



55th

WEST VIRGINIA PAROLE BOARD

ANNUAL REPORT

JULY 1, 2008 – JUNE 30, 2009

Compiled and typed on July 29, 2009

Statutory Charge: West Virginia Code 62-12-12..24

- The Board of Parole, whenever it is of the opinion that the best interest of the State and of the Inmate will be served, and subject to the limitations hereinafter provided, shall release any inmate on parole for terms and upon conditions as are provided by this article.
- The West Virginia Parole Board shall consist of nine (9) members, appointed by the Governor, with the advice and consent of the Senate, for overlapping terms of six (6) years.
- One member shall be designated by the Governor to serve as Chairman.
- One member shall be selected by the Board to serve as Member/Secretary.
- Appointments following the effective date of this section shall be made in such a manner that each congressional district is represented and so that no more than four and no less than two members of the board reside in any one congressional district.
- No more than two members of the board may reside in any one county.
- No more than five of the board members may at any one time belong to the same political party.
- The members of the Board shall devote their full time and attention to their Board duties.
- The Board will determine parole eligibility, and subsequent granting or denial of parole, for the adult inmate population of the State of West Virginia.

West Virginia Parole Board Mission Statement

The West Virginia Parole Board, as part of West Virginia's criminal justice system, makes independent, quality, conditional releases of adult offenders. It also makes clemency recommendations to the Governor for adult offenders. The Board contributes to the protection of society by facilitating, as appropriate, the timely integration of offenders back into society as law-abiding citizens.

West Virginia Parole Board Vision Statement

The West Virginia Parole Board will be committed to a partnership with the citizens of West Virginia in promoting public safety, providing a continuum of services for offenders, coordinating victim services, and by equipping employees with access to adequate training bases upon effective intervention. The Board will utilize a direct link with policies and procedures by incorporating agencies designed and mandated to fulfill the same fundamental principles to yield the greatest efficiency, management and productivity with a minimum amount of duplication of effort.

West Virginia Parole Board Vision

We believe:

- The Highest Priority of the West Virginia Parole Board must be the interest in public safety through the highest degree of performance standards by all staff at all times.
- Offenders must be treated firmly, fairly and consistently.
- Parole Board decisions, as appropriate, must have demonstrated effects on offender management and reintegration.
- All persons must be treated with respect and dignity.
- Service-oriented actions, tasks, requests and inquiries must be handled timely and accurately.
- Excellence and quality must be pursued in the provision of services.
- Teamwork and leadership must be encouraged.
- Managers, supervisors and staff must be supported and empowered as they carry out their individual duties.

Primary Duties of the West Virginia Parole Board

- Comprehensively review the files of all parole eligible incarcerated adults.
- Provide notice of scheduled parole interviews to each inmate, Division of Corrections institutions, sentencing judge, prosecuting attorney, arresting officer, victims and interested parties.
- Schedule and conduct monthly parole interviews at each of the adult Division of Corrections institutions.
- Hold parole revocation hearings throughout the State of West Virginia for those persons who have previously paroled and have violated parole conditions.
- Consider all requests by the Division of Corrections and by parolees for release or discharge from further parole supervision,
- Investigate, consider and make recommendations to the Governor regarding the many applications for Executive Clemency (pardons, reprieves, expungement, time cuts or commutation of sentence).
- Continuously correspond with all persons who have an interest in the Board's activities.
- Conduct general office duties including staffing, training, supervising staff and aiding in budget preparations and presentation.

WEST VIRGINIA PAROLE BOARD
MAJOR ACCOMPLISHMENTS AND EVENTS FOR FISCAL
YEAR 2008-2009

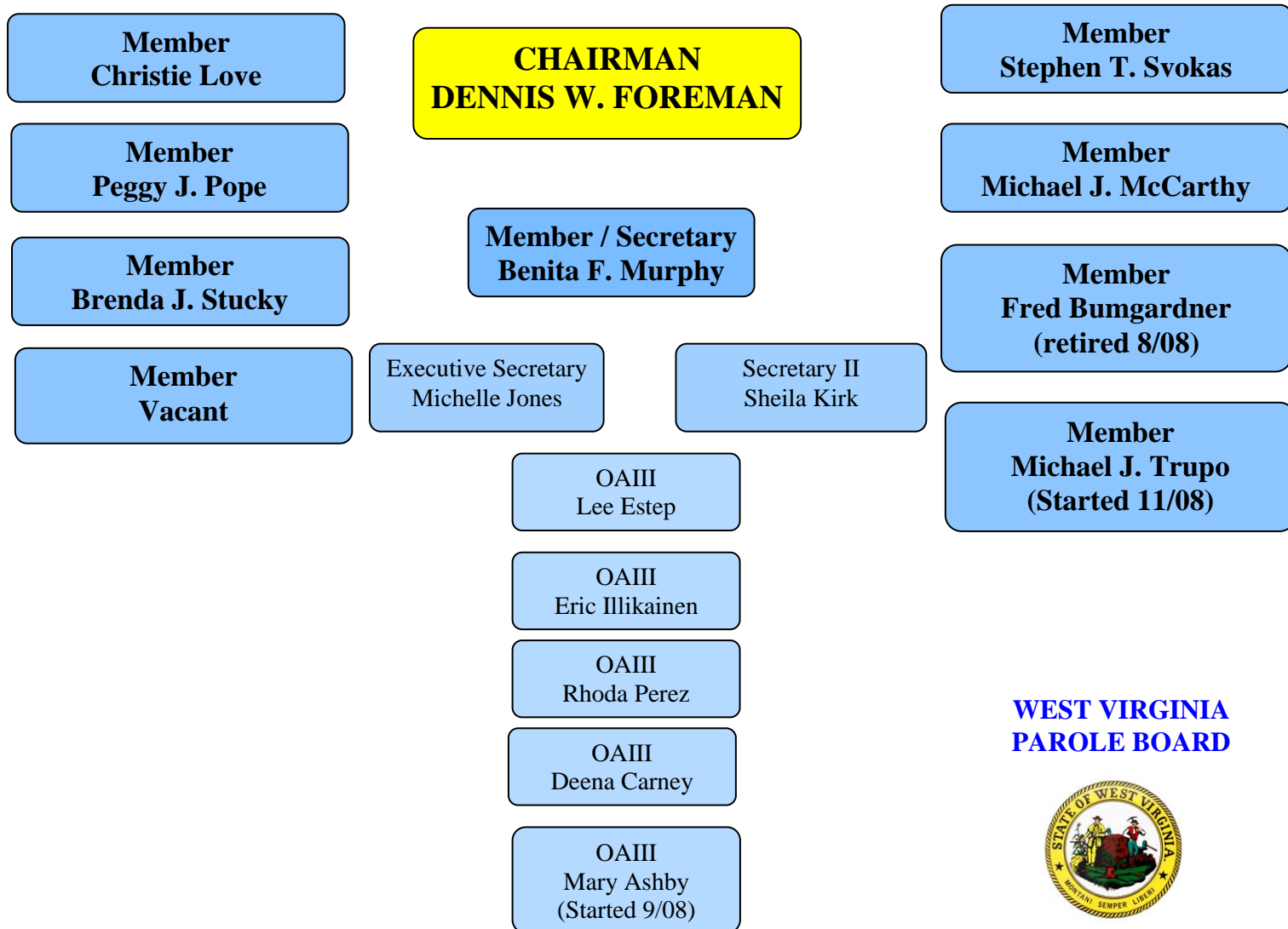
- ❖ During **Fiscal Year 2008/2009** there were 3,833 offenders eligible for parole. The grant rate for the Fiscal year 2008/2009 was 56% (see page 26).
- ❖ Continue holding hearings by video teleconferencing, where available. The Regional Jail Authority and the Department of Corrections provide the video teleconference equipment. The West Virginia Parole Board interviewed approximately 3,833 offenders eligible for parole. The video institutions are Denmark Correctional Center, Beckley Correctional Center, Northern and Ohio Correctional Centers, Martinsburg Correctional Center (when necessary), all Regional Jails, Anthony Correctional Center (when necessary) and Mt. Olive Correctional Center. The on-site institutions are Charleston and Huntington Work Releases, Huttonsville Correctional Center, Lakin Correctional Center for Women, McDowell County Correctional Center, Stevens Correctional Center, St. Mary's Correctional Center, and Pruntytown Correctional Center.
- ❖ In the process of the validation of a Risk Assessment Tool;
- ❖ In the process of implementation of a web page;
- ❖ Continue to improved communications with the Division of Corrections' Institutional Parole Officers, Field Parole Officers, and Central Office Staff regarding expectations of the Parole Board regarding offender parole hearings. Additional funding would allow attendance at DOC meetings and/or functions in order to continue improvements in this area.

- ❖ Continue to work in agreement with the Division of Corrections on the Re-Entry and Sex Offender Management Programs. If schedule permits, the Chairman or a Board Member attends meetings.
- ❖ The West Virginia Parole Board entered into a working agreement in conjunction with the Division of Corrections for Legal Counsel at cost savings for budget purposes. (This agreement is likely to change in the future; therefore, additional funding to obtain legal counsel for the Parole Board may be necessary).
- ❖ Continue to schedule parole revocation hearings when feasible on the same date/location as parole hearings for cost efficiency and also to be able to give the parolee a decision immediately following the revocation hearing. In addition, a number of parole hearings are held by video teleconferencing at cost savings.
- ❖ Continue to upgrade all office equipment in the Parole Board (including flat screen computer monitors, CPU's, color printer, laptops for recording parole hearings and revocation hearings) in order to provide the most efficient service. (In order to keep up with technology, additional funding may be necessary in the future for this same purpose).
- ❖ Continue to participate in the Therapeutic Community Programs at all Department of Corrections' facilities.
- ❖ Re-enforcing the law requiring inmates to have an approved home plan prior to their parole interview. This has almost completely eliminated pocket parolees. If granted parole, the approved home plans combined with on-site parole interviews allows inmates to be released the same day they are interviewed.

West Virginia Parole Board Goals and Objectives

- Strive to bring a higher public profile to the West Virginia Parole Board:
 - Educate the public regarding parole issues beginning with the involvement of the criminal justice programs at various colleges and universities and continuing to speak at public schools and meetings.
 - Educate victims of crimes regarding the parole process and their involvement therein.
 - Engage and inform the West Virginia Legislature in parole related issues.
 - Initiate public relations contact with various organizations and other State agencies so that they may better understand the parole process and the issues involved.
- Maintain compliance with court orders and statutes.
- Continue to provide every effort to interview every inmate as they become eligible for parole.
- Release inmates according to the mission statement.
 - Continue to conduct careful, thorough, precise reviews of inmate files.
 - Carefully analyze all statements made by inmate, victims, families and other interested parties during the parole interview.
 - Consider public safety first.
- Continue to improve the working relationship between the West Virginia Parole Board and the West Virginia Division of Corrections.

ORGANIZATIONAL CHART



**WEST VIRGINIA
PAROLE BOARD**



HISTORY OF THE CREATION OF THE CURRENT WEST VIRGINIA PAROLE BOARD

The current philosophy, policy, procedures and make up of the West Virginia Parole Board did not just happen overnight. It was a process that began in 1939, and through numerous changes mandated by the West Virginia Legislature (WV Statutes 62-12-12, 62-12-13, 62-12-13a, 62-12-17, 62-12-18, 62-12-19, 62-12-22, and 62-12-23), Supreme Court rulings, and changes in the "Rules and Regulations", resulted in the 1997 West Virginia Parole Board.

If you reviewed the West Virginia Blue Books to look at the history of the Parole Board, you would need to start in the year 1939. The entry for the Director of the Probation and Parole in the 1939 Blue Book states:

"Under the probation and parole act of 1939, provision is made for the selection of probation and parole officers as the basis for the state centralized adult probation and parole program, the chief function of which is the investigation of the suitability and eligibility of convicted persons for either probation or parole, and the supervision of the conduct of those who are released. The Director, with the approval of the Governor, shall release prisoners on parole, and courts

of record having original jurisdiction of criminal actions shall release offenders on probation."

As you can see, the seed of the current West Virginia Parole Board was a single person, a Director of Probation and Parole. The Director was responsible for reviewing the cases, interviewing the inmates, and recommending release on parole to the Governor. The Governor had the final approval as to whether the inmate was granted parole or not. The first appointed Director was Stanley E. Dadisman. Mr. Dadisman was assisted in his endeavors by a support staff that consisted of a secretary, a parole and record clerk, and six probation and parole officers.

In 1953, the West Virginia Legislature deleted the position and title of Director of Probation and Parole. The West Virginia Board of Probation and Parole were created by an Act of the Legislature passed by the Regular Session of 1953. The board was required, with the approval of the Governor, to adopt rules and regulations governing procedure for granting probation and parole, and had the authority, with the approval of the Governor, to release on parole. The board was to hold hearings and consider cases of eligible inmates twice each year. The board was also to have general supervisory control over all court and county probation officers and to supervise all probationers and

parolees. The salaries of the members were established to be \$7,200 per year plus necessary expenses. The three members were to be appointed by the Governor, with advice and consent of Senate, were to be bipartisan, and were appointed for overlapping terms of six years.

The Chairman appointed in 1953 and charged with upholding the duties of the newly created board was Dana Eakle. The other two members appointed by the Governor were J. Alexander Creasey and James Parker Easley.

Even though the 1953 Legislature created a board of three members to review cases and interview eligible inmates, it left the final approval of release on parole to the Governor.

In 1955, the Legislature amended that portion of the West Virginia Statute that required bi-annual parole interviews to annual interviews.

In 1957, the Legislature again amended the West Virginia Statute. This change had a major impact as it gave the board the **sole authority to release eligible prison inmates on parole**. The board was charged with interviewing cases, interviewing eligible inmates, and granting parole, if feasible. The Governor no longer had the final approval.

In 1966, the board was still charged with adopting rules and regulations, with the approval of the

Governor, governing procedure for granting parole. The board still had the sole authority to release on parole. The members were still to hold hearings and consider charges of violation of parole and had the authority to revoke or to continue parole. However, by an act passed by the Legislature in the Regular Session of 1966, the probation and parole officers were removed from the jurisdiction of the West Virginia Board of Probation and Parole. Those officers became employees of the West Virginia Department of Corrections.

The Chairman, during the period of dramatic change, was Robert E. Kuhn.

The 1994 Legislature again amended WV Statute 62-12-12 by changing the names of the West Virginia Board of Probation and Parole to the West Virginia Parole Board. This title more accurately represents the function of the board. A more important change made by the Legislature was increasing the make-up of the Parole Board from three members to five members. The members were appointed by the Governor to overlapping terms of six years.

The previously described changes made by the legislature affected the design of the Parole Board. The current Board developed from the seed of the Director of Probation and Parole, through a three member Board of Probation and Parole, to the current nine member West Virginia Parole Board. The procedure

of granting parole has changed from Governor having the final approval to the Board having sole authority.

The 2005 Legislature significantly revised the manner in which Parole Board proceedings are conducted. The Parole Board consists of 9 members. The Board works in panels of three members. The functions undertaken by the three member panels include decisions concerning the granting of parole to eligible inmates; revocation of parole by parolees who have violated terms and conditions of parole and decisions relating to the final release and/or discharge from parole supervision of parolees who have successfully completed periods of supervision.

The legislature has also enacted Statutes that regulates: Conditions of release on parole (62-12-17); Period of parole, discharge (62-12-18); Violation of parole (62-12-19); and Notification of parole hearing or release date to victim or member of immediate family (62-12-23).

RULES AND REGULATIONS OF THE WEST VIRGINIA PAROLE BOARD

Numerous changes have been made in the rules and regulations established by the board to govern the procedure to grant parole. However, the basis premise has not been changed. The earliest printed rulebook available in the Parole Board's library is dated August 31, 1953 and is titled "Rules, Regulations, and Procedures of the West Virginia Board of Probation and Parole, Charleston, West Virginia." New rules and regulations were printed in 1959, 1963, 1971, 1983, 2001, 2002, 2005, and 2006. The current Parole Board is using Rules and Regulations dated July 2006.

Duties and functions of the West Virginia Parole Board are defined by statute as: the determination to release or not to release adult inmates from the State penal institutions through the parole process; subsequent to parole release, the determination to continue or revoke the parole granted; and on request from the Governor; investigate, report, and make recommendations to him on matters of executive clemency.

I. APPOINTMENTS:

The Governor appoints the nine-member Board, and designates who will serve as Chairman. The Board Members elect the Secretary/Member. Appointments are made for overlapping terms of six years with the advice and consent of the Senate. The Board operates independently of other divisions and is responsible to the Governor through the Cabinet Secretary - Department of Military Affairs and Public Safety.

II. OPERATIONS:

The Board, with approval of the Governor, shall adopt rules and regulations governing the procedure in granting parole.

Although the Board operates independently of the Division of Corrections, it nevertheless works in close cooperation with that division. Once the Board grants parole, the Division of Corrections actually releases the parolee to their approved home plan. An area parole officer who is responsible to the Division of Corrections supervises the parolee, once released.

The West Virginia Parole Supreme Court of Appeals has held that: "...Our parole statute creates a legitimate reasonable expectation that parole will be granted." They also agreed with the United States Supreme Court, which held: "The parolee is not the only one who has a stake in his conditional liberty. Society has a stake in whatever may be the chance of restoring him to normal and useful life within the law." The State Court also declared that due process requires that parole release processes include the following standards:

- (1) Each prospective parolee must be given timely and adequate notice of the date of his parole release interview;

- (2) An inmate is entitled to access to information in his record which will be used to determine whether he receives parole (absent overriding security considerations which must be recorded in his file);
- (3) Each inmate may personally appear before the Parole Board and give oral and documentary evidence;
- (4) A record, which is capable of being reduced to writing, must be made of each parole release interview to allow judicial review; and
- (5) Inmates to whom parole has been denied are entitled to a written statement of the reason for denial.

Once an inmate has satisfied the minimum statutory requirements for eligibility and insofar as possible the parole process in West Virginia usually progresses as follows:

- (1) The inmate is notified a minimum of fourteen (14) days in advance of the date of his scheduled interview.
- (2) He is given access to information in his record, which will be used in parole consideration (absent overriding security considerations).

- (3) He appears personally or by video teleconference before the Board and is interviewed by the Board.
- (4) The interview is recorded.
- (5) The Board deliberates and arrives at a decision; two votes are required to grant or deny parole.
- (6) The inmate is informed of the decision. If parole is granted he is told of any special conditions. If parole is denied, he is entitled to an interview thereafter not to exceed twelve (12) months time, unless he is serving a life with mercy term in which case the Board may offset him for up to three years.

III. LOCATIONS:

The Board convenes for the purpose of conducting hearings for parole at the following locations:

- (1) The Mt. Olive Correctional Complex at Mt. Olive.
- (2) The Northern Regional Jail and Correctional Center at Moundsville; and, Ohio Correctional Center at Wheeling.
- (3) The Huttonsville Correctional Center at Huttonsville.
- (4) The Pruntytown Correctional Center at Grafton.
- (5) The Denmark Correctional Center at Hillsboro.

- (6) The St. Mary's Correctional Center at St. Mary's.
- (7) The Work Study Release Centers at Huntington, Charleston, and Beckley.
- (8) McDowell County Correctional Center at Welch.
- (9) Stevens Correctional Center at Welch.
- (10) Lakin Correctional Center for Women at West Columbia.
- (11) Anthony Correctional Center at White Sulphur Springs.
- (12) Martinsburg Correctional Center, Martinsburg, WV.
- (13) The Regional Jails at: Sutton, Beaver, Charleston, Martinsburg, Augusta, Holden, Barboursville, Moundsville, Greenwood, and Belington.

IV. REQUIREMENTS/PROCEDURES:

For an inmate to be paroled, the Legislature requires:

- (1) That an inmate appears, in person or by video teleconference, before the Parole Board.
- (2) The inmate shall have served the minimum term of his/her indeterminate sentence, with the exception of the crime of Delivery of a Controlled Substance within 1000 Feet of a School, in which case the inmate must serve two

(2) years of his/her indeterminate sentence. In the case of a determinate sentence, the inmate must have served one fourth (1/4) of his/her sentence, with the exception of the offenses of Second Degree Murder and Voluntary Manslaughter committed after June 10, 1994. 61-2-3 of the West Virginia Code, passed by the 1994 Legislature, specifies that an inmate sentenced for the offense of Second Degree Murder must serve a minimum of ten (10) years to become eligible for parole. 61-2-4 of the West Virginia Code, passed by the 1994 Legislature, specifies that an inmate sentenced for the offense of Voluntary Manslaughter must serve a minimum of three (3) years to become eligible for parole. If an inmate is sentenced to Life with Mercy, and the crime occurred prior to June 10, 1994, the inmate will be eligible for parole after serving ten (10) years, if the crime occurred after June 10, 1994, the inmate will be eligible for parole after serving fifteen (15) years.

- (3) If an inmate so committed or attempted to commit the crime of robbery as defined in Section 61-2-12 of the West Virginia State Code, with the use, presentment or brandishment of a firearm, the inmate must serve one-third

(1/3) of his determinate sentence or five (5) years, whichever is greater. If the inmate so committed or attempted to commit any other act, and was convicted of a felony under any section of the West Virginia Code, other than 61-2-12, then that inmate shall be eligible for parole after serving three (3) years or the minimum of the sentence, whichever is greater.

- (4) If parole is not granted at an interview, the inmate must be seen again within the next twelve (12) months providing the inmate's conduct record does not prolong the interval and providing the inmate is not serving a life with mercy sentence, in which case the Board may offset the next interview for up to three (3) years.
- (5) The inmate shall not be under punishment or in Disciplinary Segregation for any rule infraction.
- (6) The inmate shall have maintained a record of clear conduct for at least ninety (90) days preceding release on parole.
- (7) That the inmate shall have satisfied the Board that he/she will not constitute a danger to the community, if released on parole.

- (8) If parole is denied, the Board will immediately notify the inmate of the decision, and the reasons for that denial.
- (9) If parole is granted, he may be released to his approved home plan upon receiving the decision.

V. REVOCATIONS:

When the Division of Corrections places parole violation charges against a parolee, the parolee is referred to the Board for revocation.

A panel designated by the Chairman shall consider such and determine by vote whether to hold a revocation hearing and, if so, with respect to which charges. If the vote is not to hold a hearing, the Division of Corrections is instructed to place the parolee back under supervision.

If the vote is to hold a revocation hearing, the case is assigned to a panel who conducts the final revocation hearing wherever the parolee is incarcerated.

At least two members of the panel shall be present in order for the panel to hear and rule upon any matter. No inmate may have his or her parole revoked without the vote of at least two members. In the event that a hearing is conducted by two members and the two members are unable to agree upon a ruling, the transcript and record of the proceedings shall be

reviewed by the third member, at a later time, the third member shall cast the deciding vote, after a review of the transcript and records. The panel may also entertain dispositive motions based upon the documentation and/or evidence presented.

VI. MAKE-UP:

During the fiscal year 08-09, the Parole Board was made up as follows:

Dennis Foreman, Chairman

Benita Murphy, Member/Secretary

Frederick R. Bumgardner, Member (retired 8/08)

Christie Love, Member

Brenda Stucky Member

Peggy Pope, Member

Michael McCarthy, Member

Steve Svokas, Member

Michael Trupo, Member (started 11/08)

Vacancy

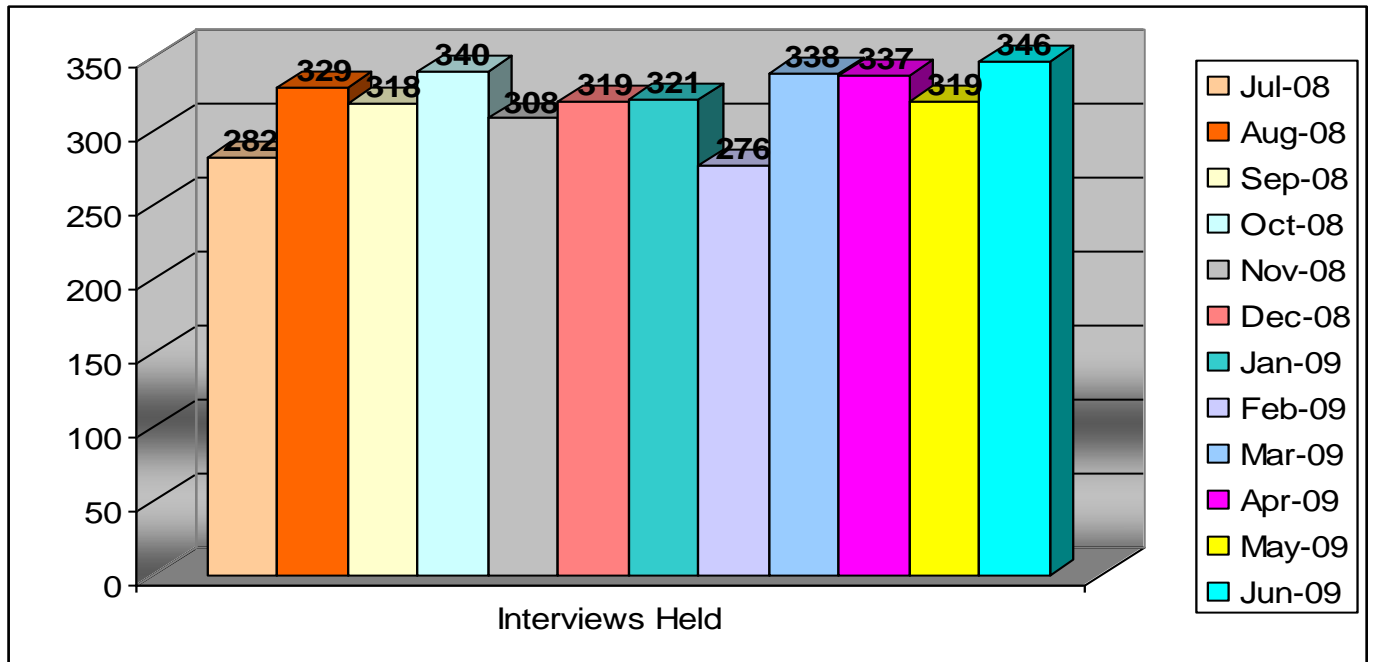
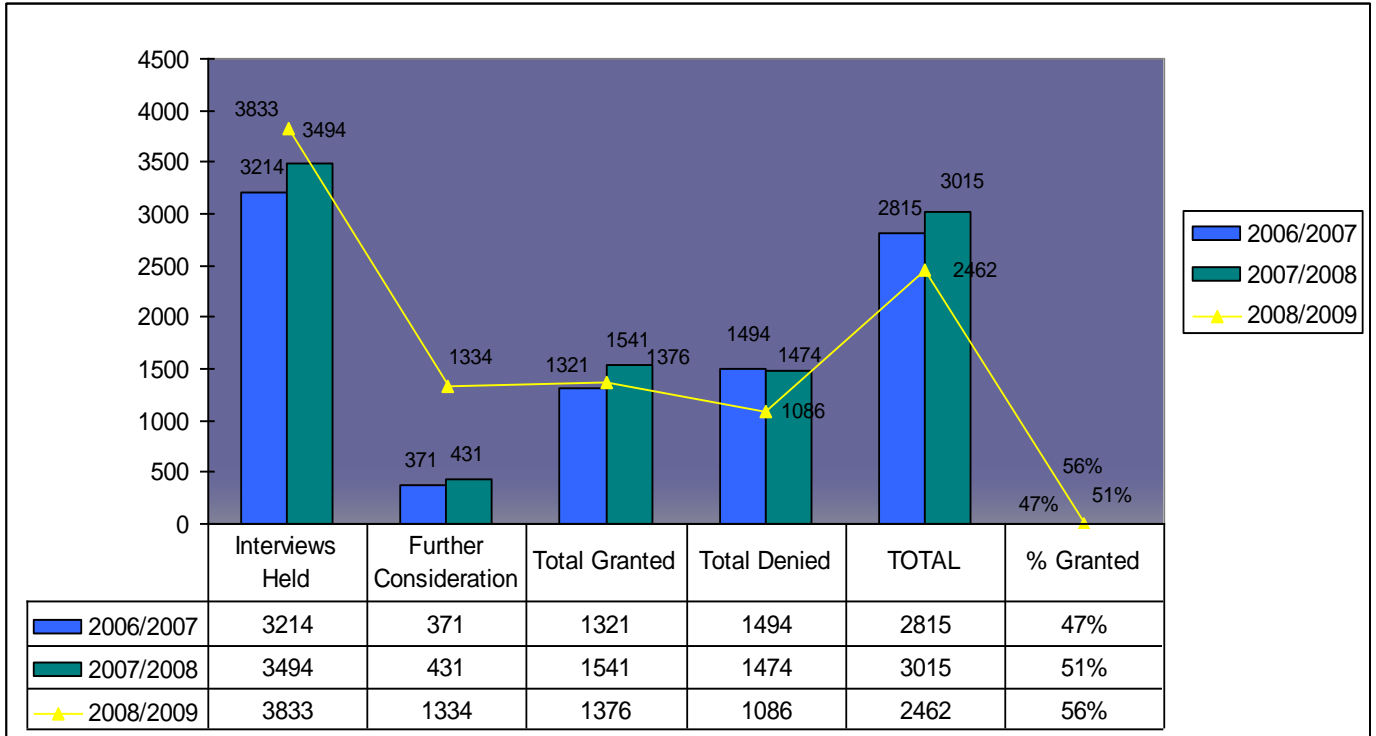
INTERVIEWS AND DECISIONS GRANTING OR DENYING PAROLE

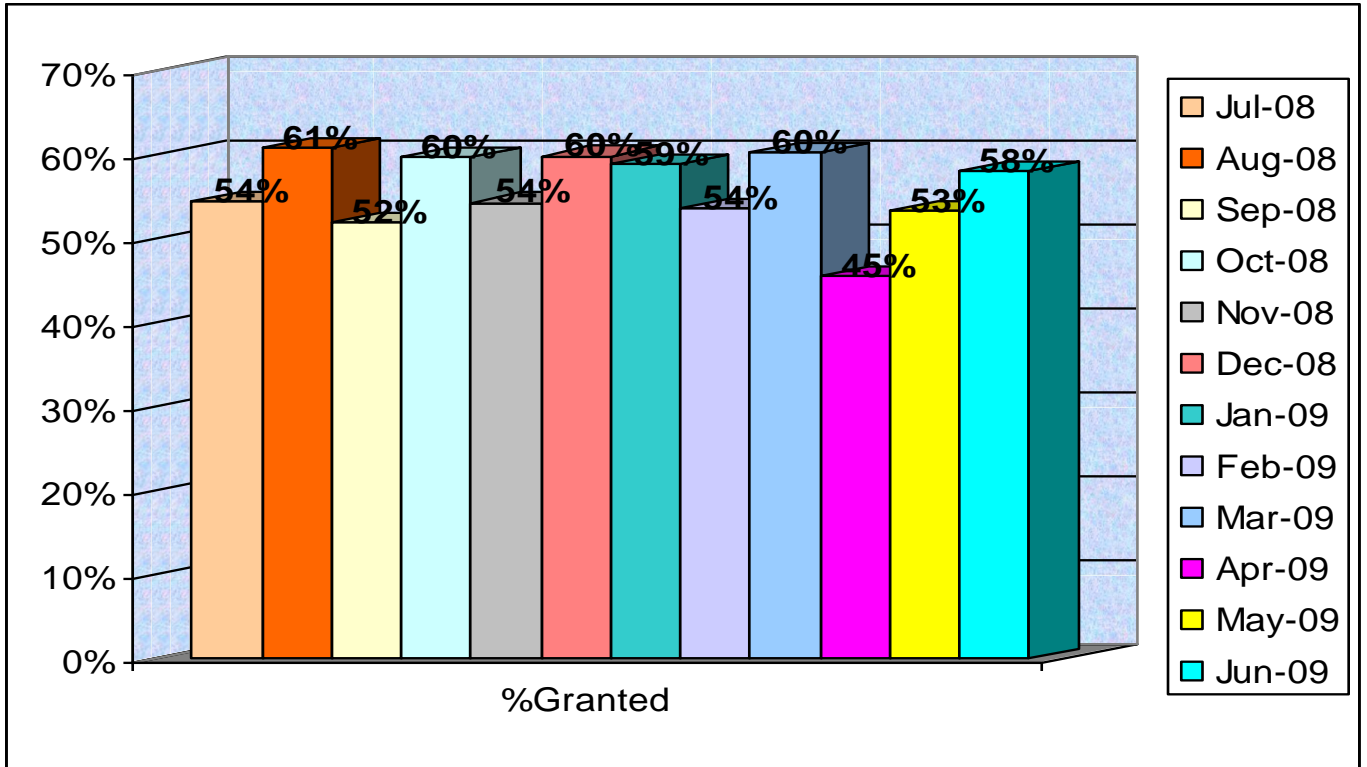
The data below indicates the Parole Board's activities as to interviews and the decisions in granting or denying parole for the last three years:

FISCAL YEAR	2006/2007	2007/2008	2008/2009
Interviews Held	3214	3494	3833
Parole Granted	1321	1541	1376
Parole Denied	1494	1474	1086
*Fur. Cons.	371	431	1334
**Rescinded	9	17	17
**Reinstated	19	31	20
Total Granted	1321	1541	1376
Total Denied	1494	1474	1086
TOTAL	2815	3015	2462
%Granted	47%	51%	56%

*Inmates are placed under further consideration after an interview: if required or necessary documentation is missing, to wait completion of a class, to consider more thoroughly, etc. The Board re-interviews inmates, if missing documents are received. If the Board placed an inmate under further consideration for reasons other than missing documentation, a decision could be made without a re-interview.

**If an inmate is found guilty of violating prison rules after he/she has been granted parole, the Board schedules a rescission hearing to determine whether the granting of parole should be rescinded or reinstated.





PAROLE VIOLATION HEARING CASES

Parole Violation referrals acted on

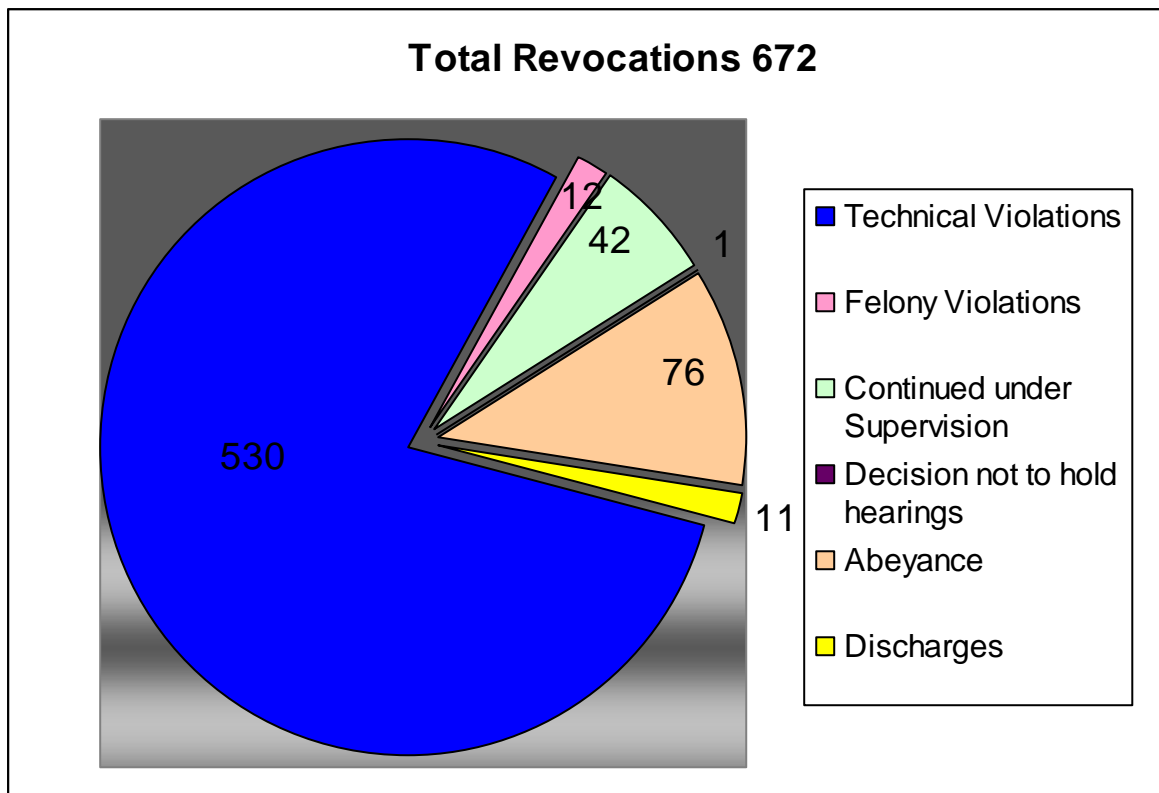
during 2008/2009.	672
Parole revoked on technical grounds . .	530
Parole revoked on felony grounds. . . .	12
Parole continued under supervision. . .	42
Decision not to hold hearings	1
Held in abeyance	76
Discharged	11
TOTAL REVOCATIONS	672

- During this fiscal year, we granted parole to 1,376 (56%) individuals interviewed.
- Of those individuals granted parole, seventeen (17) of them had their parole rescinded (1%).
- The Board made a total of 672 decisions regarding parole violation referrals.
- We revoked the parole of 530 individuals on technical grounds.
- We revoked the parole of 12 individuals who were convicted of new offenses that occurred while on parole.
- We continued 42 individuals under parole supervision after conducting revocation hearings.
- We decided not to hold 1 hearing and the individual was placed back under supervision.

- We held 44 individuals' charges in abeyance and continued their parole supervision.
- Eighty percent (81%) (530+12=542)÷672) of parole violation referrals acted upon during the fiscal year 2008/2009 were revoked.

The parolees that were referred for revocation were not all paroled during the fiscal year 08-09. Some of the violators had been on parole status for years.

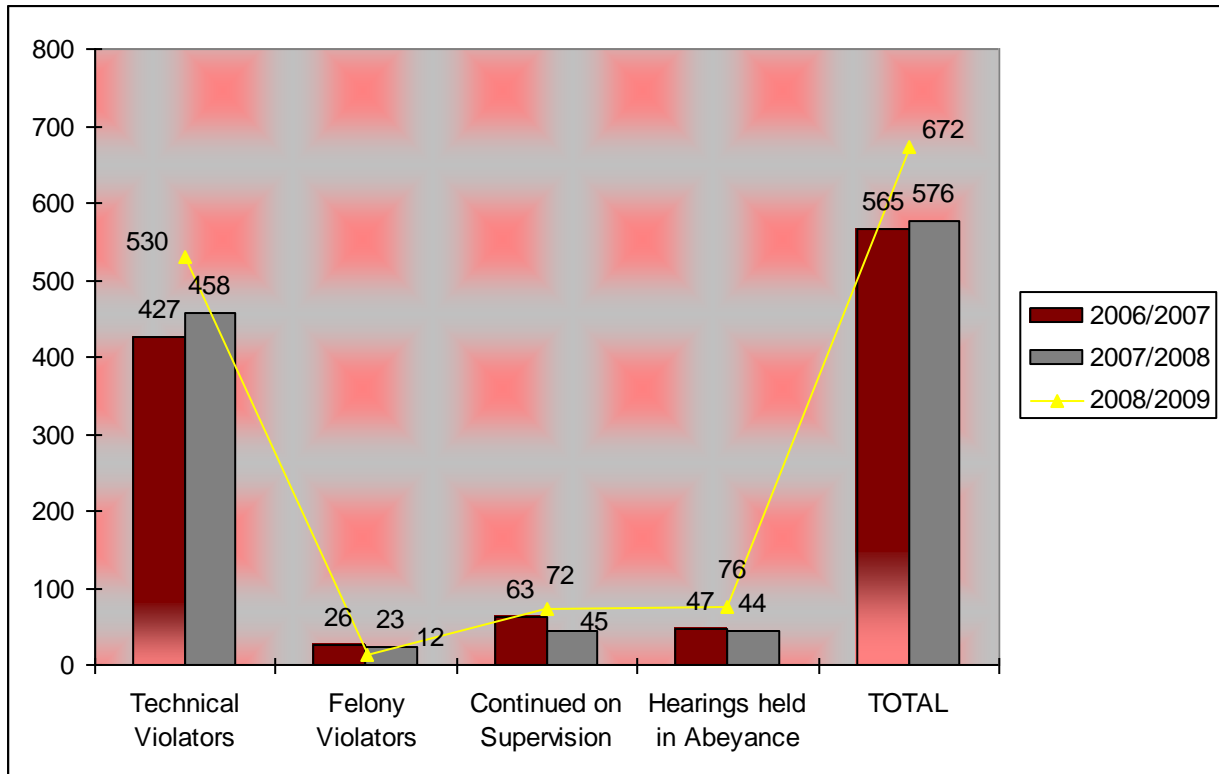
It should also be noted that the Parole Board does not track individuals who have discharged their sentences from prison; therefore, a complete report on recidivism cannot be construed from this report.



PAROLE VIOLATION HEARING CASES

The data below indicates the Parole Board's activities as to parole violation hearing referrals for the two previous years:

FISCAL YEAR	2006/2007	2007/2008	2008/2009
Revoked on Technical Grounds	427	458	530
Revoked Due to New Felony	26	23	12
Continued under Supervision	63	45	42
Decision Not to Hold Hearing	0	2	1
Hearings Held in Abeyance	47	44	76
Total Decisions	565	576	672



**DISCHARGED FROM PAROLE
FOR FISCAL YEAR 2008/2009**

Maximum Discharge	144
Early Discharge Granted	711
Early Discharge Denied	174
Total Discharged	855
TOTAL CONSIDERED	1029

**EXECUTIVE CLEMENCIES
FOR FISCAL YEAR 2008/2009**

The total Executive Clemency recommendations to the Governor for adult offenders were 68.