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## IN WASHINGTON:

# Parole

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**By Arlie Schardt**

It is becoming increasingly clear that one of the key requirements in attempting to solve the nation's crime problem is reform of our penal system. Observers on both sides of the law and order debate are uniting in the observation that our prisons foster crime instead of preventing it.

Hearings are now taking place in the House Judiciary Committee's subcommittee number 3 to examine what may be the single most critical element in our system of crime and punishment, namely the concept of parole.

The hearings, chaired by Rep. Robert Kastenmeier (D-Wis.), are considering a bill (HR 13118) being offered by Kastenmeier which, if enacted, will constitute the most sweeping reform in the history of our parole system.

### **Prisoner's Story**

The need for reform is exemplified in a letter recently received by Congressman James Symington (D-Mo.). The letter was from a federal prisoner who had just been denied parole. As usual, the U.S. Parole Board gave no reason for its denial. Admitting that he had a "terrible past record" of burglary and one arrest for armed robbery, the prisoner noted that during his nine years of incarceration he had acquired two skills (linotype operator and movie projectionist), earned a high school diploma and had an "almost perfect" institution record. He had never physically harmed anyone.

Moreover, the prisoner's family and friends had offered him a good place to live and had found him a job. "At my age (47) it wasn't easy for them to find me a decent job. Think how hard it's going to be two years from now."

Then the prisoner asked, with what would seem to be unassailable logic, "They must turn me out sometime, so why not now when I am still able to work and take care of myself?" With that one question, the prisoner put his finger on the crux of our parole system's failure: its inability to determine, in any systematic or logical way, who is and who is not ready to return to society.

As presently structured, the U.S. parole system cannot possibly serve either society or its prisoners in an intelligent or constructive way. Chief among the criticisms is

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# PAROLE

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the fact that prisoners are never told the reasons why they are denied parole; thus they have no idea what they must do differently to "deserve" it. Parole hearings are usually held by one of the eight members of the U.S. Parole Board (overlapping six-year terms, appointed by the President at a salary of \$36,000) or one of eight hearing examiners. A typical interview lasts 10 or 15 minutes.

## Due Process

The prisoner has no right to the presence of an attorney, friend or advisor, and the prisoner has absolutely no access to the reports in which information about him is supplied. Thus he can neither cross-examine his accuser, if there is one, or refute inaccurate information. A guard with a grudge against a prisoner can ruin his chance to start a new life.

There are other drawbacks: The Board may act for capricious reasons, or simply on intuition. One man recently had his parole revoked after being out for seven full years. He was exactly one week from completing his parole when it was revoked (he was accused of failure to pay a small hotel bill, an accusation he denies) and for this he will be in prison until 1978 (prisoners are not given credit for time served on parole).

Prisoners often face moralistic suggestions and even accusations during their parole hearings (there are presently no stated qualifications for becoming a member of the U.S. Parole Board). Critics charge that the Board discriminates against draft resisters; they cite figures indicating that the average prisoner is paroled after serving 36 per cent of his sentence, while antiwar activists are paroled much later or not at all. "This means," says Dr. Willard Gaylin, professor of law and psychiatry at Columbia University, "draft resisters serve a longer percentage of their sentence than all other criminals, including rapists, kidnapers and murderers."

## Hands Off

Prisoners' rights have been further narrowed by the fact that federal courts have traditionally kept a strictly hands-off stance in parole matters, on the ground that individuals have no constitutional right to parole and therefore courts lack

authority to review parole board actions. The only change in this position has been a federal appeals court finding that persons out on parole have a right to counsel at a parole revocation hearing. (The U.S. Supreme Court has recently agreed to review the issue.)

The present administration has significantly reduced the number of paroles granted. The 1970 report of the attorney general emphasized that during 1970 there were 4,042 prisoners released compared to 6,253 in 1967. In an apparent dig at the administration's permissive predecessor, the report said the 1967 total was the "second highest number paroled in . . . history," and pointed to a large drop in the total number of parole violations in 1970. The report failed to take equal notice, however, that the percentage of parole violators in the 1967 group was 30.5, while in the 1970 group it was 40.6. It would seem, then, that the law-and-order problem still awaits a solution a bit more sophisticated than a simple denial of parole.

This apparent policy has set off something of a tempest. Ms. Charlotte Reese, whose term on the Parole Board expired in 1970, charged that when board chairman George Reed took office in 1969, Reed indicated that the Board would receive pay raises in exchange for reducing the number of paroles granted. Reed has denied the allegation and threatened last year to sue Ms. Reese.

The U.S. Parole Board is set up as a quasi-judicial, independent agency, something like the Federal Trade Commission. But it is in the awkward position of being housed in the Justice Department, which provides office space and salaries, and whose staff must occasionally come before the Board to present a case.

## Reforms

H.R. 13118 can be a tremendous step toward meaningful reform. It would remove the Parole Board from the Justice Department; it sets qualifications for members, including a limit of three members from the same political party. It sets fixed salaries, removing the possibility that decisions could be subject to financial pressures. It provides a full complement of due process rights both in release and revocation hearings. It gives credit for the time served on parole, making it the same as time served in prison.

H.R. 13118 would also remove the present authorization to re-imprison someone for technical violations of parole (e.g. some states forbid common law marriages). It also provides for full judicial review of

Board decisions and establishes an appeals process. It creates parole "good time" in which parolees can reduce the length of their parole through good behavior. The bill also seeks to encourage adoption of its due process procedures by the states through the granting of funds from the Law Enforcement Assistance Administration (LEAA).

Finally, the bill retains the present standards for minimum time to be served before becoming eligible for parole, but it requires that a hearing be granted within one year after a prisoner's becoming eligible for parole. It would also establish a National Parole Institute to provide training funds, scholarships and studies for the research that is so lacking in any evaluation of such topics as recidivism.

Several other bills will be considered during the hearings of subcommittee number 3, but H.R. 13118 seems by far the most comprehensive effort to meet the full range of problems in the parole system.

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