

HISTORY OF THE FEDERAL PAROLE SYSTEM

*U.S. Department of Justice
United States Parole Commission*

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Edward F. Reilly, Jr., Chairman

May 2003

UNITED STATES PAROLE COMMISSION

Commissioners

Edward F. Reilly, Jr., Chairman

Cranston J. Mitchell

John R. Simpson

This report was prepared by Peter B. Hoffman, Ph.D., a consultant to the Parole Commission. It updates an earlier history of the Parole Commission prepared by Dr. Hoffman in 1997 when he was Staff Director of the Parole Commission.

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INTRODUCTION

Parole of federal prisoners began after enactment of legislation on June 25, 1910. There were three federal penitentiaries and parole was granted by a parole board at each institution. The membership of each parole board consisted of the warden of the institution, the physician of the institution, and the Superintendent of Prisons of the Department of Justice in Washington, D.C.

By legislation of May 13, 1930, a single Board of Parole in Washington, D.C. was established. This Board consisted of three members, serving full time, appointed by the Attorney General. The Bureau of Prisons performed the administrative functions of the Board. In August 1945, the Attorney General ordered that the Board report directly to him for administrative purposes. In August 1948, due to a postwar increase in prison population, the Attorney General appointed two additional members, increasing the Board of Parole to five members.

By legislation of September 30, 1950, the Board was increased to eight members appointed by the President, with the advice and consent of the Senate, for six-year, staggered terms. The Board was placed in the Department of Justice for administrative purposes. Three of the eight members were designated by the Attorney General to serve as a Youth Corrections Division pursuant to the *Youth Corrections Act*.

In October 1972, the Board of Parole began a pilot reorganization project that eventually included the establishment of five regions, creation of explicit guidelines for parole release decision-making, provision of written reasons for parole decisions, and an administrative appeal process. By October 1974, five regions were operational with one member and five hearing examiners assigned to each region. The chairman and two members remained in Washington, D.C., at the headquarters office.

In May 1976, the *Parole Commission and Reorganization Act* took effect. This Act re-titled the Board of Parole as the United States Parole Commission and established it as an independent agency within the Department of Justice. The Act provided for nine commissioners appointed by the President, with the advice and consent of the Senate, for six year terms. These included a chairman, five regional commissioners, and a three-member National Appeals Board. In addition, the Act incorporated the major features of the Board of Parole's pilot reorganization project: a requirement for explicit guidelines for parole decision-making and written reasons for parole denial; a regional structure; and an administrative appeal process. The Youth Corrections Division of the Board of Parole was eliminated and its duties absorbed by the Commission.

Eight years later, the *Comprehensive Crime Control Act of 1984* created a United States Sentencing Commission to establish sentencing guidelines for the federal courts and established a regime of determinate sentences. The Chairman of the Parole Commission is an ex-officio, non-voting, member of the Sentencing Commission. The decision to establish sentencing guidelines was based in substantial part on the success of the U.S. Parole Commission in developing and implementing its parole guidelines. On April 13, 1987, the U.S. Sentencing Commission submitted

to Congress its initial set of sentencing guidelines, which took effect on November 1, 1987. Defendants sentenced for offenses committed on or after November 1, 1987 serve determinate terms under the sentencing guidelines and are not eligible for parole consideration. Post-release supervision, termed "supervised release," is provided as a separate part of the sentence under the jurisdiction of the court.

Under the *Comprehensive Crime Control Act of 1984*, the United States Parole Commission retained jurisdiction over defendants who committed their offenses prior to November 1, 1987. At the same time, the Act provided for the abolition of the Parole Commission on November 1, 1992 (five years after the sentencing guidelines took effect). This phase-out provision did not adequately provide for persons sentenced under the law in effect prior to November 1, 1987 who had not yet completed their sentences. Elimination of, or reduction in, parole eligibility for such cases would raise a serious *ex post facto* issue. To address this problem, the *Judicial Improvements Act of 1990* extended the life of the Parole Commission until November 1, 1997.

The *Parole Commission Phaseout Act of 1996* again extended the life of the Parole Commission for the same reason. This Act authorized the continuation of the Parole Commission until November 1, 2002. In addition, it provided for a reduction in the number of Parole Commissioners – to two Commissioners by December 31, 1999, and one Commissioner by December 31, 2001 – and required the Attorney General, beginning in 1998, to report to Congress annually on whether it was more cost effective for the Parole Commission to continue as a separate agency or for its remaining functions to be transferred elsewhere. The Attorney General has reported each year that it is more cost effective for the Parole Commission to continue as a separate agency.

The *National Capital Revitalization and Self-Government Improvement Act of 1997* gave the Parole Commission significant additional responsibilities. First, the Act provided for the abolition of the District of Columbia Board of Parole by August 5, 2000 and the transfer of its responsibilities to the U.S. Parole Commission. On August 5, 1998, the Parole Commission assumed jurisdiction over all parole release decisions for prisoners confined under D.C. Code felony sentences. On August 5, 2000, the Parole Commission assumed jurisdiction over parole and mandatory release supervision and revocation decisions for all persons serving D.C. Code felony sentences. Second, the Act required the District of Columbia to move to a determinate sentencing system (at least for certain offenses), provided for terms of supervised release to follow the determinate sentences to be imposed, and gave the Parole Commission ongoing responsibility for supervision and revocation decisions for D.C. Code offenders subject to terms of supervised release under the new determinate sentencing system. In August 2000, the District of Columbia enacted a determinate sentencing system for all offenses committed on or after August 5, 2000.* At the end of 2001, the first D.C. Code determinate sentence cases were released from prison on supervised release under the jurisdiction of the Parole Commission. Third, the Act repealed the portion of the 1996 Act that reduced the number of Parole Commissioners authorized and instead provided for five Parole Commissioners.

*As the statute was signed on August 11, 2000 at 5:00 p.m., offenses committed on or after August 5, 2000 but before August 11, 2000 at 5:00 p.m. may be subject to the provisions of the *ex post facto* clause.

Since the decision to abolish the Parole Commission in the *Comprehensive Crime Control Act of 1984*, Congress has twice extended the life of the Parole Commission, most recently until November 1, 2002. Congress also has given the Parole Commission additional ongoing responsibilities, including the responsibility for making prison-term decisions in foreign transfer treaty cases for offenses committed on or after November 1, 1987 (*Anti-Drug Abuse Act of 1988*); jurisdiction over all state defendants who are accepted into the U.S. Marshals Service Witness Protection Program (*Anti-Drug Abuse Act of 1988*); the responsibility for the release and supervision of all remaining indeterminate sentence D.C. Code felony offenders (*National Capital Revitalization and Self-Government Improvement Act of 1997*); and responsibility for the supervision of all new-law D.C. Code determinate sentence felony offenders released on supervised release (*National Capital Revitalization and Self-Government Improvement Act of 1997*). In addition to the above responsibilities, the Parole Commission continues to have responsibility for the remaining “old-law” indeterminate sentence federal offenders in prison or under supervision, as well as ongoing responsibility for military code offenders serving sentences in Bureau of Prisons institutions.

In the *Parole Commission Phaseout Act of 1996*, Congress recognized that some form of parole function would have to remain beyond 2002, but this Act did not envision the substantial, ongoing responsibilities for D.C. Code felony offenders given the Parole Commission by the *National Capital Revitalization and Self-Government Improvement Act of 1997*.

The *21st Century Department of Justice Appropriations Authorization Act of 2002* extended the life of the Parole Commission until November 1, 2005. The Act also requests a study be completed prior to that date examining whether responsibility for supervised release for offenders sentenced out of the District of Columbia Superior Court should remain with the Parole Commission or be transferred to another agency. As of the preparation of this document (May 2003), the status of the Parole Commission beyond November 1, 2005 remains unresolved.

Part 1 presents a chronological history of the federal parole system from its origin to the present day.

Part 2 provides a list of the sixty-three men and women who have served as Members/Commissioners of the U.S. Board of Parole/U.S. Parole Commission and a brief biographical sketch for each.

Part 3 illustrates the workload of the U.S. Board of Parole/U.S. Parole Commission from 1931 to the present.

Part 4 contains a list of books, articles, and other materials relevant to the history of the federal parole system.