

44
.J 89/1

1020

61-16
1/68J
9144

91/19

THE FEDERAL YOUTH CORRECTIONS ACT AMENDMENTS

GOVERNMENT

REIVED

Storage

1970

THE LIBRARY
KANSAS STATE UNIVERSITY

HEARING

BEFORE

SUBCOMMITTEE NO. 2

OF THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

NINETY-FIRST CONGRESS

SECOND SESSION

ON

H.R. 16353

TO AMEND THE FEDERAL YOUTH CORRECTIONS ACT (18
U.S.C. 5005 et seq.) TO PERMIT EXAMINERS TO CONDUCT
INTERVIEWS WITH YOUTH OFFENDERS

MAY 7, 1970

Serial No. 19



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1970

46-538

COMMITTEE ON THE JUDICIARY

EMANUEL CELLER, New York, *Chairman*

MICHAEL A. FEIGHAN, Ohio
PETER W. RODINO, Jr., New Jersey
BYRON G. ROGERS, Colorado
HAROLD D. DONOHUE, Massachusetts
JACK B. BROOKS, Texas
JOHN DOWDY, Texas
ROBERT W. KASTENMEIER, Wisconsin
DON EDWARDS, California
WILLIAM L. HUNGATE, Missouri
JOHN CONYERS, Jr., Michigan
ANDREW JACOBS, Jr., Indiana
JOSHUA EILBERG, Pennsylvania
WILLIAM F. RYAN, New York
JEROME R. WALDIE, California
EDWIN W. EDWARDS, Louisiana
WALTER FLOWERS, Alabama
JAMES R. MANN, South Carolina
ABNER J. MIKVA, Illinois

WILLIAM M. McCULLOCH, Ohio
RICHARD H. POFF, Virginia
CLARK MacGREGOR, Minnesota
EDWARD HUTCHINSON, Michigan
ROBERT McCLORY, Illinois
HENRY P. SMITH III, New York
THOMAS J. MESKILL, Connecticut
CHARLES W. SANDMAN, Jr., New Jersey
TOM RAILSBACK, Illinois
EDWARD G. BIESTER, Jr., Pennsylvania
CHARLES E. WIGGINS, California
DAVID W. DENNIS, Indiana
HAMILTON FISH, Jr., New York
R. LAWRENCE COUGHLIN, Pennsylvania
WILEY MAYNE, Iowa

BESS E. DICK, *Staff Director*
BENJAMIN L. ZELENKO, *General Counsel*
KENNETH R. HARKINS, *Chief Counsel, Antitrust Subcommittee*
GARNER J. CLINE, *Counsel*
HERBERT FUCHS, *Counsel*
WILLIAM P. SHATTUCK, *Counsel*
JEROME M. ZEIFMAN, *Counsel*
JOSEPH FISCHER, *Law Revision Counsel*
DONALD G. BENN, *Associate Counsel*
FRANKLIN G. POLK, *Associate Counsel*

SUBCOMMITTEE No. 2

HAROLD D. DONOHUE, *Chairman*

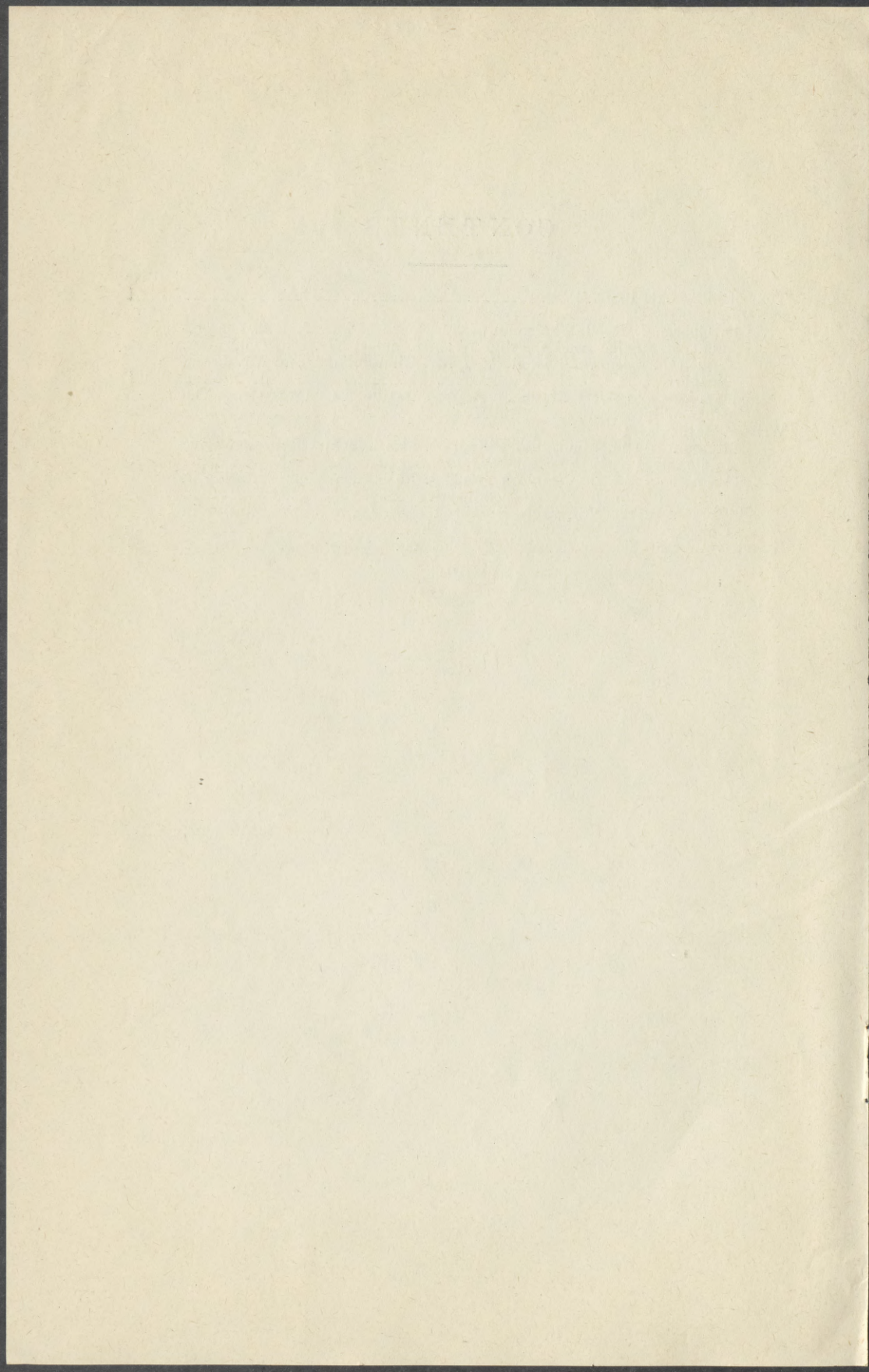
WILLIAM L. HUNGATE
JEROME R. WALDIE
WALTER FLOWERS
JAMES R. MANN

HENRY P. SMITH III
CHARLES W. SANDMAN, JR.
TOM RAILSBACK
R. LAWRENCE COUGHLIN

WILLIAM P. SHATTUCK, *Counsel*
DONALD G. BENN, *Associate Counsel*

CONTENTS

Text of bill, H.R. 16353.....	Page 1
Statements of—	
Mr. George J. Reed, Chairman of the Board of Parole, U.S. Department of Justice accompanied by: Mr. Zeigel W. Neff, Chairman, Youth Corrections Division. Also Mr. Claude Nock and Mr. James Neagles.....	1
The Honorable Wiley Mayne, a Representative in Congress from the State of Iowa.....	23
Written statements:	
Statement of the Honorable William M. McCulloch, a Representative in Congress from the State of Ohio.....	20
Statement of the Honorable Thomas J. Meskill, a Representative in Congress from the State of Connecticut.....	25
Statement of the Honorable Hamilton Fish, Jr., a Representative in Congress from the State of New York.....	25
Executive communication from the Department of Justice.....	26



TO AMEND THE YOUTH CORRECTIONS ACT

THURSDAY, MAY 7, 1970

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 2
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 2226, Rayburn House Office Building, Hon. Harold D. Donohue (chairman of the subcommittee) presiding.

Present: Representatives Donohue, Hungate, Mann, Smith, and Sandman.

Staff members present: William P. Shattuck, counsel, and Donald G. Benn, associate counsel.

Mr. DONOHUE. Will the meeting please come to order? The matter that we will consider this morning is H.R. 16353 to amend the Federal Youth Corrections Act.

The first of the witnesses is Mr. George Reed, Chairman of the Board of Parole, U.S. Department of Justice. Mr. Reed.

(The document referred to follows:)

[H.R. 16353, 91st Cong., second sess.]

A BILL To amend the Federal Youth Corrections Act (18 U.S.C. 5005 et seq.), to permit examiners to conduct interviews with youth offenders

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5014 of title 18, United States Code, is amended by inserting “, or an examiner designated by the Division,” after the words “of the Division”.

SEC. 2. Section 5020 of title 18, United States Code, is amended by deleting the words “or a member thereof” and inserting in lieu thereof “, a member thereof, or an examiner designated by the Division”.

STATEMENT OF GEORGE J. REED, CHAIRMAN OF THE BOARD OF PAROLE, U.S. DEPARTMENT OF JUSTICE; ACCOMPANIED BY ZEIGEL W. NEFF, CHAIRMAN, YOUTH CORRECTIONS DIVISION, BOARD OF PAROLE; CLAUDE NOCK, EXECUTIVE, YOUTH CORRECTIONS DIVISION, BOARD OF PAROLE; AND JAMES NEAGLES, STAFF DIRECTOR, U.S. BOARD OF PAROLE

Mr. REED. Mr. Chairman, I would like to have the permission of the chairman to have Mr. Neff, Chairman of the Youth Corrections Division, join me; also Mr. Neagles, who is staff director of the Board and Mr. Nock, who is the executive of the Division.

Mr. DONOHUE. It is a pleasure to have all of you with us.

Do you have a prepared statement?

Mr. REED. Yes; I do have. I believe copies are available for members of the committee.

Mr. DONOHUE. You may proceed.

Mr. REED. Thank you, Mr. Chairman. On behalf of the Board I consider it a privilege to be here today and I appreciate the opportunity to testify as you consider what we believe to be an important piece of legislation related to an important part of the youth corrections program.

Mr. Chairman, you will remember, as a Member of Congress in 1950, at the time Congress considered and passed the Youth Corrections Act, the outpouring of active support for this legislation by the Federal judiciary, American Bar Association, American Correctional Association and many distinguished penologists. The act was passed by Congress without opposition.

Although the act has worked well, the purpose of this legislation is to make it possible—in the seventies—to carry out the original intent of Congress when it established the Federal Youth Corrections Act.

Thus in 1950, Congress provided for increasing the U.S. Board of Parole from a five-member Board to an eight-member Board by adding, within the Board, a Youth Correction Division, composed of three members.

As first Chairman of the Youth Correction Division of the U.S. Board of Parole in 1953, when the act was implemented and certified, I believe I have some understanding of the intent of Congress in passing the Federal Youth Corrections Act.

The Federal Youth Corrections Act, like its counterpart in some 18 State youth acts, takes its philosophy and organization from the Model Youth Corrections Act, of the American Law Institute.

The Model Youth Corrections Act emphasizes that society is better protected by rehabilitating youths through individualized diagnosis and treatment within an indeterminate sentencing structure.

The Youth Corrections Act includes several features designed to improve the administration of justice as relates to the handling of youthful offenders. It represents an effort to:

1. Reduce disparity in sentencing;
2. Emphasize diagnostic study methods;
3. Establish goals and objectives based on such diagnoses;
4. Initiate motivation for achievement and attainment of goals (parole);
5. Enhance development of education, vocational training, and therapy programs; and
6. Insure a period of parole supervision of all offenders.

Initially the act covered youths between the ages of 18 and 21 years, at a later date, the act was amended by extending the maximum age from age 22 to age 25.

Throughout the years, the Director of the Federal Bureau of Prisons has designated various facilities as "juvenile" or "youth" institutions. Currently there are nine such designated facilities.

The Youth Division conducts hearings at these institutions on a bimonthly schedule. All offenders so confined come within the paroling purview of the Youth Division. Commitments include those sentenced under the Youth Corrections Act, Federal Juvenile Delinquency Act, Adult Indeterminate Sentencing Act (4208(a)(2)), as well as general law violators.

Except for the latter type (adult general law violators), where parole eligibility is fixed by statute, the Division conducts initial hearings.

The Youth Correction Division members or parole examiners hold bimonthly hearings at youth institutions. When the institutional hearing with the youth has been completed, a summary of the hearing, finding of fact, evaluation and recommended decision is typed and forwarded to the Washington office of the Board.

It then requires a two out of three member vote by the Youth Division before a Division order is finalized. At the present time, the Youth Correction Division has two parole examiners who conduct about 50 percent of the institutional hearings.

In the 1971 budget, a third parole examiner will be added and it is anticipated that parole examiners will then conduct about 60 percent of the institutional hearings, while Youth Division members will continue to hear 40 percent of the more serious or complicated youth offender cases—those of a more serious or complicated nature.

Thus, the final decisionmakers (three members of the Youth Correction Division) under our new rules and procedures, will comply with the intent of the statute by having sufficient time to “confer and deliberate” before making a decision.

Therefore, the quality of decisionmaking is improved and the youth offender, as well as society, is better protected.

The imperative need to use parole examiners is clearly borne out when one considers the workload of the Youth Division. During fiscal year 1968, there were 4,976 hearings conducted in institutions, 3,247 reviews by members of the Youth Division in Washington of institutional progress reports, 1,399 warrants for the retaking of individuals alleged to have violated their parole and 345 Youth Corrections Act convictions were set aside.

Thus in 1968, 345 youths received the maximum benefit possible under the Youth Corrections Act.

That is, Mr. Chairman, their commitment was set aside and their citizenship restored. This is the case of a select few, those who totally adjust, but for those who do the act provides for setting aside of the conviction and the restoration of their civil rights.

To effectuate the use of parole examiners in holding hearings in committed youth offender cases a waiver form has been used. Youth offenders who do not consent to be heard by other than a member are rescheduled for the next docket to be heard by a member in 60 days.

We have just completed a brief study of the last two parole examiner conducted hearings at each of the nine youth institutions.

The results of the study are as follows:

Total Youth Corrections Act hearings:	
Consenting	536
Not consenting	13
Consenting	¹ 97.8
Not consenting	¹ 2.2

¹ Percent.

As indicated, only 2.2 percent of all Youth Corrections Act offenders scheduled for initial and revocation hearings declined to sign waivers.

Since the Attorney General certified that facilities were available for the implementation of the Federal Youth Corrections Act in 1953,

the total workload of the Board has greatly increased to over 8,000 decisions per year.

An Adult Indeterminate Sentencing Act was enacted by Congress in 1958, also requiring multiple Board hearings similar to the Youth Corrections Act.

I might say, parenthetically, Mr. Chairman, this was a natural followup after the Federal Youth Corrections Act in the youth field had proven to be so successful.

In 1959 Congress passed the Landrum-Griffith Labor-Management Reporting and Disclosure Act. Under this law, any labor official convicted of certain felonies is prohibited from holding union office for a period of 5 years unless the U.S. Board of Parole conducts an administrative hearing and finds that the holding of such union office, by the applicant, would not be inconsistent with the best interest of the public.

These hearings require a full eight-member Board decision and have proven to be lengthy and time consuming for all eight members of the Board.

A year ago when I returned as Chairman of the Board, I presented to the Attorney General a plan of reorganization for the U.S. Board of Parole. The new rule and procedures of the Board of Parole provide for:

A. Relying on well qualified parole hearing examiners to conduct all initial parole hearings with inmates at the institutions.

Reports such hearings conducted by parole hearing examiners shall include summaries of the hearings, summaries of facts, evaluations, and conclusions, including recommended decisions.

B. The Board members remaining in Washington to review all summaries and recommendations by the parole hearing examiners and having ample time to "confer and deliberate" and study the entire file prior to entering a timely board decision.

C. Adopting scientific criteria for parole decisionmaking, such as heavier reliance upon the nationwide uniform parole statistical reporting system and the Board's criteria for parole selection chapter in the new rules of the Board.

I might add again, Mr. Chairman, that LEAA has granted the Board a \$500,000 research project to implement carrying out this use of scientific additional data in decisionmaking from some 115,000 cases that we have accumulated under the reporting procedures.

This is to add a scientific dimension to guide the Board in decision-making totally, both the adult and youth division.

D. Establishing an en banc appellate review procedure. Under this procedure, 90 days after a Division (Adult or Youth) decision of the Board has denied parole, an en banc appellate review by all eight members of the Board will be held to review the prior decision.

I note, Mr. Chairman, that the bill spells examiner with a small "e." In my statement I have used capital "E" because I believe that we are designating very highly qualified people for this particular assignment.

Parole examiners must be fully qualified to represent the Board in conducting hearings. The qualifications for parole hearing examiner, adopted by the Board, are similar to those proposed by the National Parole Institute for Parole Board members.

Minimum standards for parole examiners are :

1. Education : Completion of college work to the master's degree in a behavioral science or LL.B. degree.
2. Experience: 5 years in corrections (at the practical or academic levels), law, psychology, sociology, or social work.
3. Substitutions: Above the bachelor's degree level, education may be substituted for by 2 years of related experience for each year of education, provided the work has been at an administrative or supervisory level.

The present parole examiners represent—as does the membership of the Board, a multidisciplined background of training and experience.

The average examiner has a master's degree in behavioral science or an LL.B. degree, with an average of 15 years' experience in the field of probation, parole or corrections.

Parole examiners assigned to the Youth Corrections Division are all men with special training and long years of experience in juvenile and youth correctional programs.

CONCLUSION

Due to the enormous increase in the total workload of the Board of Parole, and especially in the Youth Correction Division of the Board, it has become imperative that the Youth Correction Division appoint parole examiners.

We firmly believe that the original intent of Congress in passing the Federal Youth Corrections Act will be greatly enhanced and the administration of justice improved by the 91st Congress, second session, passing H.R. 16353.

Thank you.

Mr. DONOHUE. Thank you. Are there any questions of Mr. Reed? Mr. Smith?

Mr. SMITH. Mr. Reed, in the event that H.R. 16353 should be approved, do you have some suggestions or estimates of the number of examiners that you might need on a perhaps escalating scale for the next several years?

Mr. REED. For the total Board or for the Youth Correction Division?

Mr. SMITH. For the Youth Correction Division.

Mr. REED. We contemplate that the three, including the two we have now and the one that is in 1971 budget, will be adequate for the foreseeable future.

Mr. SMITH. And what is the relative cost per examiner?

Mr. REED. Our parole hearing examiners are grade 14 and that is a salary of what Mr. Neagles?

Mr. NEAGLES. It is \$19,600 under the new salary schedule.

Mr. SMITH. This bill, as I understand it, would allow the appointment of as many examiners as you might need and as might be approved by the budget; is that correct?

Mr. REED. That is correct, Mr. Congressman.

Mr. SMITH. Would it be in the contemplation of the Board and the proposed bill, for instance that examiners might be transferrable between your parole division and your youth division?

Mr. REED. The concept of having them transferrable is contemplated. However, we have, within the Board and the Youth Division,

predetermined that they shall be people with extensive experience in the field of youth corrections and juveniles so that they may be uniquely qualified to carry out the original intent of the framers of the act and the model code developed by the American Law Institute, this was that they should be people particularly and uniquely qualified in the field of youth behavior.

Mr. SMITH. While this is not particularly spelled out in the law it would be the Board's intention then to require that your Youth Division examiners did have experience in the field of youth and juveniles?

Mr. REED. That is correct. We would not assign a hearing examiner from other hearing examiners unless they did have that type of qualifications.

Mr. SMITH. Mr. Reed, a hearing examiner now conducts a hearing with a juvenile under a waiver or consent and as he will be able to conduct such a hearing if this bill is passed without such a waiver is a full record of the proceedings before the examiner made so it is available to the Division or just a summary by the examiner?

Mr. REED. A full record is taken by the reporter at the time of the hearing. However, at the end of the hearing the member or examiner then dictates a complete summary of the entire hearing, including, as I indicated in the statement, a summary of all the germane points that the hearing produced, including a summary and conclusion of facts and a summary and recommendations and proposed order.

That is typed and referred to the Board. Well, however, the entire file and all of the data that was available to the hearing examiner or to the Board member who conducted the hearing is available at that time to the decisionmakers, the three members.

Mr. SMITH. A complete record would be available to the Division on their review if they desired it?

Mr. REED. If they desired it, right.

Mr. SMITH. Although probably in most instances the Division on review would be satisfied with the summary that was made?

Mr. REED. You are correct.

Mr. SMITH. Unless there were some questions.

Mr. REED. In that case the entire hearing could be and is available for reproduction for all members of the Division.

Mr. SMITH. I think that is all I have, Mr. Chairman.

Except, Mr. Reed, with these figures I am amazed that the members of the Division have any time to sleep; for instance, with this number of hearings plus your review work and other work.

It is amazing. I don't understand how under present circumstances you can do it.

Mr. REED. I might say when the Attorney General offered me re-appointment a year ago I indicated to the Attorney General that one of the things that would be required would be a reorganization of the Board so that we could have time to "confer and deliberate" and make decisions. I am not talking about work, now, I mean make decisions after having adequate time to completely study the case. This is an imperative if one is to be able to sleep and I could not before.

Mr. HUNGATE. As I recall at one time we had a Federal judge in Missouri who got his sleep on the bench.

How many new examiners would you need for the adult offenders?

Mr. REED. We have a total now of five, and three are assigned to the adult Board and two to the Youth Division. We would have an additional three, total, or two for the adult Board and one for the Youth Division. This is contained in the 1971 budget now before the Appropriations Committee.

Mr. HUNGATE. What sort of a staff would an examiner have?

Mr. REED. The examiners would have only adequate secretarial staff to prepare and finalize the material that they would present when they had finished the conducting of the hearing. I might add that secondary duties when they are not in the field conducting hearings have been established that would aid the Board in other areas within the administration of the adult and Youth Divisions.

These have been devised and approved by the Board. When they are in Washington, not in the field, they would have secondary duties related to the overall functioning.

Mr. HUNGATE. What would those duties be?

Mr. REED. Such as making a very careful evaluation of supervision reports from the field. We are very anxious that we upgrade the number of officers in the field supervising and we are also anxious that there be more careful supervision.

We are also contemplating a gradation of supervision. By that I mean levels, intensive supervision, average supervision and somewhat minimum supervision and we would expect that these staff examiners, when not in the field, would aid in this and other areas, research projects, and so on.

Mr. HUNGATE. Your present examiners for youth offenders, once again, with the staff problem, do they have a court stenographer available to them, a shorthand reporter available to them?

Mr. REED. Yes, at the time of the hearing and they would have a secretary in the office as well as a reporter at the hearing.

Mr. HUNGATE. One? Would that be adequate?

Mr. REED. To the degree we find that inadequate we would have to add to that. We are now scheduling one. For hearings at the various institutions we hire a reporter in or near that particular institution and reporters do not travel from Washington about the circuit.

We find this less expensive and more efficient.

Mr. HUNGATE. How many institutions are involved in this?

Mr. REED. Mr. Neff?

Mr. Neff is Chairman of the Youth Correction Division.

Mr. NEFF. Nine youth institutions.

Mr. HUNGATE. How many institutions for adult offenders?

Mr. NEFF. Thirty-two all together, including the youth institutions.

Mr. HUNGATE. And the present practice I presume would be for the members of the board, or for the examiner to travel to the institution and conduct the interviews?

Mr. NEFF. This is the present practice and would continue to be the practice but without the requirement of this particular section of the statute in the Youth Act without having to have the waiver procedure. We felt that this gives really a more thorough review, as was originally intended by the act, than has been possible in the past.

This is why we are seeking the legislation at this time.

Mr. HUNGATE. You administer a parole. What about probation; you would not administer the probation?

Mr. NEFF. No, sir; that is handled by the U.S. courts.

Mr. HUNGATE. Would the member of the Board or an examiner hold a hearing or make a recommendation or a decision in the case of parole revocation?

Mr. NEFF. Yes. The hearing member or examiner conducts the revocation hearing at or near the place of the alleged violation if the alleged violator requires, or if they waive that, subsequent to the *Hyser v. Reed* decision, they are returned to the institution and the revocation hearing is held there by a member or a hearing examiner.

Then, again, the summary, the findings of fact and recommended order must come back to the Division where a review by and a decision of two out of three is required before final decision of the Youth Division is entered.

Mr. HUNGATE. The Law Division to which you have referred, could you give us a brief statement of what it holds?

Mr. NEFF. *Hyser v. Reed* was given by Justice Warren Burger when he was on the court of appeals here in the District of Columbia and it provides for the alleged violator to have an attorney represent him at the hearing, provides for the right to have witnesses to appear, and it provides that the hearing should be had at or near the place of the alleged violation if the alleged violator so requires, and it requires a timely hearing.

Mr. HUNGATE. Suppose you have a parolee, I suppose the U.S. attorney or someone who would bring in the allegation that he had violated parole?

Mr. NEFF. The allegation would be referred by our field officer in the field who had learned of an alleged violation of a parole rule or an alleged violation of law.

That would be reported by our field officer to our parole executive or Youth Division executive, Mr. Nock, in this case, of the Youth Division.

If the report indicated that the youth offender had violated the conditions of parole or a law, a referral for a warrant would be made up with charges, specific charges.

Mr. HUNGATE. That determination can be made by whom?

Mr. NEFF. By the executive, Mr. Nock.

Mr. NOCK. The initial determination.

Mr. HUNGATE. But the Board determines whether there is grounds for getting a warrant for parole violation. Mr. Nock has what background?

Mr. NOCK. In corrections, sociology, a caseworker at parole institutions for about 17 years now.

Mr. NEFF. The final warrant is signed by a member of the Board.

Mr. Nock does the initial determination and then it comes to a member of the Board. A member of the Board has to sign the warrant.

I might say we do have counsel in cases where there is a question of law that either the adult executive or the Youth Division executive would have. We have counsel that would guide them on any legal question they might have.

Mr. HUNGATE. That was part of my problem. I would think in every case there would be a question of law as to whether or not the parole conditions had been violated.

Mr. NEFF. The rules of parole and the factfinding powers of the Board are far less restricted by rules of evidence than a court would be in that these are already convicted felons.

Mr. HUNGATE. We all appreciate the law is changing in this area. Let's assume the determination is made that a warrant should issue for parole violations and that the alleged violator appears with an attorney or has one available and asks the hearing or determination in the area in which he is apprehended; what then happens?

Mr. NEFF. The hearing is then scheduled and either a member of the Youth Division or an examiner would appear and would conduct the local revocation hearing usually at the nearest Federal court building to the location of the alleged violation.

Mr. SMITH. Would the gentleman yield?

Mr. HUNGATE. Certainly.

Mr. SMITH. When an alleged violator has a warrant out for him is he then arrested and held in detention until the hearing takes place?

Mr. NEFF. He is immediately permitted an interview, as provided in *Hyser v. Reed*, an interview by our officer, the probation officer supervising.

Then at that time he can either admit that the charges in the referral for the warrants are true, he can deny them, or he can ask for an attorney, he can ask for a local revocation hearing, he can waive all of those and be returned to the institution, and if returned to the institution, he still has a right to an attorney or witnesses even though the revocation hearing would be held back at the institution.

That is done almost immediately.

Mr. SMITH. But during that time he is held in detention until it is decided whether this has been a parole violation?

Mr. REED. Yes.

Mr. HUNGATE. Is he entitled to bond?

Mr. REED. He is not.

Mr. HUNGATE. The Board includes the Youth Division and consists of eight members?

Mr. REED. Yes.

Mr. HUNGATE. Could you give me the background of all of your eight members as to whether it is sociology, law, behavioral science, or criminology? Could you tell me that?

Mr. REED. On the total Board we have two that are lawyers and had local practices. Mr. Neff is a lawyer.

Mr. HUNGATE. His name precedes him.

Mr. REED. And he has records with the Military Clemency Board and at the Advocate General Office of the Army which are unique and distinct and qualify him for a Federal judgeship, as a matter of fact, if there were a vacancy that needed filling.

Mr. HUNGATE. The climate might have to be different.

Mr. REED. I would not want to comment on that.

My background is one in criminology; 30 years of experience in this field in the State of California and the State of Minnesota. I was appointed Chairman of the Youth Division by President Eisenhower in 1953 when the Youth Act was first implemented.

After 4 years as Chairman, the Congress passed the Adult Indeterminate Sentence Act. The then Attorney General, Mr. William P.

Rogers, indicated that he would like to have me become Chairman of total Board.

I remained as Chairman for a period of about 4 years. There was a change of administration about that time and I continued to finish my term and I left the Board in 1965.

I returned to the west coast and was in the field of corrections and teaching in criminology prior to my being reappointed earlier last year.

Mr. HUNGATE. Where did you teach?

Mr. REED. College of Sequoias and Fresno State in the State of California.

Mr. Howland is a member of the Board and is a lawyer. He has served most of his life in the field of corrections in the U.S. probation service. He has been a member of this Board for 15 years, and has served with distinction in that capacity.

Mr. Walter Dunbar comes from a background of sociology and formerly was a director of the department of corrections, State of California, and served about 25 years in that capacity prior to being appointed to the Board some 3 years ago.

He was my immediate predecessor as Chairman of the Board prior to last year.

Dr. Bill Amos is a Ph. D. in the field of psychology and has many years in the field of corrections. He is a former member of the Secret Service and has written extensively in the field and published a number of books in the field of corrections and is a recognized authority in the field.

Mr. Murch has been a member of the Board for about 15 years. He is from the State of Maine. He has a background in education and was director of parole and probation services in the State of Maine prior to his appointment to the Board.

Mrs. Reese is a lady member of the Board and comes from an academic background in the field of psychology and journalism.

She was a member of the State of Washington Board of Parole for some 8 years prior to her appointment to the Federal Board.

Mr. Woodward comes from a background in education and psychology, some 15 years as a chief U.S. probation officer in the State of North Carolina.

He has been a member of our Board now for about 6 or 7 years.

Mr. HUNGATE. He knows more about the Board than I do about my family.

Mr. REED. We work with them pretty closely, Congressman.

Mr. HUNGATE. Which three of those would constitute the youth division?

Mr. REED. The Chairman is Mr. Neff, and we have already commented on his background from the State of Missouri as well as other qualifications. Other members are Mr. Woodard and Mrs. Reese. Those are the three that presently constitute the Youth Division.

Mr. HUNGATE. As I say, we have a man who is accused of a parole violation and it has been found sufficient to issue warrant and he has an attorney or has one available and asks for a hearing in the area in which he is apprehended. Now what would happen then at that point?

He is not bondable?

Mr. REED. That is right. The Board, at the earliest possible date, would set a date for a local revocation hearing at the Federal courthouse nearest the area in which the alleged violation occurred.

The Board member or the hearing examiner would then convene a hearing, usually in the court commissioner's office or some appropriate hearing room in the courthouse.

Mr. HUNGATE. The hearing is public or private?

Mr. REED. The hearing is private in that we do have FBI and other confidential data that is part of the record and the hearing is subject to the Board's rules.

Mr. HUNGATE. The accused could have his attorney with him?

Mr. REED. Oh, yes; but I was talking about the press.

Mr. HUNGATE. Yes; the public.

Mr. REED. Yes; he has his attorney or the witnesses that he may choose who would be present. The Board member or the examiner would then review the charges that had been made by the Youth Division, or the executive on the adult Board, and the defense counsel would then be able to cross-examine his client and/or all witnesses that he might care to present to develop any contrary evidence to those facts that were alleged in the referral for the warrant for his alleged violations of parole.

Mr. HUNGATE. That would be an examiner? It could be one of the members here.

Mr. REED. Either one.

Mr. HUNGATE. How would they reach their decision?

A court reporter is present?

Mr. REED. A court reporter is present. A complete record is taken down and, again, a summary of the entire facts that have been presented, a conclusion of facts and a summary, and here an evaluation of the evidence presented is dictated and is typed up as well as a proposed order.

Mr. HUNGATE. And the recommended order is made?

Mr. REED. Right and that is forwarded back to the offices of the Board in Washington.

Mr. HUNGATE. The alleged violator is remanded to custody?

Mr. REED. Remanded to custody and the materials that I have described are forwarded to Washington and the Youth Division requires a vote of two out of three to either support or upturn the proposed order of the hearing member or examiners as the case may be.

Mr. HUNGATE. Now, would this be the case of the adult offender?

Mr. REED. The same procedure would follow.

Mr. HUNGATE. It would require two out of three.

Mr. REED. No; three out of five of the Adult Division.

Mr. HUNGATE. All right, let's say that the finding is made. What is Mr. Woodward's background?

Mr. REED. His background is in the field of education and psychology and I believe about 15 years as a chief U.S. probation officer in North Carolina and about 6 or 7 years on the Board.

Mr. NEFF. He has his masters.

Mr. HUNGATE. Now the determination has been made that there has been a violation of parole and a revocation is recommended, either in a case of an adult by three out of five or in the case of a youthful offender two out of three; is that correct?

Mr. NEFF. That is correct. Yes.

Mr. HUNGATE. Then that is sent back to the offender?

Mr. REED. The order is docketed with our clerk and the appropriate order issued then by the clerk carrying out the intent of the order of the Board.

Mr. HUNGATE. Is this order appealable?

Mr. REED. No.

This is one of the reasons why, in my proposed revision of the rules, in the reorganization of the Board, we would have the Board itself sitting as a body of eight to review a decision granting or denying of the parole or any other act of the Board, itself a division.

We would act as our own appellate body.

Mr. SMITH. At that point would it be upon the request of the parolee or automatically?

Mr. REED. No; it would be upon showing a substantial fact.

Mr. SMITH. A regular appeal procedure?

Mr. REED. Yes, it could be showing new material that we had not heretofore considered.

Mr. HUNGATE. I am not certain I understand that procedure. That is within the Board?

Mr. REED. Right.

Mr. HUNGATE. After the hearing and determination?

Mr. REED. Right. That would be true as to parole grants or denials as well.

Mr. SMITH. But it would be the whole Board of eight as opposed to the Youth Division of three or the Adult Division of five?

Mr. REED. That is correct.

Mr. NEFF. Of course there is a legal remedy, as you well know, beyond that point. If we act arbitrarily and capriciously, of course.

Mr. REED. If we act beyond the rules.

Mr. HUNGATE. Let's assume you follow the legal—the regular proceeding in an orderly process. He has an attorney and the required hearing. On what grounds is it appealable; are there any grounds?

Mr. NEFF. If we acted arbitrarily and capriciously in revoking his parole; we had no substantial evidence.

Mr. HUNGATE. In the case of a youthful offender on a two-out-of-three vote it would be possible for the lawyer to be outvoted 2 to 1 or in the five-man board he could be outvoted 4 to 1 or on an eight-man board he could be outvoted 6 to 2.

Mr. REED. It changes from time to time but I have given you the presently constituted membership.

Mr. HUNGATE. Thank you, that is very helpful.

Mr. DONOHUE. Mr. Mann.

Mr. MANN. No, sir.

Mr. DONOHUE. I would like to have clarified again what goes on at these hearings.

Mr. REED. I think I would like to refer to the Chairman, Mr. Neff, because this has a bearing on the Youth Correction Act.

Would you care to describe what happens at an initial hearing and review hearings as to what kind of hearings are conducted?

Mr. DONOHUE. These are conducted in the nine different institutions?

Mr. NEFF. In the institutions by an examiner or a member and we

have a reporter present, and a caseworker is present who worked with the man at the institution. A verbatim record is made.

An individual is called in at a table something like this and sits over across the table. He is permitted, of course, to say anything he pleases.

The hearing member or examiner goes over his record. We talk about the offense, the nature of the offense, his prior violations.

Mr. DONOHUE. The offense which resulted in his conviction.

Mr. NEFF. Yes; in his conviction, his prior record, and we talk about his adjustment in the institution, what he proposes to do when he gets out, what kinds of community resources he has, whether or not we are going to use a community treatment center or a halfway house or this type of thing.

This is generally the nature of the proceedings.

Mr. REED. Would you distinguish between an initial hearing and the review hearing?

Mr. NEFF. The initial hearing is held in cases where you have an indeterminate sentence under the Youth Corrections Act.

He is heard within 60 days after he is sent to the institution. He is very infrequently parolled at that time. What you really do there is reinforce the goals of the institution with regard to vocational training, with regard to education, getting his high school GED or his equivalency and his getting along within institutions, with institution personnel.

These are the three major areas with which you should be concerned.

Mr. DONOHUE. Under the present law these hearings are required to be conducted by members of the Board?

Mr. NEFF. That is correct; by members of the Youth Correction Division who are members of the Board, unless there is a waiver.

Mr. DONOHUE. By the members of the Board?

Mr. NEFF. Yes.

Mr. DONOHUE. Now, I think some figures were given here that during the fiscal year 1969 there were 4,976 hearings conducted. They were conducted by the members of the Board; is that correct?

Mr. NEFF. Or examiners.

Mr. DONOHUE. Does the law require at the present time that these hearings be conducted by members of the Board?

Mr. NEFF. Yes, but the inmate may waive the right to be heard by a member and in that event he is heard by an examiner.

Mr. DONOHUE. Is that so under the present law?

Mr. NEFF. Yes, we have been doing that; yes sir.

Mr. DONOHUE. And because of the number of waivers, that is 97.8 percent of the individuals involved, they waived, these examiners conducted the hearings, that is two examiners.

Mr. NEFF. The examiners conducted the hearings in approximately 50 percent of the cases I would judge.

Mr. DONOHUE. Just two examiners?

Mr. NEFF. At the present time; yes, sir.

Mr. DONOHUE. And they conducted, you say, 50 percent of the hearings?

Mr. NEFF. Approximately 50 percent.

Mr. DONOHUE. In other words they conducted almost 2,500 hearings?

Mr. NEFF. Approximately that; yes, sir.

Mr. DONOHUE. In 1 year?

Mr. NEFF. Yes, sir.

Mr. DONOHUE. In eight or nine institutions?

Mr. NEFF. Nine; yes, sir.

Mr. DONOHUE. And they went through 2,500 such hearings by examining the record, by calling in the individual involved, discussing with him that record?

Mr. NEFF. Yes, sir.

Mr. DONOHUE. Would you explain how it would be possible to conduct a comprehensive hearing into each one of these cases on the basis of two men conducting 2,500 hearings in 1 year?

Did you conduct them en banc?

Mr. NEFF. We do not conduct them en banc.

It means working under extreme pressure for the members or the hearing examiner, either one. That is the reason why we are trying to get additional examiners.

You must remember about 65 percent of our cases in the Youth Division are Dyer Act cases; they are auto theft cases, and many of those cases are not tremendously complicated.

But I must admit, in my opinion, that is holding a tremendous number of hearings.

Mr. DONOHUE. Just to conduct the hearings; then they have to draw reports.

Mr. NEFF. That is correct. Speaking from my own experience you go in early in the morning and you don't break all day long and maybe you take a half hour for lunch.

Mr. REED. It is this great emergency that causes us to have to move into the use of hearing examiners, rather than have the total Board of eight members trying to conduct the total institutional population hearings.

Mr. DONOHUE. The officers conduct 25 percent of the hearings and the other 25 percent were conducted by the eight-member Board?

Mr. REED. We are now speaking about just the Youth Correction Division where there are three members of the Board.

Mr. DONOHUE. The other 2,500 were conducted by the other three members?

Mr. REED. Yes. When I appeared before Congressman John Rooney before the Appropriations Committee I made a plea for three more examiners in the 1971 budget so we would not be conducting hearings under such great pressure.

As I indicated, one of the provisos that I requested when I took the appointment was that we have examiners. Prior to that when I was on the Board we had no examiners and the eight-member Board attempted to cover the entire Federal system and it was impossible.

More particularly in the Youth Correction Division which becomes interested immediately and at the beginning of the sentence, directing and conferring with the staff on treatment programs so that they can be ready for a parole. There is also a followup in the community after parole that requires the attention of the Board and the Youth Division.

Mr. DONOHUE. In your statement you mention that initially the act covered youths between the ages of 18 and 21. At a later date the act was amended by extending the maximum age from 22 through 25.

I was wondering what the rationale was behind increasing it beyond 21.

Mr. REED. Mr. Chairman, the rationale at that time was that the many benefits, including the fact that there was the greater individualized diagnosis and treatment under the Youth Corrections Act, should be extended to an older age group so they might also have the benefit of the individualized diagnosis, the individualized treatment and eventually the benefit of having those who make exceptionally good records having the records set aside, the commitment set aside and the many benefits under the act extended to an older age group.

I might say, parenthetically, it was the same year that the Adult Indeterminate Sentence Act was passed to give flexibility to the adult Board which was true under the Youth Act.

Mr. DONOHUE. Who had jurisdiction over the age group between 22 and 25 before it was extended?

Mr. REED. The Adult Division of the Board.

Mr. DONOHUE. Would you mind explaining, if you know, why you stopped at the age of 25?

Mr. REED. The motivation, I might add, Mr. Chairman, was that of the Federal judiciary for the increasing of this age. It was the Federal Judicial Conference, their feeling being that we had, in the first 4 years under the Youth Corrections Act, made sufficient progress and improved programing that the Federal judiciary felt there should not be an increasing of the age to 25.

They felt, and there are some statistics to show, that the highest percentage of crime is increasingly in this age bracket. This group also motivated that particular legislation.

Then later the Adult Indeterminate Sentence Act gave most of the flexibility that the Youth Act has to the adult people. We cannot set aside convictions and restore citizenship as is in the Youth Act but we do have under the Adult Indeterminate Sentence Act, the adult convicted felon immediately available for consideration of parole. This was not true before and continues to not be true if sentenced under the general statute which requires the prisoner to serve one-third of the maximum sentence prior to becoming eligible for a parole hearing or parole considerations.

Mr. DONOHUE. In your statement you indicate 4,976 cases that were heard in 1968. How many of that number were paroled?

Mr. NEAGLES. I can make an approximation. But of the youth offender group within a given year, I don't know. You see the Youth Act provides for a mandatory parole at some time in the sentence so eventually all are paroled.

Mr. NEFF. They are paroled under the Youth Corrections Act.

Mr. DONOHUE. Everyone that is granted a hearing is paroled.

Mr. NEFF. No, Mr. Chairman, but you can only keep an individual for 4 years and if you don't parole him at all within that 4 years then he is mandatorily released at the end of 4 years and he goes on parole for 2 years.

This is automatic.

Mr. DONOHUE. That is true but that individual that had completed the minimum sentence would not have to have a hearing.

Mr. NEFF. Yes.

Mr. REED. He would have to have the hearing regularly throughout his sentence, and having been denied the parole, at the end of 4 years he is automatically released under mandatory release.

Mr. DONOHUE. If the person was originally sentenced for 6 years he would be eligible for parole immediately?

Mr. REED. Immediately after the study has been completed. He is eligible for parole immediately at the beginning of the sentence.

Mr. NEFF. And he must be heard.

Mr. REED. He must be heard, so after a 60- to 90-day study has been conducted then we hear the case initially and then a decision is made as to when to hear the case again.

And we do sometimes find sufficient cause to parole immediately. If we find that we want to review the case in a year or 18 months or 6 months we can set that date so that we are regularly reviewing that youth during the 4-year period.

If we fail to grant parole at the end of 4 years he is automatically statutorily released for the last 2 years.

Mr. DONOHUE. But within that 4-year period he could have had several hearings.

Mr. REED. He could have had all the way from one to three or four more.

Mr. NEFF. Our policy is not to set anyone off for more than a year, so at least every year he would be looked at again, up to the 4 years.

Mr. DONOHUE. How many in 1968 were paroled?

Mr. NEAGLES. In 1968 here there were 1,335 convicted youth offenders that were released.

Mr. DONOHUE. Someplace in your statement I remember you quoting the year 1968, 1,399 warrants for the retaking of individuals alleged to have violated their parole.

Mr. NEAGLES. That is true But there would be a total composite group under supervision at any given time of over 3,000 because of their having been paroled possibly in the second year of their 6-year term.

They would be under parole, you see, to the end of their terms unless we released them earlier and set aside their convictions.

Mr. DONOHUE. Is that 1,399 average?

Mr. NEAGLES. I would say that would be pretty near an average.

Mr. DONOHUE. So for every one that is paroled you are picking another one up?

Mr. NEAGLES. No; our violation rate over a 10-year period, on which we have just completed a study, shows that about 48 percent had violated within that total 6-year term, or the total period of the sentence; there had been a violation rate of about 48 percent.

Mr. DONOHUE. But in 1968 a certain number of 1,300 and some odd were paroled and 1,399 were picked up.

Mr. NEAGLES. But that would be all offenders under the Youth Correction Division which might, as I have indicated earlier, be other than committed youth offenders. Juveniles and those under the regular sentencing Act who are in that age group are kept at the youth institutions although they are not committed youth offenders under this particular select Act.

So that would make a great deal of warrants that were not involved in committed youth offenders. There are more than committed youth offenders at youth institutions and——

Mr. DONOHUE. To justify the thrust of this bill that you have recommended I am wondering if it is necessary in view of the fact that these examiners are now conducting 97 $\frac{8}{10}$ percent of the hearings.

Under the waiver proceedings.

Mr. NEAGLES. Yes, sir; under the waiver. There has been that percentage who have refused to waive a smaller percentage.

Mr. DONOHUE. Who refused to waive?

Mr. NEAGLES. Yes.

Mr. DONOHUE. Won't they still have the privilege of not waiving?

Mr. NEAGLES. They will still have the privilege of not waiving unless the act is changed; that is correct.

Our feeling is that we are giving more thorough consideration, as the act contemplates by having highly qualified Examiners to meet with them and work with them.

Therefore, with the Act requiring a member of the Youth Division to conduct the hearing, as the statute now reads, we would have to enlarge the membership of the Youth Corrections Division to six or maybe seven to have the thorough kind of hearing that we are hoping for.

Mr. DONOHUE. You are doing that now in 97 $\frac{8}{10}$ percent of the cases; aren't you?

Mr. NEAGLES. The waiver is effectuated.

Mr. DONOHUE. And the examiners conduct the hearings or can understand the waiver procedures?

Mr. NEAGLES. They are doing so; yes.

Mr. NEFF. We are talking about 2.2 percent; is that what you are referring to, Mr. Chairman?

Mr. DONOHUE. Won't you still have the 2.2 percent if they have a right not to waive?

Mr. NEFF. If the legislation were passed they would not have the right.

Mr. DONOHUE. Oh, you are going to take away that right?

Mr. NEFF. Like the ones who do waive, they could be heard either be an examiner or by a member.

Mr. DONOHUE. Just in 2.2 percent of the cases, you are going to take away the right of that 2.2 percent to waive their right and insist upon a hearing before the division members; is that right?

Mr. NEFF. Before an Examiner.

Mr. DONOHUE. In other words, you're forcing them to be heard by an examiner?

Mr. NEFF. That small percentage, in other words it is so we can better utilize the use of Examiners.

Mr. REED. Mr. Chairman, I think there is a point that has not been made that ought to be made and that is under the Federal Juvenile Delinquency Act, which covers even more tender, younger juveniles, there are no such provisions for a hearing by a member. They have a rule that the Examiner can conduct the hearing perfectly legally and they are younger than the youth offenders.

For the adults there is no such provision. So we have, really, an inconsistency here with juveniles not requiring it, adults not requiring it but committed youth offenders require it.

That was the wording of the statute in that there should be specialists in the field of youth acts and youth corrections and this particular statute was worded originally as it is so constituted.

Mr. DONOHUE. Under the present law with the waiver provisions in there almost 98 percent of the cases there can be heard by an examiner; is that correct?

Mr. REED. That is correct.

Mr. DONOHUE. That being so, will the members of the Board be relieved of any burdens if you have a right to increase the examining group if you had the money?

Mr. REED. Yes, I think there is no statutory authority for us even providing for the waiver. I think that we have done this by administrative—

Mr. DONOHUE. I understood that was part of the law.

Mr. SMITH. Mr. Chairman, if I might interrupt here I think this might clarify part of our question. Presently section 5014 of the title 18 of the United States Code reads:

At least one member of the Division shall, as soon as practicable after commitment, interview the youth offender, review all reports concerning him, and make such recommendations to the director and to the division as may be indicated.

The proposed amendment of that section would make it read "at least one member of the Division or an examiner designated by the Division, shall, as soon as practicable after commitment interview the youth offender, review all reports concerning him and make such recommendations to the Director and to the Division as may be indicated."

At present as far as I can see the use of a waiver to allow an examiner to conduct these interviews is extrastatutory, it is not directly provided for in the law but it has been done as a matter of practice.

Mr. REED. That is right, as an emergency measure.

Mr. SMITH. The other section similarly to be amended by this law, section 502 of the title 18 of the United States Code, now reads "upon return to custody such youth offenders shall be given an opportunity to appear before the Division or a member thereof."

The amendment would read, "Upon return to custody such youth offender shall be given an opportunity to appear before the Division, a member thereof, or an examiner designated by the Division."

So the proposal does not cut out from the law the possibility that a member of the Division of Youth Corrections will be conducting these hearings, but it adds in the flexibility of also allowing an examiner to do it by statute under the direction of the Division.

Mr. DONOHUE. If this law is passed will it be taking away from the offenders or the person confined the right to have his case handled by a Board member?

Mr. REED. I would not say so, Mr. Chairman.

I would say that it would provide that the Board member, to the maximum amount of time available, would be conducting hearings in the institutions but because of the very point that has been made, if the

workload makes it possible to do that they would be heard by Examiners and Board members of the Youth Division.

Mr. DONOHUE. But the Board members could say we won't hear this case; it will go to an examiner.

Mr. REED. The dockets are set up on a regular procedure in terms of those who are heard initially or by review.

Mr. DONOHUE. But the Board could refer to that, the Board could refer to an examiner?

Mr. REED. Yes. We have been doing this now by waiver without statutory authority. We are seeking statutory authority to have the thoroughness of the review, the thoroughness of the intent of the original Act.

In 1953, when we started out we could do this and we can't do it now with a Board with three members on the Youth Correction Division and conduct the type of hearing that you and I earlier referred to as being adequate and they have not been adequate.

Mr. DONOHUE. Can you think of any undue hardship on the Board as presently exists under your present practice if it were continued as it is now?

Mr. REED. The only thing we would be doing would be acting without statutory authority on the waivers.

Mr. DONOHUE. How long have you been acting the way you are now?

Mr. NEFF. About 5 years; approximately 5 years.

Mr. DONOHUE. I have no further questions. Are there any other questions?

Mr. HUNGATE. Mr. Chairman, has there ever been a judicial challenge to a case in which an offender waived hearing by the Commission member and after the examiner's hearing then appealed that the waiver was invalid?

Mr. REED. No; I think not. It is about the only area which they have not challenged but they have not challenged that section.

Mr. HUNGATE. I would like to commend Chairman Reed on very thorough knowledge of the operations of your department. I wish all witnesses before all committees were as thoroughly prepared, thank you.

Mr. SMITH. Mr. Chairman, I have one question which has not a direct bearing on this matter but it may have an indirect impact.

Mr. Reed, in your statements you point out that under the Landrum-Griffin Labor Management Reporting and Disclosure Act the Board of Parole has been given the duty of conducting administrative hearings when any labor official who has been convicted of certain felonies and is thereby prohibited from holding union office requests or appeals to the Board of Parole, apparently.

Mr. REED. They appeal for a certificate of exemption from that 5-year prohibition.

Mr. SMITH. Your statement says the Board of Parole conducts an administrative hearing but these hearings require a full eight-member Board decision and have proven to be lengthy and time consuming for all members of the Board.

I would think that the Board of Parole would not have any particular expertise in this area except as a Board which is used to developing facts, background, and so forth and that this sort of duty

perhaps might have been referred by statute to some other body rather than the Board of Parole.

Would you like to make any comment, Mr. Reed, as to your feeling as to whether this is an unnecessary duty imposed upon your Board that perhaps could be done by some judicial body?

Mr. REED. I so testified, Congressman, before Senator McClellan's committee when he was conducting the hearings on labor racketeering. I indicated at that time that there ought to be a separate board, perhaps in labor, some other area.

Senator McClellan said we are here dealing with criminals and the U.S. Board of Parole is uniquely qualified to pass on criminals and we feel it should be resting within the authority of the U.S. Board of Parole.

At that time I did not testify in favor of it coming within our purview and I would continue to feel that it might well rest in some other body.

But it does now rest with us.

Mr. SMITH. And does consume time.

Mr. NEFF. Yes; the hearings are held under the Administrative Procedures Act. As a lawyer member I have held a number of these hearings, and it is very time consuming and all the other members, of course, have to sign it and so forth, and you go through all of this formality.

Mr. SMITH. Mr. Chairman, in regard to this proposed bill, H.R. 16353, Mr. McCulloch had a statement that I would like to make a part of the record.

He was unable to be here today.

I would like to read just two paragraphs from it. He says—

H.R. 16353, recommended by the Attorney General, would simply permit the members of the Board of Parole who compose the Youth Corrections Division, to delegate interviewing functions to examiners.

Then he says—

The task force on corrections of the President's Commission on Law Enforcement and Administration of Justice has recommended the use of examiners. The amendments proposed will make more efficient and effective the operations of the Parole Board and its Youth Division. I urge your favorable consideration of H.R. 16353.

I would like to make Mr. McCulloch's long statement a part of the record.

Mr. DONOHUE. Without objection, Mr. Smith, it is so ordered.

Mr. SMITH. Thank you, Mr. Chairman.

(The document referred to follows:)

STATEMENT OF WILLIAM M. MCCULLOCH

Mr. Chairman and Members of this Subcommittee, I invite your favorable consideration of H.R. 16353, a bill designed to provide for more efficient administration of the Federal Youth Corrections Act.

H.R. 16353, recommended by the Attorney General, would simply permit the members of the Board of Parole who compose the Youth Correction Division, to delegate interviewing functions to Examiners.

This special division of the Board of Parole receives reports from classification centers which are required to make a complete study of every committed youth offender. He is given a mental and physical examination to ascertain his personal traits, his capabilities, pertinent circumstances of his school, family life, any previous delinquency or criminal experience, and any mental or physical

defect or other factor contributing to his delinquency. A report of findings and recommendations as to treatment go to the Youth Correction Division. Presently, the law requires at least one member of the Division to interview the youth offender as soon as possible after commitment, review the reports and make recommendations to the Division.

Another function of the Division is to interview youth offenders who have been returned to custody (prior to their unconditional release) when the Division decides they will be benefited by further treatment in an institution or other facility.

H.R. 16353 would merely permit the Division to designate Examiners to conduct the interviews of youth offenders both after initial commitment and upon return to custody.

Presently, Examiners are used by the Board of Parole for interviews with adult offenders, but since the Youth Corrections Act provides for Division members to interview youth offenders it can only be done by Examiners when a waiver is obtained. When the youth offender does not consent, his interview must be delayed until a Division member can visit the institution where he is confined. Since the youth offenders are often confined in adult-type institutions, these delays may be particularly harmful to the youthful offenders and the prospects for their rehabilitation.

This proposal, if adopted, will permit the Examiners to conduct the majority of the interviews with youth offenders while permitting the Board members to remain in Washington to confer and make final decisions based upon the Examiners' reports.

The Task Force on Corrections of the President's Commission on Law Enforcement and Administration of Justice has recommended the use of Examiners. The amendments proposed will make more efficient and effective the operations of the Parole Board and its Youth Division. I urge your favorable consideration of H.R. 16353.

Thank you.

Mr. DONOHUE. Are there any further questions?

Mr. SHATTUCK. Mr. Chairman, if I might direct one question to Mr. Reed—In the course of your testimony you referred to certain collateral duties that might be assigned to the examiners.

How would this affect the conduct of the examiner?

As to these examiners, is their principal duty to conduct these examinations?

Mr. REED. Yes; and only when they are not assigned in the field for a hearing, which will not be often with that heavy docket, we have developed these secondary duties.

The primary duty is hearing examiner with a capital "E" and secondary duties with a small "s," because they are only collateral duties that they perform when they are not officially assigned for hearing duties.

Mr. SHATTUCK. These collateral duties would not be inconsistent with their duties as examiners?

Mr. REED. No; they would be supportive of the very thing they are doing.

Mr. SHATTUCK. In other words they would not be involved with the same people they would be asked to examine or anything of that nature?

Mr. REED. No.

Mr. SHATTUCK. How are they selected; are they civil service employees?

Mr. REED. Yes; they are selected from the civil service register. They are composed of multidisciplined backgrounds as is the Board, and, as I have indicated previously are uniquely qualified to work with the youth offender with the understanding of human behavior as well as expertise that is in the law.

Mr. SHATTUCK. Under the previous system, Mr. Reed, where the members of the Board actually conducted the hearings and the interviews, did this give the members of the Board an advantage in that they came in direct contact with the inmate, the convicted inmate?

Mr. REED. I think initially, Mr. Shattuck, it did, and I enjoyed it very much in the early days. But as the commitment and the workload became larger it became impossible to do it—to do the thorough job that the act contemplated and we began then to work long days, longer weeks, eventually shorter time with the hearing, and I, in good conscience could not return to make that kind of quick decision.

The Board was roundly criticized for some short cuts that they were using, including the telephone conversation with the hearing member in the field to one member back in the office, so that we felt that this did not comply with the intent of the parole statute and our intent was to have time to confer and deliberate on youth offenders as well as adult offenders prior to entering a very, very important decision.

Mr. SANDMAN. Did you have jurisdiction also over narcotics offenders?

Mr. REED. We have jurisdiction over any convicted felon and we have particular responsibility under the NARA, Narcotics Addict Rehabilitation Act, and we are the paroling authority for those committed under that Federal statute.

Mr. SANDMAN. What kind of followup do you have?

You must have some branches under you, don't you, after you let someone off on parole?

Mr. REED. Are you speaking about general offenders or narcotics offenders?

Mr. SANDMAN. Just the narcotic offenders.

Mr. REED. Yes; they have special community treatment teams that they have set up under the NARA program that includes special counseling, special casework, that includes regular urinalysis testing to ascertain whether or not the parolee has returned to the use of narcotics.

They have special guidance teams that are working in a very individualized way with the narcotics offenders, relating to general offenders, youths or adults, we rely upon the joint responsibility of the U.S. probation officers who handle probationers in the field, or parolees.

They do the supervision for the U.S. Board of Parole of all parolees.

Mr. SANDMAN. Those who are working on narcotics offenses, do they have a more limited caseload than the other kinds of officers?

Mr. REED. Yes.

Mr. SANDMAN. What are their limits set at?

Mr. REED. Under the NARA program in some places it is a relationship of about 1 to 5 and about 1 to 8, whereas the average parole caseloads in the field of the nonnarcotic might run as high as 75 caseloads to one U.S. probation officer.

Mr. SANDMAN. Thank you.

Mr. REED. Thank you.

Mr. DONOHUE. Is it so, Mr. Reed, that a person who has been paroled does not necessarily have to commit another violation of the law to be surrendered?

Mr. REED. If he should violate the terms of his parole, a warrant can issue. I remember one study where about one-fourth of the violators were administrative violators, whereas three-fourths were those who had committed the new offense.

Mr. NEAGLES. Roughly, now, about 20 percent of the violators do not commit another crime; they violate in other ways.

Mr. REED. That is, by violating their rules of parole and not a violation of law.

Mr. DONOHUE. That is 20 percent of them?

Mr. NEAGLES. Roughly 20 percent.

Mr. SANDMAN. As to the narcotic offender, if he fails the urine test, he is recommitted; isn't he?

Mr. REED. It is not automatic, but he could be. He would have flunked the course and we would have to weigh all judgment as to what relative circumstances might pertain, but this would be sufficient grounds.

Mr. DONOHUE. Are there any further questions?

If not, we will excuse Mr. Reed and your associates. Thank you very much for giving us the benefit of your views.

Mr. DONOHUE. I understand we have with us a member of our committee, Mr. Wiley Mayne. Do you wish to deliver your statement or make it part of the record?

STATEMENT OF HON. WILEY MAYNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. MAYNE. Mr. Chairman, thank you for recognizing me. I would be very glad to present my views, on behalf of H.R. 16353. I was very pleased to join with 11 distinguished colleagues and equally distinguished attorneys, including Congressmen McCulloch, Poff, MacGregor, Hutchinson, McClory, Meskill, Sandman, Wiggins, Dennis, and Fish to cosponsor the introduction of this important legislative proposal and I fully support its early enactment into law.

Enactment of the Youth Corrections Act enabled many needed reforms in the treatment and correction policies for young offenders.

However, an unfortunate byproduct of the act has been an increasing overloading of the Parole Board, with consequent delays in processing young Federal prisoners following their confinement under sentence.

"Justice delayed is justice denied" not only with regard to pre-trial and trial procedures but also with regard to procedures following the trial, conviction and sentencing of criminals.

I believe H.R. 16353 would serve to correct this defect and thereby improve and strengthen the Youth Corrections Act.

Under the Youth Corrections Act, the Youth Corrections Division, composed of members of the Board of Parole, designated by the Attorney General, is responsible for recommending treatment and correction policies to be followed with regard to the particular youth offender.

The Youth Correction Division may order the release of offenders on parole, the return to custody and further treatment of those who fail to meet the conditions of parole, and the unconditional release of those who succeed in complying with the conditions of parole for at least 1 year.

The present bill would not disturb the act in these objectives.

However, the act, in sections 5014 and 5020 of title 18 of the United States Code, requires that members of the Youth Corrections Division of the Board of Parole must personally interview youth offenders after the offender's initial confinement and upon his return to custody following failure to abide by the conditions of his parole, unless the youth offender consents to a waiver and thus enables the interview to be conducted by a Federal examiner.

When the youth offender declines to agree to a waiver, the processing of his case must be delayed until a member of the Youth Corrections Division can schedule time to travel to his place of confinement and conduct the interview. This has become a major administrative bottleneck.

It deprives the Board of Parole of the services of Youth Division members while they are traveling about on interviews, and increases the workload and backing, the backlog, not only of the particular members conducting interviews but also of the other members of the Board.

Too often the requirement has caused delay in the granting of paroles, the release of those deserving parole, the correction of mistreatment in Federal institutions, or the implementation of needed changes in correctional techniques with regard to the respective youth offender.

The task force on corrections of the President's Commission on Law Enforcement and Administration of Justice has emphasized the need to correct this situation and the present bill, H.R. 16353 has been introduced at the request of the Attorney General of the United States, on behalf of the Board of Parole.

It would make the operation of the Board of Parole and the Youth Division far more effective and efficient in carrying out the worthy objectives envisaged in the Youth Corrections Act.

Under this bill, the majority of the interviews with youth offenders would be delegated to Federal examiners with such as now examine adult offenders.

As these Federal examiners are sent to every Federal institution of correction, the interviews could be expedited without the current agonizing delays too often encountered under the present law.

Liberated of the task of conducting these interviews and of traveling through the Nation to conduct them, the Board of Parole members could remain in Washington to confer with each other before making final decisions based on the information provided by the examiners.

If the Youth Corrections Division needed further information not easily acquired through a Federal examiner or if it is desired to obtain information firsthand, the Division would retain the discretionary authority to have its members, rather than Federal examiners, interview offenders.

I believe that the bill, H.R. 16353 is in the best interests of justice and urge its enactment as soon as it is possible.

Thank you, Mr. Chairman.

Mr. DONOHUE. We also have a statement from Congressman Thomas Meskill and Congressman Hamilton Fish, Jr., and without objection these statements will be made part of the record.

(The documents referred to follow:)

STATEMENT OF HON. THOMAS J. MESKILL

Mr. Chairman, it is a pleasure to appear here this morning in support of H.R. 16353. This bill represents a portion, albeit a small one, of the Administration's anticrime program. It was introduced by Mr. McCulloch and cosponsored by ten other Members including myself.

Under the Youth Corrections Act, the Youth Corrections Division was established as a part of the Board of Parole to deal with juvenile offenders. This Division is charged with conditional release of juveniles on parole, return of such persons to custody when their conduct while on parole warrants it, and unconditional release of juvenile parolees upon the satisfactory completion of one year of parole.

In order that the members of the Youth Corrections Division of the Parole Board may keep track of the progress of individual cases, they are charged by the Youth Corrections Act with the additional duty of conducting interviews of youthful offenders who are incarcerated, both after initial commitment and after return to custody. Since this Division is located in Washington, D.C., substantial delays often occur before a member can interview persons held in custody in institutions located throughout the country.

At present, examiners conduct these interviews, as they now do for all adult offenders, only when the juvenile offender waives his right to be interviewed by a member.

H.R. 16363 would permit examiners to conduct these interviews with youthful offenders. This would enable examiners to interview both adult and youthful offenders, thus allowing Board members to remain in Washington to keep up with their ever-mounting caseload. The Board members would, of course, make all final decisions as to disposition of cases, based on reports from the examiners in the field.

Without question, Mr. Chairman, this proposal will greatly increase the effectiveness and efficiency of operations of the Youth Correction Division of the Board of Parole and I strongly endorse it.

STATEMENT OF HON. HAMILTON FISH, JR.

Prior to the enactment of the Youth Corrections Act, I was convinced that this method of sentencing, especially for young people, was a step in the right direction. Of course we did not envision that this would be the panacea for the whole spectrum of sentencing ills, but in that time and in that place it seemed to be proper and appropriate. And in my opinion, it has proved to be an effective tool.

I have followed with interest the implementation and administration of the Act by the Youth Division of the U.S. Board of Parole. I have been well impressed with the care and diligence that that body has afforded in fulfilling its statutory responsibilities and in accomplishing the intent of the authors and supporters of the Act. Approximately 300 convictions are set aside each year because the parolee has made an outstanding adjustment in the community.

I am also aware of some of the handicaps which have confronted the Board throughout the years. Foremost among these has been the enormous volume of hearings and demanding travel schedule which for some ten years was shouldered by the three Members of the Youth Division. This travel schedule resulted in minimal period of time in the Washington office for conferring and voting on cases, a difficult situation both for Member and inmate. In an effort to breach the work-load gap, the Board authorized the use of professional staff to conduct hearings and in 1967 a highly-qualified examiner was added to the Youth Division staff for this purpose. With the more recent reorganization of the Board, another full-time highly-qualified examiner has been added.

Through the use of competent and discerning parole examiners who make evaluations and recommendations in each case, obviously because of expanded time limitations, the Youth Division is enabled to make better quality decisions in the interest of both the offender and of the public. I perceive, therefore, that the intent and the spirit of the YCA will be strengthened through this administrative change.

We all must recognize that the age range—juvenile through 25—with which we are concerned represents the offenders who are most emotionally unstable, physically mobile, and prone toward acting-out in illegal ways when compared with other age groupings. Accordingly, every effort should be made to insure a

continuing appraisal of the effectiveness of the Act and its administration, and every effort, as here, should be made to strengthen the system.

We live in a world and in a nation which is in the throes of dramatic social change and continuous readjustment must be made to those changes. The tempo appears to progress at an ever-increasing pace.

To be a vital force in the improving of the administration of justice, we must be willing to reassess and reevaluate and then make those changes consistent with the reality of the situation. It would seem that the proposed changes in the YCA do reflect the changing times as well as the many years of day-to-day experience by experts in the field of corrections. I see this proposal as an improvement towards more meaningful decision-making, and I lend my support to its enactment.

Dr. DONOHUE. The executive communication from the Department of Justice recommending this legislation will be made a part of the record at this point.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 9, 1970.

THE SPEAKER,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed for your consideration and appropriate reference is a legislative proposal to amend the Federal Youth Corrections Act, 18 U.S.C. 5005 *et seq.*, to permit Examiners to interview youth offenders.

The Youth Corrections Act provides for a Youth Correction Division within the Board of Parole. That Division, composed of members of the Board of Parole as designated by the Attorney General, makes recommendations concerning the treatment and correction policies for committed youth offenders, orders the release of offenders on parole, the return to custody for further treatment of those who do not succeed when conditionally released, and the unconditional release of those who are successful for at least one year on parole.

Another function of the Division is to interview youth offenders after initial commitment and upon return to custody. Sections 5014 and 5020 of title 18, United States Code, provide for members of the Division to conduct these interviews. This proposal would permit the Division to designate Examiners to perform this function.

Presently, Examiners are used by the Board of Parole for interviews with adult offenders. However, since the Youth Corrections Act provides for Division members to interview youth offenders, it is necessary to obtain a waiver by an offender if an Examiner is to interview him. If a youth offender does not consent to a waiver, his interview must be delayed until a Division member can visit the institution where he is confined. This results in ever greater delays when the youth offenders involved are confined in adult-type institutions.

The Board of Parole would like to institute a new program with Examiners conducting a majority of the interviews with youth offenders as well as adult offenders while Board members remain in Washington to confer and make final decisions based on the information provided by the Examiners. This program, which would be greatly facilitated by the enactment of this proposal, will make the operation of the Board and the Youth Division much more effective and efficient.

The Task Force on Corrections of the President's Commission on Law Enforcement and Administration of Justice recommended the use of Examiners along the lines proposed here.

The Department of Justice urges the early introduction and prompt enactment of this measure.

The Bureau of the Budget has advised that the submission of this recommendation is consistent with the Administration's objectives.

Sincerely,

JOHN N. MITCHELL,
Attorney General.

Mr. DONOHUE. We will now adjourn.

(Whereupon, at 11:45 a.m. the subcommittee adjourned, subject to call of the Chair.)

