing positive for alcohol or drugs were the most common violations noted. In most

**Violations of Parole Conditions by Parolees in Our Sample
Whose Parole Was Revoked Even When Other
Options Would Have Been Allowed**

Failure to report to a parole officer	55
Tested positive for alcohol or drugs	54
Failure to complete treatment	31
Absconded (whereabouts unknown)	33
Left the area without permission	14
Failed to maintain employment	9
Assaulted someone	6
Possessed a weapon	1
Other	<u>37</u>
TOTAL	240

cases, however, these two violations were coupled with other infractions. For example, 48 parolees, or 72%, had violated three or more conditions of their parole. The following are examples of parole violators who'd committed multiple offenses:

.....before one person's parole was revoked, he'd failed to report to his parole officer, left the area without permission and then disappeared altogether for awhile, failed to complete his substance abuse treatment program, tested positive for drugs, and violated two special conditions that had been imposed, including no contact with his ex-fiance

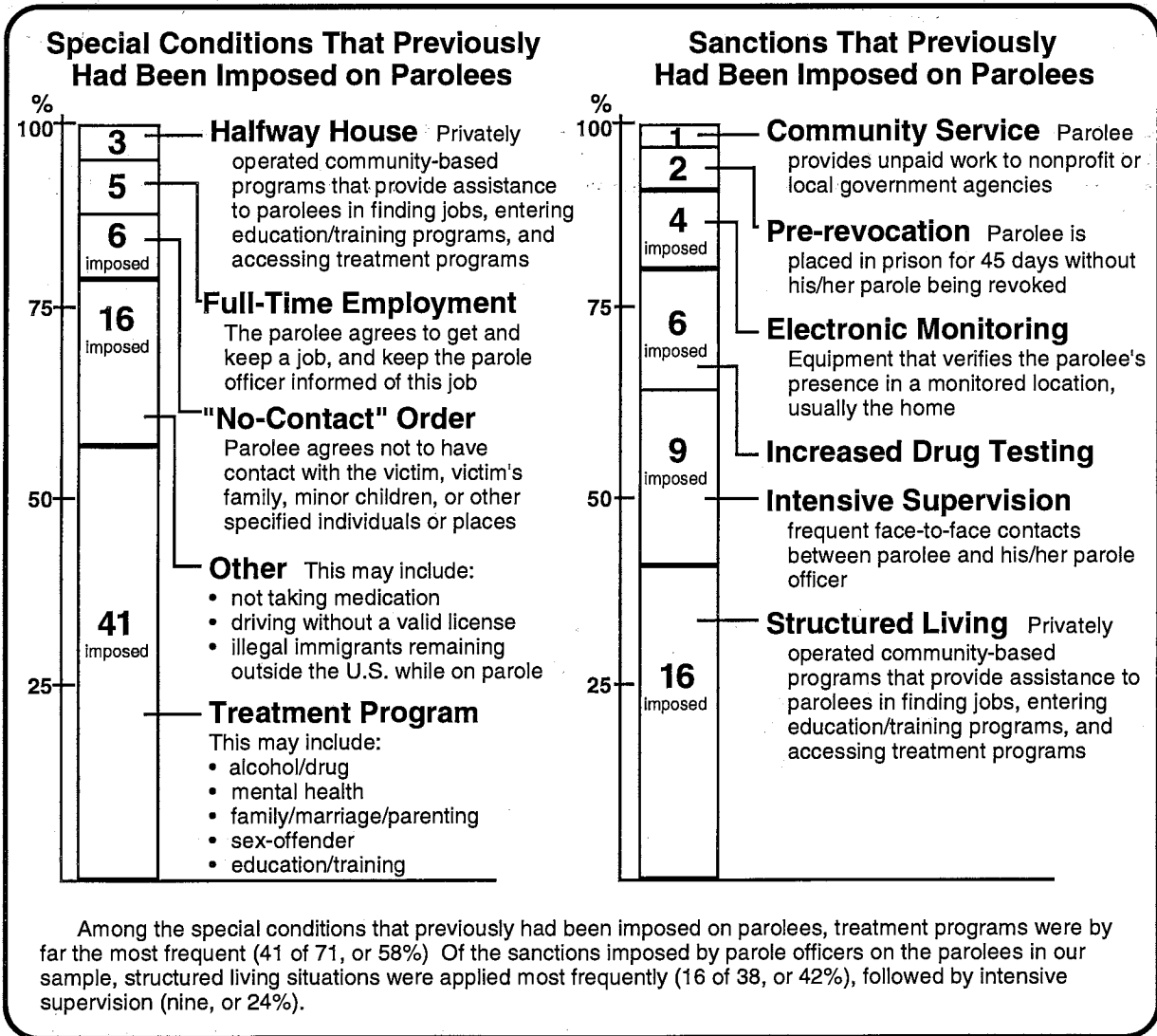
.....one parolee was brought back to prison because he failed to report to his parole officer, left the area without permission and his parole officer didn't know where he was, never got a job, and was kicked out of a Department "pre-revocation" program at Winfield for fighting

.....another parolee also left the area without permission and his parole officer didn't know where he was, tested positive for drugs and had drug paraphernalia on him, and refused to get help through substance abuse treatment, which was an imposed special condition

We saw only one situation where failing to report to a parole officer was listed as the only official reason for returning the person to prison. In that case, the parolee's sentence was for robbery. While on parole in Kansas, he also was on probation in Missouri. He never reported to his Kansas parole officer or his probation officer in Missouri. In addition, he gave parole officers in Missouri and Kansas different addresses, and officers in neither state knew where he was or what he was doing. He eventually was found and arrested.

Nearly three-fourths of these 67 parole violators also had had special conditions or sanctions imposed on them for previous violations—sometimes multiple times—before they committed the violation for which their parole had been revoked. In all, 48 of these 67 parolees had had previous disciplinary actions taken

against them. The accompanying chart shows the types of sanctions or special conditions that had been imposed on them for previous violations.

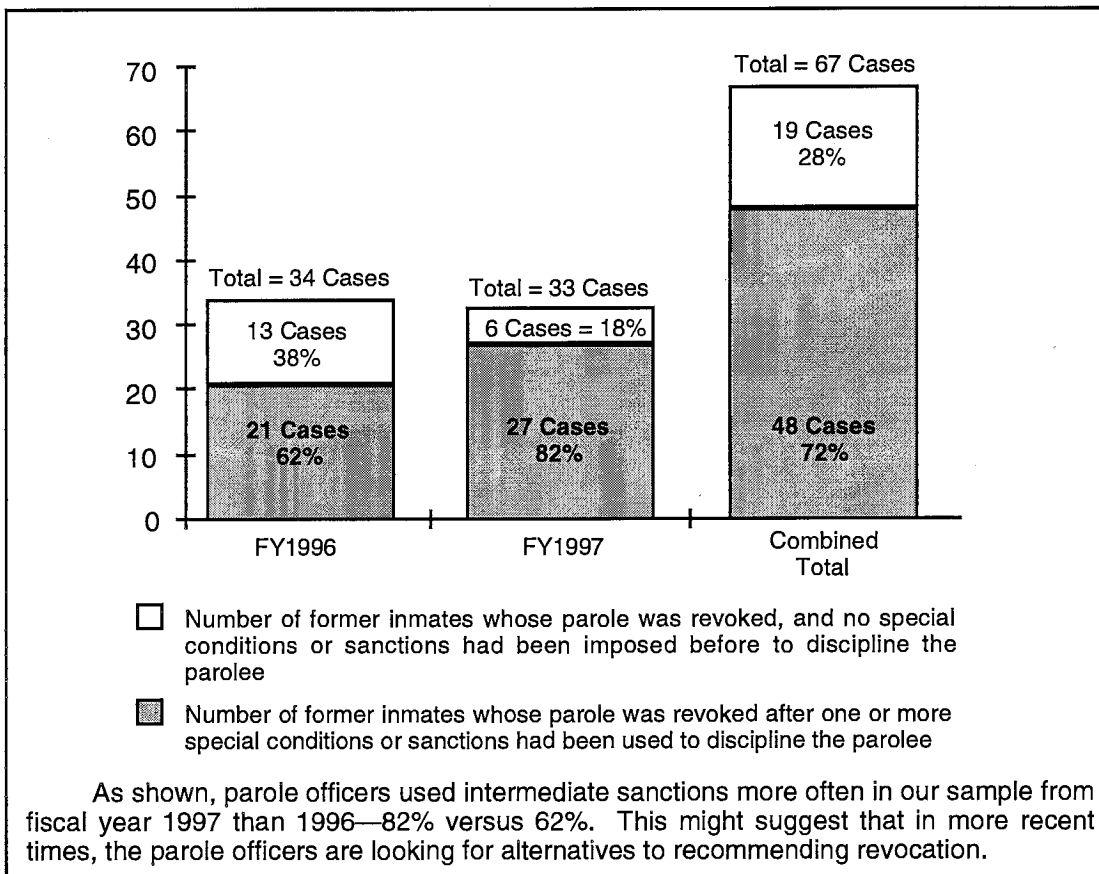


As the chart shows, the most frequent special condition imposed was requiring the parole violator to enter some type of treatment program, such as alcohol/drug abuse or sex-offender treatment, or mental health counseling. The most frequently imposed sanction was structured living.

Of the 48 parolees in our sample who'd had some alternative disciplinary measure imposed for previous violations of their parole, 30 parolees, or 63%, had had two or more conditions or sanctions imposed before they committed the violation that led to their revocation. The table on page 21 shows the frequency of the use of sanctions or special conditions for the parolees in our sample.

<u>Number of Sanctions or Special Conditions Previously Imposed</u>	<u>Parolees in Our Sample Who Had Received This Many Sanctions or Special Conditions</u>
1	18
2	11
3	10
4	6
5	1
6	1
7	1
Total	48

More than half those who'd had only one sanction or special condition imposed in the past had been required to obtain substance abuse treatment. Those with multiple conditions usually had been required to go through some type of evaluation program, stay away from drugs, and attend alcohol or narcotics anonymous programs. These figures aren't very surprising, considering that about one-in-four of the people in our sample originally was sentenced for a drug crime, and one of the most frequent parole violations was abuse of alcohol or drugs.



There were 19 cases where parole officers didn't use alternative disciplinary actions even though they could have. We reviewed the histories of these individuals to determine whether we could see a difference between them and the people who had sanctions imposed. While we can't say that alternatives to revocations should have been used for this group of people, we didn't find any indications that the things they did were worse than the other 48 cases where sanctions were used.

**Services Offered Through Kansas'
29 Community Corrections Programs**

<u>Major Types of Services Offered</u>	<u>Description (# of Programs Offering Service)</u>
<u>Housing</u>	
Adult residential centers	structured minimum-security living facility where offenders can get help obtaining employment and maintaining good work habits (2)
Limited emergency housing	provides money to rent an apartment for probationers who have jobs and can repay the program (18)
<u>Counseling / treatment</u>	
Substance abuse counseling	provided to parolees with a history of substance abuse (27)
Intensive outpatient drug treatment	outpatient treatment for parolees with a history of substance abuse (1)
Mental health counseling	provided to parolees with a history of mental health problems (26)
Sex-offender counseling	provided to parolees convicted of sex crimes (1)
<u>Supervision / monitoring</u>	
Drug testing	tests parolees to monitor presence of illegal drugs and/or alcohol (29)
Intensive supervision	frequent face-to-face contacts between parolees and their parole officers (24)
Electronic monitoring	monitoring equipment verifies the parolee's presence in a monitored location, usually the home (27)
Day reporting center	requires parolees to report daily to a center, provide a schedule of their daily activities, and participate in designated programs, services, & activities (10)
<u>Training, education, other</u>	
Education & employment training	primarily GED and life skills training (28)
Vocational education	assists parolees in obtaining vocational training (21)
Community service work	parolees provide unpaid work to non-profit or local government agencies (29)
Limited transportation	primarily money to use public transportation to report to the probation officer, find a job, etc. (12)

Like the 48, most of these people committed multiple violations of their parole conditions, including failing to report, absconding, or abusing alcohol or drugs. Apparently, however, the violations that they committed were enough to convince members of the Parole Board that parole should be revoked.

**In Total, More Than One-Fourth of the Parole Violators
In Our Sample Had Been Referred at Some Point
To Community Corrections Programs**

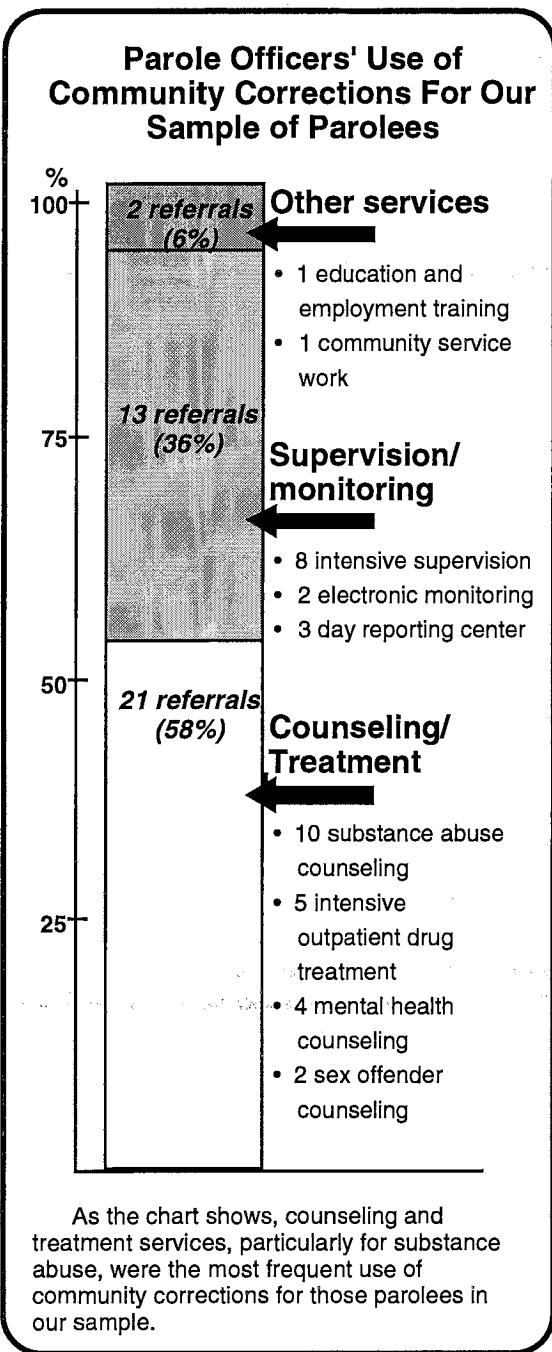
When this audit was requested, some legislators expressed an interest in knowing how frequently community corrections programs were used as an alternative to returning parolees to prison. As shown earlier, community corrections is one of several options parole officers have available to try to address parolees' problems and get them to abide by the terms of their parole agreements.

Community corrections was first established in 1978 to provide an alternative to incarcerating nonviolent offenders. Before 1989, counties could choose whether they wanted to provide community corrections programs. Since then, all counties have been required to establish programs, either singly, in groups, or by contract. At the time of this audit, there were 29 community corrections programs located throughout the State. Since 1994, the Department of Corrections has contracted with all 29 programs to give all parole officers in Kansas access to the services they offer. Parole violators can be required to use or participate in these services as a condition for staying out of prison. The number and types of services available to parole violators through these programs is shown in the table on page 22.

Parole officers made referrals to community corrections programs in 31 of the 120 cases we reviewed, or about 26% of the time, most often for substance abuse counseling and intensive supervision. All but two of those parolees were accepted by the programs. One had tested positive for using PCP, and the program he was referred to didn't offer treatment for that type of problem. The other previously had been kicked out of community corrections for fighting.

The bar chart on the following page summarizes the number of parolees from our sample who had been referred to community corrections programs before their paroles had been revoked. It also shows the types of services each received.

Parole officers told us they occasionally have used housing programs provided through community corrections, but such housing options are limited to only a couple of programs, and most available spaces apparently are used by the courts for probationers. As shown in the chart on page 24, the housing options provided by community corrections programs are limited. Only two programs have adult residential centers. Those two programs—in Johnson and Sedgwick Counties—offer a structured, minimum-security correctional environment, and offenders live at the centers. They have 139 bedspaces available, but don't offer a controlled or secure housing alternative to prison. Parolees can leave during the day for work, and are allowed to discharge themselves from these facilities at any time for any reason.



Department officials also told us these two facilities rarely have space available for parole violators because they are filled with people who've been put on probation by the courts.

The Department hasn't used community corrections' electronic monitoring programs very often, because these services generally aren't available for people on parole. As shown in the chart at left, only two of the parole violators in our sample had ever been referred to community corrections programs for electronic monitoring. Department officials said that, because these programs' monitoring services generally are filled up by the courts with offenders who've been placed on probation, the Department now contracts for electronic monitoring services for up to 35 people at a time through a private company.

According to Department officials, electronic monitoring is designed to restrict an individual's movement, so the parole officer may use it for someone who has been traveling outside his or her parole area without permission, someone who is getting out at night and doing things they shouldn't, and the like.

Because two of the more frequent reasons cited for bringing parole violators back to prison was failure to report to a parole officer or absconding, we asked Department officials why

electronic monitoring wasn't used more frequently as a sanction in those cases. They pointed out that electronic monitoring wasn't necessarily appropriate for parolees who fail to report or abscond, because it can only tell the parole officer that the parolee has left the monitored area, not where the parolee may be located. The following examples from our file review help explain why electronic monitoring doesn't always work as intended:

....one parolee who'd been placed on electronic monitoring cut his ankle bracelet off and left the monitored location. He also refused to comply with his diversion agreement which required him to attend mental health treatment.

....another parolee was on electronic monitoring, but simply left the monitored location. This happened three times before the parole officer issued a warrant for his arrest.

Conclusion

For the majority of the cases we reviewed where parolees were returned to prison even though other options were allowed, parole officers tried some type of alternative method to get parolees to comply with the conditions of their parole before recommending that parole be revoked. However these alternatives don't always work. For example, many of the people in our sample committed crimes while under the influence of drugs. When they used drugs while on parole, the officers tried to get them to stop by recommending drug treatment programs and requiring more frequent drug testing. Sometimes neither effort stopped parolees from using drugs. Ultimately, parole officers need some alternative with more teeth to get parolees to take the conditions of their parole seriously. Unfortunately, in many cases nothing seems to work, and the parolees are returned to prison. Community corrections is an alternative being used by parole officers in about one in four cases we reviewed. Unfortunately, some community corrections programs have limited space available, may not accept certain types of offenders, and don't have the type of housing alternatives that would substitute for a return to prison.

APPENDIX A

Condition Violation Alternative Grid Adopted by the Department of Corrections

This appendix shows the parole grid used by the Department of Corrections. The grid provides options (sanctions) to parole officers to punish parolees who violate the conditions of their parole. The sanction the parole officer chooses depends upon the supervision level of the parolee and the type and severity of his/her violation. The sanction, which includes such things as intensive supervision, electronic monitoring, community service work, and detention in local jails, increases progressively with the seriousness of the violation.

The grid was revised effective October 1, 1996, to allow parole officers to recommend revocation for parolees who resist or elude a Special Enforcement Officer, use PCP, or fail to attend sex offender treatment.

CONDITION VIOLATION ALTERNATIVE GRID

	A	B	C	D
Category of Violation:	--Possession of weapon --Confirmed PCP usage --Resist or elude law enforcement or special enforcement officer --Fail to attend SOTP --New felony conviction --Threats of violence or misdemeanor assault --Conviction with prior conviction or history of violence	Threats of violence or misdemeanor conviction for assaultive behavior with no prior history	Absconding upon release	Special conditions or alcohol-drug misdemeanor
High Supervision Level:				
(1) Aggravated:	--Revocation	--Revocation	--Revocation	--Revocation ----- ALL OTHERS
(2) Regular:	--Revocation	--Up to 20 days in jail --Pre-revocation --Increased Supervision Program --Electronic Monitoring/ House Arrest --Structured Living	--Pre-revocation --Increased Supervision Program --Electronic Monitoring/ House Arrest --Structured Living	--Pre-revocation --Up to 15 days in jail --Increased Supervision Program --Electronic Monitoring/ House Arrest --Structured Living
Close Supervision Level:				
(3) Aggravated:	--Revocation	--Revocation -- All Other Sanctions Available Through Depature --	--Revocation	--Revocation --Pre-revocation --Electronic Monitoring/ House Arrest --Structured Living
(4) Regular:	--Revocation	--Pre-revocation --Increased Supervision Program --Electronic Monitoring/ House Arrest --Structured Living --Up to 10 days in jail	--Pre-revocation --Increased Supervision Program --Structured Living --Electronic Monitoring/ House Arrest	--Pre-revocation --Increased Supervision Program --Electronic Monitoring/ House Arrest --Up to 10 days in jail --Increased Urine Analyses --Structured Living --Community Service
Intermediate Supervision Level:				
(5) Aggravated:	--Revocation	--Revocation -- All Other Sanctions Available Through Depature --	--Revocation	--Revocation --Pre-revocation --Structured Living --Electronic Monitoring/ House Arrest --Up to 10 days in jail --Increased Urine Analyses --Community Service
(6) Regular:	--Revocation	--Pre-revocation --Increased Supervision Program --Electronic Monitoring/ House Arrest --Structured Living --Up to 5 days in jail	--Increased Supervision Program --Electronic Monitoring/ House Arrest --Structured Living	--Pre-revocation --Increased Supervision Program --Electronic Monitoring/ House Arrest --Community Service --Increased Urine Analyses --Structured Living
Reduced Supervision Level:				
(7)				----- Increase L

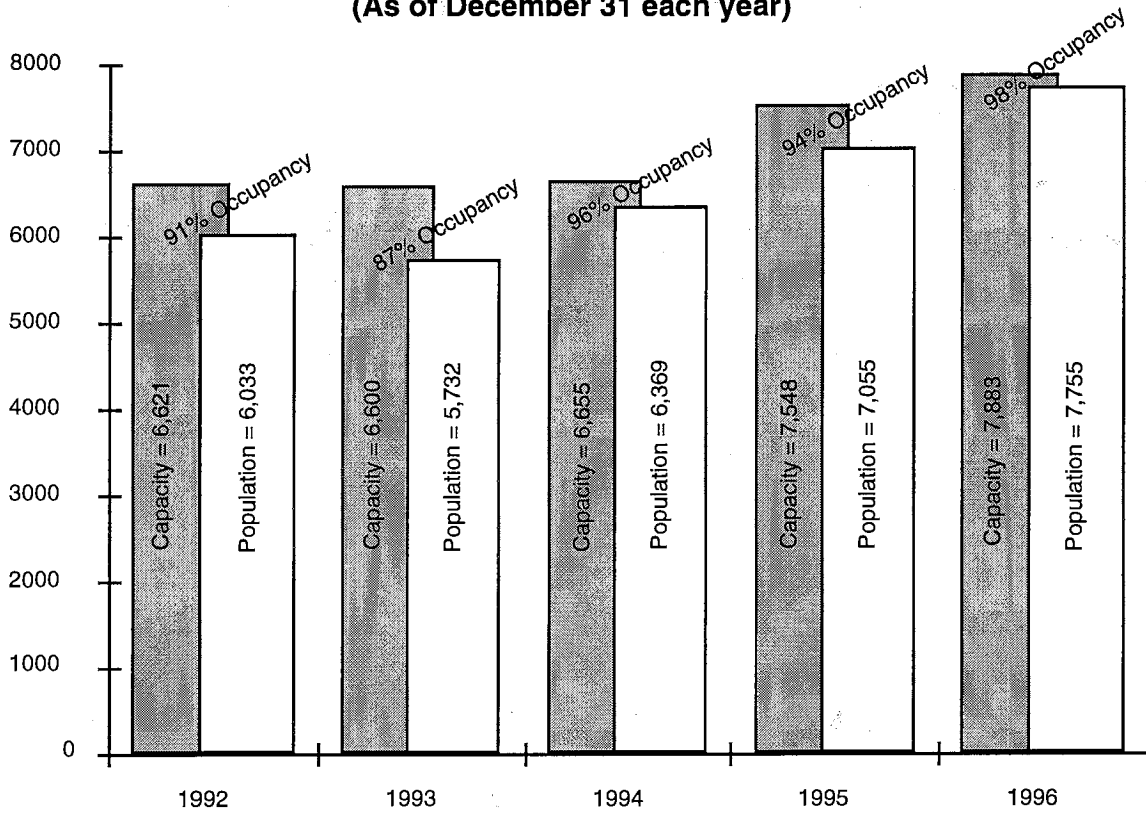
E	F	G	H	I
Three or more violations or non-assaultive misdemeanor	Two or more positive urine analyses	Failure to report to parole officer (two or more consecutive times)	Unauthorized travel outside parole district	Failure to pay
--Revocation --Revocation --Revocation --Revocation --Revocation SANCTIONS AVAILABLE THROUGH DEPARTURE -----				
--Increased Supervision Program --Pre-revocation --Electronic Monitoring/ House Arrest --Structured Living --Community Service	--Up to 10 days in jail --Increased Supervision Program --Electronic Monitoring/ House Arrest --Structured Living --Increased Urine Analyses --Community Service	--Pre-revocation --Up to 10 days in jail --Increased Supervision Program --Electronic Monitoring/ House Arrest --Structured Living --Community Service	--Increased Supervision Program --Electronic Monitoring/ House Arrest --Travel Restrictions --Community Service	--Community Service --Electronic Monitoring/ House Arrest --Structured Living
--Revocation --Increased Supervision Program --Pre-revocation --Electronic Monitoring/ House Arrest --Structured Living --Community Service	--Revocation --Electronic Monitoring/ House Arrest --Increased Supervision Program --Structured Living --Increased Urine Analyses --Community Service	--Revocation --Pre-revocation --Increased Supervision Program --Electronic Monitoring/ House Arrest --Increased Urine Analyses --Structured Living --Community Service	--Revocation --Increased Supervision Program --Electronic Monitoring/ House Arrest --Travel Restrictions --Community Service	--Revocation --Community Service --Electronic Monitoring/ House Arrest --Structured Living
--Pre-revocation --Community Service --Electronic Monitoring/ House Arrest --Increased Supervision Program --Structured Living	--Up to 5 days in jail --Increased Supervision Program --Electronic Monitoring/ House Arrest --Structured Living --Increased Urine Analyses --Community Service	--Pre-revocation --Increased Supervision Program --Electronic Monitoring/ House Arrest --Up to 5 days in jail --Increased Urine Analyses --Structured Living --Community Service	--Community Service --Increased Supervision Program --Electronic Monitoring/ House Arrest --Travel Restrictions	--Community Service --Electronic Monitoring/ House Arrest --Structured Living
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level of Supervision and Sanction Accordingly -----				

APPENDIX B

Prison Population vs. Capacity

The graph in this appendix shows the total prison capacity compared to the actual prison population in Kansas as of December 31 for 1992 through 1996. During these five years, the occupancy rate has changed from year to year, increasing some years and decreasing in others. The lowest occupancy rate of the five-year period was in 1993, when the prisons were at 87% occupancy. In 1996, the prisons were close to maximum capacity, with a 98.4% occupancy rate.

**Prison Population vs. Capacity in 1992 to 1996
(As of December 31 each year)**



APPENDIX C

Agency Response

On July 28, 1997, we sent a copy of the draft audit report to the Department of Corrections for review and comment. The agency's response is included in this appendix.

After carefully reviewing the response, we made some minor clarifications to the draft audit that didn't affect any of our findings or conclusions.

STATE OF KANSAS



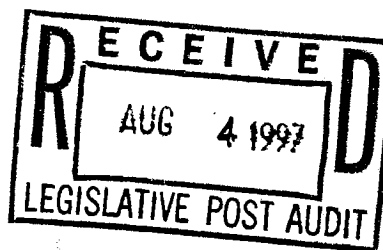
DEPARTMENT OF CORRECTIONS
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Landon State Office Building
900 S.W. Jackson — Suite 400-N
Topeka, Kansas 66612-1284
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Bill Graves
Governor

Charles E. Simmons
Secretary

August 4, 1997

Ms. Barb Hinton, Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson Suite 1200
Topeka, Kansas 66612-2212



Dear Ms. Hinton:

The Kansas Department of Corrections has reviewed the draft report, *Reviewing Reasons for Recent Increases in the Number of Former Inmates Returned to Kansas Prisons*, and we appreciate this opportunity to offer comments on the draft.

Most importantly, we believe that the Post Audit staff approached the study effort in a very professional and thorough manner, and we have no significant substantive issues to raise regarding the methodology used or the conclusions reached in the analysis. We appreciate the willingness of Post Audit staff to invest the considerable time and effort that was necessary to understand and evaluate the issues involved in parole supervision and revocation of offenders who violate conditions of parole or postrelease supervision.

The following comments are offered to clarify or elaborate on certain aspects of departmental policies and operations addressed in the audit.

Old Law Versus New Law

In some sections of the report, the distinction is not clearly drawn between offenders with determinate sentences imposed pursuant to the provisions of the Sentencing Guidelines Act and those offenders with indeterminate sentences imposed for crimes committed prior to July 1, 1993, the effective date of the act. The basic differences in these two groups of offenders relate to the method of release and to the length of time the offender may be incarcerated following revocation for condition violations. Some examples from the report where this distinction is relevant include the following:

- *on page 5*....the graphic representation of the parole process is accurate as it relates to parole. However, the frequency with which parole is used as a release mechanism will continue to decrease in the future as more and more inmates are released pursuant to a determinate sentence imposed under the Sentencing Guidelines Act.
- *on page 6*....the statement is made that offenders returned to prison for condition violations will remain in prison for 90-180 days. This is true for most offenders with determinate sentences (except that the limits do not apply if the revocation is prompted by a new misdemeanor or felony conviction—even if the conviction does not carry a prison sentence—in which case the offender will be incarcerated for the remaining balance of the postrelease supervision period). The 90-180 day limits do not apply, however, to offenders with indeterminate sentences. These offenders may remain incarcerated until they reach their conditional release or sentence expiration date, or until re-paroled by the Kansas Parole Board.
- *on page 15*....the statement is made that, between July 1993 and May 1997, parole violators “generally spent up to 90 days in prison once the Parole Board revoked their parole”. While we have not computed an actual average length of stay for parole violators during this time period, it likely would be longer than 90 days since the 90-day limit was first imposed by the Sentencing Guidelines Act for crimes committed on or after July 1, 1993.

Referrals to Community Corrections

We would like to offer as a general statement that community corrections programs in Kansas were originally designed to divert to community supervision certain offenders who would otherwise be sentenced to prison. Their primary mission to date has not included post-incarceration supervision of offenders. In recent years, however, the department has contracted with community corrections agencies to provide certain supervision services (such as intensive supervision) which are not funded in KDOC's budget. Also, as an efficiency measure, the department has contracted with Northwest Kansas Community Corrections to provide supervision services for all offenders on parole and postrelease supervision in the area. Additionally, we have two specific comments on this issue:

- *on page 24*....although the sample contained only two referrals to community corrections specifically for electronic monitoring purposes, we would like to note that the Olathe Parole Office uses Johnson County's electronic monitoring program extensively and has for some time. Because of this, purchase of electronic monitoring services from the KDOC contractor has not been necessary in this area.
- *on page 25*....reasons other than the one cited may preclude community corrections referrals from being made. For example, some programs may not accept certain types of offenders (such as sex offenders) or there may not be placement slots available. Community corrections programs were not intended for use by all types of offenders. They were designed for probation cases as a means of avoiding prison placement for offenders determined to be lesser risks to public safety. The individuals referred to these programs by the Department of Corrections are offenders who have previously failed in the community

and served prison time or were convicted of a crime severe enough to have warranted incarceration.

Other

- *on page 16*....the term "crack down" used in the conclusion section may be an overstatement. The department has increased its emphasis on adherence to the field contact and drug testing standards. These standards apply to all offenders on parole and postrelease supervision, not just those who violate conditions. The basis for this approach was not to crack down on violators but to improve our case management.
- *on page 17*....technically, participation in an inpatient treatment program or other program intervention is not considered to be a sanction under the department's Condition Violation Alternative Grid. Program participation may, however, be a requirement imposed on an offender in response to a condition violation.
- *on page 6*....use of Ellsworth Correctional Facility (ECF) to house parole violators. For a period of time, ECF was designated as a special purpose facility for parole violators. That no longer is the case as a matter of policy, although in practice a majority of the ECF population still is comprised of parole violators. On July 30, 1997, 41% of all condition violators incarcerated on that date were housed at ECF, with the remainder being distributed among the other facilities. Prior to January 1, 1996, parole violators generally received fewer privileges because of their status as parole violators. The department has since implemented a system of earned privileges for all offenders. Parole violators are no longer singled out as a special category for the purpose of defining eligibility for privileges—although they generally are assigned to the lower privilege levels because of the time it takes after admission to earn up to the higher privilege levels.

The auditors noted in the conclusion on page 16: "However, we didn't see anything to suggest parole officers were recommending revocation without good reason." In the conclusion on page 25 the auditors noted the efforts utilized by parole officers to try alternative methods to get parolees to comply with the conditions of their parole or postrelease supervision before recommending revocation. These statements, in my opinion, show that the Department of Corrections has a dedicated, professional parole staff who work on a daily basis with a very difficult offender group. They take their role in fulfilling the department's mission of public safety very seriously. I believe this audit confirms that they are appropriately using the resources available to them and are taking reasonable, measured actions to attain compliance by offenders with the conditions imposed. In short, they are doing their job well.

Sincerely,



Charles E. Simmons
Secretary