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Invisible Federal Parole

The inadequacies and mysteries of the Federal parole system are underscored in the cases—worlds apart—of James R. Hoffa, the former Teamsters Union president who is serving time for jury tampering and pension fund fraud, and Philip and Daniel Berrigan, the Catholic priests imprisoned for destroying draft board records.

In both cases the Federal Parole Board operated in the dark and failed to disclose its reasoning. In both cases there has been more than a hint of political considerations going beyond such relevant questions as whether or not the prisoners had behaved, been "rehabilitated," and would be a danger to the community if freed. The Berrigans and Hoffa were turned down, facts unknown, but leaving the public with good reason to speculate.

The sequence of events in the Hoffa case indicated that the Parole Board might indeed release the union leader if he promised to retire from all official posts in the Teamsters. His resignation as president cleared the way for the election last month of Frank E. Fitzsimmons, President Nixon's favorite union chief. In what had all the external trappings of a deal, the Parole Board advanced by nearly a year a scheduled review of Hoffa's right to get out of jail, then pulled a switch and rejected his appeal. Politics should not have been a factor in granting his attorney's plea for a special review in Washington or in denying him freedom, but the facts on both points remain shrouded in the impenetrable mystery that is the norm in the Federal parole system.

After a brief, closed examination of the prisoners without their attorneys present—lawyers are not permitted at parole application proceedings—the Federal Parole Board denied the Berrigans' appeal. Their case received no special review or preference; an appeal came up automatically after they had served almost one-third of their sentences. Philip Berrigan's counsel will ask the Parole Board for another ruling; Daniel Berrigan has been arbitrarily notified that his case will not come up for review again. Furthermore, the public and prisoner protest after Philip Berrigan was denied parole resulted in a sudden midnight transfer of the priest from Connecticut—where he could have easier access to his legal counsel and friends—to a Federal prison in Missouri housing medical and psychiatric cases. This was done on the quiet and without plausible explanation.

For the thousands of prisoners not in the public eye, the secrecy and closed sessions of the Federal parole system are absolute. The chairman of the Parole Board, George J. Reed, has tightened up procedures and diminished the opportunity for hearings in the last few years. At the same time that the secrecy has increased, the national rate of those paroled has decreased.

This contrasts with the due process trend of recent judicial opinions, Federal and state. For example, in cases weighing the revocation of parole, the Federal Court of Appeals in the Second Circuit and the State Court of Appeals in Albany have both advanced the right of legal representation. As Stanley H. Fuld, the state's Chief Judge, wrote in an opinion early this year, "The right to the assistance of an attorney at the revocation hearing is constitutionally mandated."

For notorious prisoners or for ordinary ones, it is time for the Federal Parole Board to catch up with the 1968 recommendations of the National Commission on Violence calling for liberalized parole procedures. The Federal parole system cannot hide behind the cloak of an administrative proceeding, with everything done *in camera*; prisoners and the public are entitled to visible justice.