

Y 4 .J 89/1 : 93-11

1020

93-11
J 89/1
9344

FEDERAL PRISONERS FURLOUGH

GOVERNMENT

DOCUMENTS

DOCUMENTS

Storage

1 2 1973

NOV 1 2 1973

LIBRARY
KANSAS STATE UNIVERSITY

HEARINGS

THE LIBRARY
KANSAS STATE UNIVERSITY

BEFORE THE

SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES,
AND THE ADMINISTRATION OF JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 7352

TO AMEND SECTION 4082(c) OF TITLE 18, UNITED STATES CODE,
TO EXTEND THE LIMITS OF CONFINEMENT OF
FEDERAL PRISONERS
AND RELATED MEASURES

JULY 19, 1973

Serial No. 11

Printed for the use of the Committee on the Judiciary



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1973

20-788

Barcode with number A11600 663748 and a red checkmark.

11-80:1182 AY

COMMITTEE ON THE JUDICIARY

PETER W. RODINO, Jr., New Jersey, *Chairman*

- | | |
|----------------------------------|-------------------------------------|
| HAROLD D. DONOHUE, Massachusetts | EDWARD HUTCHINSON, Michigan |
| JACK BROOKS, Texas | ROBERT McCLORY, Illinois |
| ROBERT W. KASTENMEIER, Wisconsin | HENRY P. SMITH III, New York |
| DON EDWARDS, California | CHARLES W. SANDMAN, Jr., New Jersey |
| WILLIAM L. HUNGATE, Missouri | TOM RAILSBACK, Illinois |
| JOHN CONYERS, Jr., Michigan | CHARLES E. WIGGINS, California |
| JOSHUA EILBERG, Pennsylvania | DAVID W. DENNIS, Indiana |
| JEROME K. WALDIE, California | HAMILTON FISH, Jr., New York |
| WALTER FLOWERS, Alabama | WILEY MAYNE, Iowa |
| JAMES R. MANN, South Carolina | LAWRENCE J. HOGAN, Maryland |
| PAUL S. SARBANES, Maryland | WILLIAM J. KEATING, Ohio |
| JOHN F. SEIBERLING, Ohio | M. CALDWELL BUTLER, Virginia |
| GEORGE E. DANIELSON, California | WILLIAM S. COHEN, Maine |
| ROBERT F. DRINAN, Massachusetts | TRENT LOTT, Mississippi |
| CHARLES B. RANGEL, New York | HAROLD V. FROEHLICH, Wisconsin |
| BARBARA JORDAN, Texas | CARLOS J. MOORHEAD, California |
| RAY THORNTON, Arkansas | JOSEPH J. MARAZITI, New Jersey |
| ELIZABETH HOLTZMAN, New York | |
| WAYNE OWENS, Utah | |
| EDWARD MEZVINSKY, Iowa | |

- JEROME M. ZEIFMAN, *General Counsel*
 GARNER J. CLINE, *Associate General Counsel*
 JOSEPH FISCHER, *Law Revision Counsel*
 HERBERT FUCHS, *Counsel*
 HERBERT E. HOFFMAN, *Counsel*
 WILLIAM P. SHATTUCK, *Counsel*
 CHRIS NOLDE, *Counsel*
 ALAN A. PARKER, *Counsel*
 JAMES F. FALCO, *Counsel*
 MAURICE A. BARBOZA, *Counsel*
 DONALD G. BENN, *Counsel*
 FRANKLIN G. POLK, *Counsel*
 ROGER A. PAULEY, *Counsel*
 THOMAS E. MOONEY, *Counsel*
 PETER T. STRAUB, *Counsel*
 MICHAEL W. BLOMMER, *Counsel*
 ALEXANDER B. COOK, *Counsel*

SUBCOMMITTEE No. 3

ROBERT W. KASTENMEIER, Wisconsin, *Chairman*

- | | |
|--|-------------------------------------|
| GEORGE E. DANIELSON, California | TOM RAILSBACK, Illinois |
| ROBERT F. DRINAN, Massachusetts | HENRY P. SMITH III, New York |
| WAYNE OWENS, Utah | CHARLES W. SANDMAN, Jr., New Jersey |
| EDWARD MEZVINSKY, Iowa | WILLIAM S. COHEN, Maine |
| HERBERT FUCHS, <i>Counsel</i> | |
| THOMAS E. MOONEY, <i>Associate Counsel</i> | |

CONTENTS

	Page
Text of—	
H.R. 684, H.R. 7110, H.R. 6101, H.R. 7352.....	2
Testimony of—	
Carlson, Hon. Norman A., Director, Federal Bureau of Prisons.....	11
Harrison, Eddie, director, pretrial intervention project.....	33
Koch, Hon. Edward I., a U.S. Representative in Congress from the State of New York.....	3
Additional information—	
Bureau of Prisons policy statement on inmate furloughs, dated December 15, 1969.....	26
Letter, dated July 27, 1973, to the chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, from Loy S. Hayes, Acting Director, Bureau of Prisons, supplying additional information	31
Prepared statements—	
Carlson, Hon. Norman A., Director, Federal Bureau of Prisons.....	11
Koch, Hon. Edward I., a U.S. Representative in Congress from the State of New York.....	3

CONTENTS

1904

1. The History of the United States of America, from the first settlement to the present time, by J. W. Aldrich. 1-100

2. The Constitution of the United States, by J. W. Aldrich. 101-150

3. The Federal Government, by J. W. Aldrich. 151-200

4. The States and Territories, by J. W. Aldrich. 201-250

5. The People, by J. W. Aldrich. 251-300

6. The Economy, by J. W. Aldrich. 301-350

7. The Culture, by J. W. Aldrich. 351-400

8. The Future, by J. W. Aldrich. 401-450

FEDERAL PRISONERS FURLOUGH

THURSDAY, JULY 19, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES,
AND THE ADMINISTRATION OF JUSTICE
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10:10 a.m., pursuant to call, in room 2137, Rayburn House Office Building, Hon. Robert M. Kastenmeier [chairman] presiding.

Present: Representatives Kastenmeier, Railsback, Smith, and Cohen.

Also present: Herbert Fuchs, counsel, and Thomas E. Mooney, associate counsel.

Mr. KASTENMEIER. The hearing will come to order.

The Subcommittee on Courts, Civil Liberties, and the Administration of Justice, which the subcommittee is now captioned, is meeting this morning to receive testimony on H.R. 7352, a bill to amend section 4082(c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners, and H.R. 684, a bill to provide for family visitation furloughs for Federal prisoners. Identical to H.R. 684 are H.R. 6101 and H.R. 7110, introduced by Mr. Koch and co-sponsored by Messrs. Badillo, Conyers, Fauntroy, Mitchell of Maryland, Nix, Podell, Roncallo of New York, Rosenthal, Roybal, and Tiernan, and by Ms. Abzug, Messrs. Harrington, McCloskey, and Stark, respectively.

Both H.R. 684 and H.R. 7352 would enlarge the opportunity of Federal prisoners to receive furloughs.

H.R. 684 was introduced by our colleague from New York, the Honorable Edward I. Koch. It provides for a minimum of 12 and not more than 30 days of furlough during each year of incarceration, provided the inmate meets certain eligibility requirements. H.R. 7352 was proposed by the Attorney General and was introduced by our distinguished chairman of the Committee on the Judiciary, Mr. Rodino, and the distinguished ranking minority member, Mr. Hutchinson. It would enlarge the authority of the Attorney General to permit furloughs up to 30 days in length for specified purposes.

The subcommittee's interest in these measures lies in the fact that the proposals have direct bearing on the rehabilitation of prisoners. [The bills referred to follow:]

[H.R. 684, 93d Cong., 1st sess.]

A BILL To provide for family visitation furloughs for Federal prisoners

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Family Visitation Act of 1973".

SEC. 2. (a) Chapter 309 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4167. Furloughs

"(a) Each prisoner, convicted of an offense against the United States and confined in a penal or correctional institution, shall, during each year of confinement, be entitled to not less than twelve, nor more than thirty, days of family and social visitation furlough if—

(1) his record of conduct during confinement shows that he has not engaged in serious misconduct for which punishment, including a revocation, forfeiture, or withholding of good time allowance, has been imposed; and he is not of a violent nature; or

"(2) he is deemed to be of a trustworthy nature notwithstanding prior offenses.

Each determination required by clauses (1) and (2) of this subsection shall be made by the chief executive officer of the institution to which such prisoner is confined, after consultation with the institution classification committee or treatment team, as the case may be, the mental health supervisor of such institution, and such prisoner's individual caseworker.

"(b) The willful failure of a prisoner to return within the time prescribed to the institution from which he was furloughed shall be deemed an escape from the custody of the Attorney General punishable as provided in section 751 of this title."

(b) The table of sections at the beginning of such chapter 309 is amended by adding at the end thereof:

"4167. Furloughs."

[H.R. 7110, 93d Cong., 1st sess.]

[H.R. 6101, 93d Cong., 1st sess.]

[H.R. 7352, 93d Cong., 1st sess.]

A BILL To amend section 4082(c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (1) of section 4082(c), title 18, United States Code, is amended to read as follows:

"(1) visit a specifically designated place or places for a period not to exceed thirty days and return to the same or another institution or facility. An extension of limits may be granted to permit a visit to a dying relative, attendance at the funeral of a relative, the obtaining of medical services not otherwise available, the contacting of prospective employers, the reestablishment of family and community ties or for any other significant correctional reason consistent with the public interest; or".

MR. KASTENMEIER. We are in somewhat limited surroundings this morning as to facilities for the subcommittee hearings. The Judiciary Committee has seven operating committees and too few hearing rooms for that purpose. Rather than to delay, from time to time we are going to have to ask witnesses and others attending the hearings to put up with cramped quarters in order that we may hear important matters on time.

It is a personal pleasure to greet my friend and colleague this morning, the gentleman from New York, Mr. Koch.

TESTIMONY OF HON. EDWARD I. KOCH, A REPRESENTATIVE IN
CONGRESS FROM THE 17TH CONGRESSIONAL DISTRICT OF THE
STATE OF NEW YORK

Mr. KOCH. Thank you, Mr. Chairman, members of the committee.

I appreciate your providing me with an opportunity to testify on the two bills before you, on the subject of family visitation.

I introduced my bill, H.R. 684, the Family Visitation Act, for the first time on February 3, 1972. While I have a certain pride of authorship in the bill and will try to deal with some of the distinctions that exist between the two bills—H.R. 684 and H.R. 7352—I would be delighted to see either bill passed by this committee.

I would like to file my formal statement and merely comment on the highlights, if I might, Mr. Chairman.

Mr. KASTENMEIER. Without objection, your five-page statement will be filed with the committee and will be received as a part of the record.

Mr. KOCH. Thank you.

[The statement referred to follows:]

CONGRESSMAN EDWARD I. KOCH, JULY 19, 1973, TESTIMONY BEFORE THE SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION OF JUSTICE OF THE HOUSE JUDICIARY COMMITTEE ON THE FAMILY VISITATION ACT

Mr. Chairman, I appreciate this opportunity to testify before you today in support of a bill I have introduced, H.R. 684, the Family Visitation Act. This bill would afford prisoners in Federal institutions a minimum of 12 and up to 30 days of furlough during each year of his or her incarceration.

The bill provides that each prisoner shall be entitled to family visitations subject to his meeting certain conditions. Whether or not he meets these conditions shall be determined by the chief executive officer of the institution to which the prisoner is confined after consultation with the classification committee or treatment team, the mental health supervisor, and the individual's caseworker. Any violation of the furlough privilege would be deemed an escape and subject to penalties under existing laws.

While Federal law presently provides for a limited furlough program, leave is only granted on an emergency basis primarily to visit a dying relative, attend a funeral or obtain medical care not available at the institution, or to contact prospective employers. Liberalization of this current policy was recently advocated by Norman A. Carlson, Director of the Federal Bureau of Prisons who is testifying before you today. In testimony he delivered on May 22, 1973 before the Senate Judiciary Committee, he said:

"I think we all recognize the important role that constructive family relationships can play in the overall favorable adjustment of offenders. There are times when periodic home visits can be justified for reasons other than emergencies. The opportunity to participate in special religious holidays and many other important family functions that mean so much to all of us can be a critical step in changing attitudes and developing positive behavior."

The advantages of furloughs are many and their potential unlimited. The inmate's family is used as the effective motivating and rehabilitative element in his treatment. The furlough bridges the gap between the institution and the community to which the offender must return. It serves to heighten the self-esteem of the inmate since he is treated as someone who is responsible for himself and can be trusted on leave. It encourages his ability to make decisions, to do things for himself rather than relying on the institution. For those about to be paroled, it allows an inmate to arrange for employment and housing, and otherwise prepare for release. For married inmates, it strengthens the relationship between spouses, and it helps the children both to get to know the parent and maintain contact with the parent.

Family visiting programs at the institution should be used only for those who cannot utilize furloughs, as for example chronic parole absconders, perpetrators of violent crimes who continue to be dangerous to the community and those with disciplinary problems.

Marital or conjugal visiting programs have inherent problems the furloughs overcome. The objections to conjugal visits are:

(1) Such a program only serves a minority of inmates who have intact marriages and cannot be used by single inmates:

(2) Almost all prisons lack the appropriate facilities;

(3) It is a difficult program to administer;

(4) Administrative support for marital visits is meager;

(5) There is an unmistakable demeaning character to the frankly sexual nature of the visits, which does not serve to strengthen family ties; and

(6) It does not serve to bring the inmate back to the community.

California and Mississippi are the only departments of correction currently conducting conjugal visiting programs.

The President's Commission on Law Enforcement and Administration of Justice issued a report, *The Challenge of Crime in a Free Society*. In that report, they urged that "Graduated release and furlough programs should be expanded. They should be accompanied by guidance and coordinated with community treatment services."

Furlough programs have been instituted in many states. In March of this year, Mr. Carson Markley, Associate Warden at the Federal Reformatory for Women in Alderson, West Virginia, published a report he wrote as a Harvard Fellow at the Center for the Advancement of Criminal Justice summarizing the characteristics of existing furlough programs.

He found that of the 50 State departments of correction, plus the District of Columbia, 57% indicated they have furlough programs. Others plan to implement programs. Only six States indicated they had no such plans.

More than 50% of the States anticipate minor changes in the programs. Illinois is planning to expand its program to all institutions; Louisiana and Idaho, for instance, are to change their laws which restrict many offenders.

In 23, or 82% of the States conducting furlough programs, administrators state they have had minimal or no serious problems with the program.

California indicated there was bad publicity when one participant allegedly killed a person accused of coddling the inmates.

Iowa states there was some alcohol and tardiness problems, yet they are expanding the program.

North Dakota had a problem communicating guidelines to staff members.

Utah had some escapes and drug and alcohol related problems. Utah intends to increase the number of participants in the program.

Washington cited a few participants being involved in criminal activities.

The District of Columbia cited negative reactions from the local community and police. They intend to expand the program and use it more as a treatment tool than reward, notwithstanding this opposition. They have found it to be an effective tool in reducing tension and increasing motivation. A recent statistic taken from the D.C. Department of Corrections showed that during FY 1973 there were 20,000 furloughs granted with only 16 escapes, i.e., less than .5%.

Since November 1972, the New York City Department of Correction has had a furlough program. 45 men were participants, 2 failed to return. The regulations are being revised to encourage more participation.

New York City will shortly implement an Intermittent Sentence Program which will be used in some cases in lieu of full-time incarceration. If an offender from the criminal court is sentenced to 90 days, this program would permit him to serve 45 weekends in prison in lieu of 90 consecutive days. This would permit the offender to keep his job, support his family, save money, pay taxes and keep the family off welfare.

Since 1965, the Federal Bureau of Prisons furlough program has granted hundreds of inmates leave each year. In FY 1972, less than 1% of the 4,126 furloughed failed to return to the institution.

California and Oregon have been the only States to conduct followup evaluations of their furlough programs. The California study showed that 82% of those furloughed looked for, or secured a job for parole. Participants did better on parole than nonparticipants. 60% experienced no difficulty the first year, compared to 42% of the nonparticipants. The Oregon study emphasized that furloughs tend to strengthen family ties. The rate of known misconduct among those furloughed is 1.34%; the escape rate is 1%.

These studies have shown that offenders having contact with the community before their release recidivate at lower rates than those not having such contact.

With a growing awareness of the importance of the family to the rehabilitation of an offender, our correctional institutions can and must use this very valuable resource to help the inmate, the family and the community.

We all know that the prison system leaves much to be desired, and recidivism is rampant. A recent report from the House Select Committee on Crime, which recommends that work release, education and home furlough programs be expanded, states that $\frac{2}{3}$ of all offenders released from prison are rearrested within 4 years—a nationwide recidivism rate of 66%. The rate is very high and prisons across the country are erupting in demonstrations and riots. Something has got to change and one change is to introduce the family component and relationship.

What better restraint is there on a prisoner to keep himself in check than if he knows that if he does not he won't be entitled to visit his family for up to 30 days during the year. Let's give the furlough program a chance. What we have isn't working.

Mr. KOCH. The purpose of the Family Visitation Act is to deal with a horrendous situation which exists in the prisons at the present time. The recidivist rate, according to the House Select Committee on Crime, is two-thirds of all offenders rearrested within 4 years. That is horrendous.

One of the matters that bears upon their rearrests, obviously, is the lack of rehabilitation available during their incarceration.

In the last few years I have visited six prisons as an observer, and I am very interested in prison reform. I have done some study on the subject, and I take great pride in the fact that I receive correspondence from prisoners all across the country dealing with special problems. While we are on that subject, I want to take note of the fact that Mr. Carlson, the Director of our Federal prison system, who is also here, has provided enormous assistance and always appropriately because, as you know, certain prisoners are won't to complain even when complaints are not justified. Mr. Carlson and his staff have always been magnificent in responding to specific complaints, however, and I want to take note of that.

In the course of the readings I have had on the subject and from my own personal observations in the prison system, it became very clear that one of the things that we need, to a far greater extent than we presently have, is family visitation. Most prison authorities agree with that. Now, when you normally think of family visitation or family furloughs you think primarily of conjugal rights and opportunities, and that is an important aspect of it, but it is not the only or overriding aspect.

We are all familiar with the fact that in prisons there are a great deal of sexual assaults. Some believe that the rampant homosexuality existing in our prisons is caused by a lack of normal sexual outlet. That is only part of it. There was a study done in Philadelphia of the Philadelphia system in which it was found that sexual assaults and homosexuality were rampant in that prison system—and I am sure it is no different than any other system—not only because of the lack of normal sexual outlets but because of the pecking order in the prison to establish hegemony over the other prisoners.

So the Family Visitation Act is not simply to deal with that aspect, although it is an ingredient.

If there is to be rehabilitation of the prisoners it will come as a result, in my judgment, of family input, of the reestablishment of

social and family relationships, and that is exactly what my bill provides.

The idea of family visitation is not unique and it wasn't first set forth in my bill. In the Federal prison system we have had family visitation since 1965. It may date back before that but I think that is when the practice first came into formal being. It was limited to very special situations—to medical visits, compassionate furloughs in the event of a death in the family, or job interviews at the very end of a prison sentence. I think that visitation rights have been expanded much beyond that in a number of the States that have dealt with the problem.

It is interesting to note that 57 percent of the States today have family furloughs and according to the research that my office has done only six of the balance plan no such legislation in the future. So the practice has become widespread either in fact or expectation on the part of the States that are involved.

Now, obviously, one would want to examine the results of furloughs. Does the prisoner return? I was interested in a statistic which I learned this morning but I will give you some that I ascertained prior to coming to this table and talking to my good friend, Norman Carlson. The District of Columbia jail provided me with some statistics and since they undertook their furlough operation they have granted over 20,000 furloughs. Of course, I assume that would not be 20,000 different inmates but it would be a number of people on furlough who are repeaters in that furlough situation. In the period of time that they have had the family visitation or furloughs there have been only 16 escapes, which comes out to a figure of less than one-half of 1 percent.

Now, the Federal furlough—

Mr. KASTENMEIER. Excuse me; what institution or prison system?

Mr. KOCH. The District of Columbia Corrections. That is 20,000 furloughs, 16 escapes, which comes out to less than one-half of 1 percent.

Norman Carlson recently gave excellent testimony when he appeared before the Senate committee holding hearings on this subject. He testified that the Federal furlough program had a figure which indicated in the fiscal year 1972, 4,126 furloughs were granted and less than 1 percent of those involved failed to return.

On the contrary, I was shocked to discover this morning that of the 23,000 people in the Federal prison system, the most recent break-out or escape figure is 600. That comes out to something like 3 or 4 percent, which is a far higher figure than in the family visitation program where the man is actually out and can very easily leave. So there may be escapes and people won't return, surely. But that the program is worth expanding, and, where applicable, initiating, I have no doubt.

Let me, if I may, just conclude by addressing myself to the differences between the two bills.

Once again I would be delighted with whichever bill passes, but I would point out several safeguards in my bill, which don't appear in H.R. 7352.

My bill, H.R. 684, provides: (1) That the visitation shall be a period of from 12 to 30 days. I think that is important because it establishes as a program that prisoners subject to the conditions de-

scribed in the bill shall receive 12 to 30 days in the family visitation as opposed to simply leaving it totally to the discretion of the warden.

Secondly, my bill specifically sets forth the kind of prisoner who would be eligible for such a furlough, and H.R. 7352 does not. My bill provides that he shall be eligible if "his record of conduct during confinement shows he has not engaged in serious misconduct for which punishment, including a revocation, forfeiture, or withholding of good time allowance, has been imposed; or he is deemed to be of a trustworthy nature notwithstanding prior offenses."

It could very well be that if the bill H.R. 7352 were passed without the standards, it would include a requirement that there would be regulations provided for by the Department of Corrections.

A second item that appears in my bill, which doesn't appear in H.R. 7352, concerns the prisoner who violates his furlough and doesn't return or returns at a later date. My bill provides: "The willful failure of a prisoner to return within the time prescribed to the institution from which he was furloughed shall be deemed an escape from the custody of the Attorney General punishable as provided in section 751 of this title." H.R. 7352 is silent on that point.

So just to conclude, Mr. Chairman and members of the committee, I think that prisons only become matters of concern when there are riots. In the State of New York, everybody was upset about Attica. I want to tell you that nobody has been indicted because of the Attica incident—none of the people involved on the penal side, none of the prisoners although it was accepted by everyone there that there were unconscionable actions on the part of the State and prison officials. Not a single person was indicted. People were upset. They were going to change the conditions and a whole host of things. It doesn't happen. The public gets involved for 10 days. That is all you can get their attention for—10 days immediately after the riot—and they go on to something else. The prison population doesn't vote. After all, they are felons; they have committed crimes against society, and therefore there is this feeling they are the last to be heard.

The truth of the matter is, if we do not try to rehabilitate them, it will be society which suffers, not just the prisoners, but society, if we have a recidivism rate of 66 $\frac{2}{3}$ percent. Recidivism to society must be understood as a person leaving the prison and hitting you on the head, which he will do every 4 years when he gets out, and will then come back into the prison system.

I think family visitation is one way to deal with the situation. I don't know that it will have the impact that I hope it will, but we have nothing to lose in trying it.

I thank you, Mr. Chairman.

Mr. KASTENMEIER. Thank you, Mr. Koch. You are to be complimented on the initiative you have taken in this matter and also in many, many other matters that have come before this committee, including the creation of a Commission of Marihuana and other very, very worthwhile initiatives.

I do have several questions, principally technical, and I would like you opinion on several things.

How do you feel about a family visiting an institution? Would you modify in any respect the relationship of a prisoner to his family in an institutional setting?

Mr. KOCH. There are only two States, I believe, that still maintain the family visitations in prison, or what are called the conjugal visits. One is Mississippi. I just have forgotten the other one.

Mr. KASTENMEIER. When the subcommittee was in California, we noted that at Soledad they had the conjugal visits.

Mr. KOCH. It is demeaning for that to occur. It is obviously better than no visitation at all. But it is demeaning for the following reasons: Firstly, there are inadequate facilities to provide a situation where a man can meet this wife under suitable conditions.

The second is that the nature of the visit, being an overnight visit of a kind, is clearly sexual in its purpose; and while there is nothing wrong with that, to have that as the only aspect of it, which it then becomes, demeans the relationship between the spouses.

Then there are two other points. One is that when a man or a woman can leave the prison together to return to their home, you have other influences, the children and just maintaining contact with them.

Then, finally, because of the mores of our society, the conjugal visitation is only allowed to a married prisoner, and obviously that doesn't deal with reality.

Mr. KASTENMEIER. In your bill, of course, it is mandatory, apparently it becomes a matter of entitlement. If a prisoner satisfies the conditions, you set down is he entitled to an annual furlough?

Mr. KOCH. Yes, yes, I make that very clear. It is not a privilege to be decided by the warden on an individual basis because I think that that imposes too great a problem with people. If you say to someone, if you live up to certain conditions you will receive your furlough, I think that they will. If, on the other hand, you keep them on tenterhooks and say, you will receive your furlough if we like you and we think you are a nice guy, I think that could be very divisive in a prison population.

Mr. KASTENMEIER. Is there any evidence to support the obviously held belief that compulsory furloughs would improve prisoner morale? Do you have any evidence of this?

Mr. KOCH. I cannot speak directly to that. I just don't know. But it seems to me that human experience would indicate that if one who is incarcerated all year, has an opportunity to go home sometimes during the year if he keeps his nose clean, his desire to be a good prisoner would be increased tenfold. The expectation would keep him going.

Mr. KASTENMEIER. Unlike H.R. 7352, your bill provides for the period 12 to 30 days a year. Why did you set down a limit?

Mr. KOCH. My thought was that at the very least there should be 1 day a month and that is how the 12 was arrived at. Others in the prison system thought that there ought to be an opportunity to have extended periods. So my bill provides that it may be a full 30 days if that is what the warden decides is best, but there would be not less than 12 days of furlough granted during the year with the expectation that if it were limited that way it would be at least 1 a month.

Mr. KASTENMEIER. You would not remove the existing section, then, of the present law which does permit furloughs for very limited purposes?

Mr. KOCH. I would certainly not remove it. I would expand it.

Mr. KASTENMEIER. In other words, this is not a substitute but an entirely new program in addition to that?

Mr. KOCH. Yes, because as I understand it and as Mr. Carlson, in his statement, makes very clear the existing program is very limited, and the law is so tight that it cannot be used to its maximum degree.

Mr. KASTENMEIER. Now, one other question.

I know your excellent record in the area of women's rights, but I note that bill provides for "his" record and "he" is deemed to be of a trustworthy nature. Is it that it is only a male you are speaking of here?

Mr. KOCH. Isn't there a section in the United States Code that the word "he" shall be deemed "she" if so intentioned, and that was my intention.

Mr. KASTENMEIER. You would deem women prisoners be fully covered and treated the same way?

Mr. KOCH. Exactly the same way.

Mr. KASTENMEIER. That is all the questions I have.

I yield to the gentlemen from Maine.

Mr. COHEN. Thank you, Mr. Chairman.

I don't really have much more to elaborate on than what the chairman has asked you, but I would like to come back to the question of creating a right which you mandated, a 12- to 30-day period. It seems to me there is a question we haven't dealt with and that is how do we control the guidelines or the discretion of the warden in saying you are entitled to 12 or 30 days or none at all? We have had some hearings at least on parole reform and one of the major items I have been concerned with as well as other members of the committee is how do we determine whether or not a parole board can determine whether someone may be entitled to parole?

So I raise the question, is there any review visits, what sort of standards do we impose on the recordkeeping, the challenge of facts from a warden who may get involved in personalities or receive comments concerning his hostility and so forth? How do we deal with that?

Mr. KOCH. I would assume there are other rights that prisoners have under the existing law, although I really couldn't depict them. I know, for example, with respect to punishment there are limitations on the kind of punishment that can be prescribed for any prisoner. So whatever appeals there are relate to these other rights. I am not suggesting that there be an additional appeal with respect to this. Whatever other appeals there are would apply to this.

Mr. COHEN. The problem that I see, at least in the parole situation, is much like a limited parole. We found that there is considerable anxiety, frustration on the part of the prisoners that come before the parole board. They are denied parole with no explanation given whatsoever with practically no right of appeal, and there are certainly problems in administrative decisions. It seems to me we have that problem here.

What about the situation where a person, let's suppose is convicted of manslaughter. He or she receives a 10- to 20- year sentence. Under your bill that woman or man would be entitled to not less than 12, nor more than 30 days of furlough the first year of imprisonment.

Mr. KOCH. It says specifically "he is deemed to be of a trustworthy nature notwithstanding prior offenses." There has to be a judgment made. I want to make it very clear that someone who has been convicted of a crime of violence isn't precluded from this program, but

it must be established to the satisfaction of those, and it indicates who shall make that determination, that he is trustworthy.

Mr. COHEN. What I am getting at, someone who has committed a violent crime such as manslaughter would be entitled under this bill to be released from 12 to 30 days during that first year if he or she has not been involved in any other assaults during that time?

Mr. KOCH. Yes.

Mr. RAILSBACK. I wonder if it might not be a good idea to consider an amendment which would require giving the reasons for denying the man his furlough, which I would support. I want to commend you for your effort in this area.

I do think we ought to consider strengthening an individual's case who wants to challenge an arbitrary decision. This can be accomplished by requiring authorities to actually say why they are denying him his furlough.

Mr. KOCH. I agree. I think it would be an amicably helpful amendment that would vastly improve the bill.

Mr. KASTENMEIER. The gentleman from Maine.

The gentleman from Illinois.

Mr. RAILSBACK. I think I have covered my questions. Thank you.

Mr. KASTENMEIER. I, in conclusion, would ask in New York State what is your experience?

Mr. KOCH. In New York State they instituted the program relatively recently and have very little experience rating.

Since November 1972, the New York City Department of Corrections has had such a furlough program. Only 45 had participated and 2 failed to return. But we are introducing a new program into New York which is not new to Wisconsin. Wisconsin has had for a long time a law which permits prisoners to work during the day and go to jail at night. We now have that program to a limited degree in New York, a work release program which requires that participants be institutionalized in a halfway house setting. They can't go home. They work during the day, can't go home and go back to what is actually a hotel. September 1 there will be another program in New York which will provide that in certain cases a prisoner will be sentenced to jail for weekends so as to permit him to operate during the week and keep his family off welfare. Obviously, that is a situation where the crimes must be defined. The purpose here is to rehabilitate and to make certain that the least amount of damage is done to the individual.

So that is all I can tell you on that, Mr. Chairman.

Mr. KASTENMEIER. New York State obviously is experimenting with furloughs.

Mr. KOCH. They are not in the lead. New York State generally leads so many things, but they are not in the lead in prison reform.

Mr. KASTENMEIER. One other question.

If a prisoner were on furlough for 30 days should he have any contact with a parole officer or any official or is he entirely divorced of the system?

Mr. KOCH. I think that if—this is just off the top of my head, Mr. Chairman—but it seems to me that if you had a prisoner who was out for more than a week that there should be some contact. I would think that we ought to at least try in the beginning to see whether someone

can be at home for a week, if that is the time that he is given, without the necessity of reporting every day to some prison officials.

But I would think that it is a question of going slowly in this area, of seeing what is best and a curbstone opinion which is worth exactly that, is I would say that if the prisoner is going to be out more than a week, there should be a contact made.

Mr. KASTENMEIER. Thank you.

Are there any further questions?

If not, the subcommittee thanks you again for your appearance, Mr. Koch.

The Chair is very pleased to greet another old friend of this committee and the Congress, the Director of the Federal Bureau of Prisons, the Honorable Norman Carlson, who has discussed the notion of prison furloughs with the subcommittee in the past, and we are very pleased to hear from him again.

TESTIMONY OF THE HONORABLE NORMAN A. CARLSON, DIRECTOR, BUREAU OF PRISONS

Mr. CARLSON. Thank you very much, Mr. Chairman, and members of the committee.

First of all let me say I am very pleased to come before this committee, and I would like to acknowledge the support you have demonstrated over the years.

I might comment that Congressman Koch had a keen interest in correctional improvements for years. I have had the privilege of talking with him on previous occasions about the very real concerns he has regarding the needs of Federal, State, and local correctional institutions and systems.

I have a prepared statement which I would like to introduce in the record and would like to comment very briefly on some of its highlights.

Mr. KASTENMEIER. Without objection, your statement will be received for the record together with the attachments that you have submitted.

Mr. CARLSON. Thank you, Mr. Chairman.

[Prepared statement follows:]

STATEMENT OF NORMAN A. CARLSON, DIRECTOR, FEDERAL BUREAU OF PRISONS, BEFORE THE HOUSE JUDICIARY COMMITTEE, SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND ADMINISTRATION OF JUSTICE, CONCERNING H.R. 7352—TO EXTEND THE LIMITS OF CONFINEMENT OF FEDERAL PRISONERS

Mr. Chairman, Members of the Subcommittee; It is a pleasure to appear before you today as you consider H.R. 7352—a bill which would give the Bureau of Prisons greater flexibility in the use of furloughs for Federal offenders.

We believe that furlough, when use appropriately, can serve as a valuable correctional tool by enabling offenders to maintain ties with communities and with their families.

We must not lose sight of the fact that the offender's problems in the community are what caused him to be incarcerated in the first place and that a prime objective of any correctional program should be to help the offender become a responsible and productive member upon returning to the community. Therefore, we strongly support the expansion of legislation which aids in strengthening community relationships.

The primary goal of the Federal Bureau of Prisons is to establish a balanced corrections system that combines the best of what institutional and community-based programs have to offer. I firmly believe the proposed legislation will provide a greater opportunity to achieve that goal.

As you know, Section 4082 of Title 18, U.S. Code, as amended in 1965 enabled the Bureau of Prisons to implement for the first time a work and study release program. It also gave us the authority to place adult offenders in Halfway Houses or Community Treatment Centers which previously had been reserved for youthful and juvenile offenders. In addition, the 1965 Act made it possible to initiate a limited furlough program. Offenders can be granted leave from their place of confinement primarily for the purpose of visiting a dying relative, attendance at a funeral of a relative, obtaining medical services not otherwise available, contacting a prospective employer, or for other compelling reasons. The legislative history makes it clear that furloughs were to be granted principally for emergencies specifically set out in the Act and, in any case, not to exceed 30 days. Even the term "compelling reasons" was construed to contemplate circumstances akin to the specific reasons.

Today's proposed legislation would broaden the provisions of Section 4082 to allow furloughs for the purpose of re-establishing family and community ties and for any other meaningful correctional reason. I think we all recognize the important role that constructive family relationships can play in the overall favorable adjustment of offenders. There are times when periodic home visits can be justified for reasons other than emergencies. The opportunity to participate in special religious holidays and many other important family functions that mean so much to all of us can be a critical step in changing attitudes and development positive behavior.

Furloughs can also be effectively used to help ease the transition from confinement to a life in the community. This transition can be extremely crucial for many inmates because they often lack confidence in their ability to meet their responsibilities and frequently they need help in finding the kinds of opportunities that will enable them to function as responsible citizens. A more flexible furlough policy would allow them to gradually assume some of these responsibilities, seek out the opportunities they will need, renew family and neighborhood ties, establish a sense of direction and a degree of self-confidence prior to their actual release.

I think it is important to point out that expanded furlough provisions would also increase the flexibility of existing community programs. Currently, an offender on work or study release is allowed to leave the institution each day for his job or school assignment but if his wife or family comes to the area he is not allowed to visit with them outside the institution. This bill will allow those persons who are doing well and meeting their responsibilities in such community programs the additional opportunity of an occasional home visit or weekend with their families.

The gradual release concept also applies to Community Treatment Centers or Halfway Houses. It is true that inmates in these programs already have greater freedom than is permitted in institution-based work and study release programs, but again, home visits or furloughs can only be granted in accordance with the rather narrowly defined provisions of existing legislation. We believe it would be beneficial for some offenders to be able to spend the last few days of their sentence with their families. Even those who do not have immediate family ties are faced with problems of finding a suitable place to live and of establishing themselves in it.

A program of this nature is a logical extension of the reintegration of transitional re-orientation process and again can be a valuable correctional tool. A program of this type was started on an experimental basis several years ago, but was terminated because questions were raised concerning whether or not existing legislation provided the necessary authority. The program appeared to have considerable potential and was well received by our staff as well as the U.S. Probation Officers. It was structured to require the resident in live-out status to report to the Center Staff daily by telephone and in person three times weekly. Bureau personnel also visited the home frequently. These visits were for the purpose of introducing an additional means of supervision but they often provided a framework for counseling sessions that included family members as well as the resident. The experiment demonstrated that a controlled live-out program can be an effective technique for helping certain offenders, especially those who are overly dependent on others for making day-to-day decisions.

Approval of the legislation that is proposed today becomes even more important to our Center operations when subsequent developments are considered. About 3 years ago, Public Law 91-492 was passed, which opened the doors of our Community Treatment Centers for individuals on probation and parole. As an alternative to confinement some of these offenders who are having difficulty adjusting under regular community supervision can now be placed in a Center program

for a period of stabilization and control. They are mixed with the residents who are in pre-release status and share the same benefits and opportunities. In addition, however, they are eligible for live-out and occasional home visits because of their non-prisoner status. Since residents in pre-release status are not eligible for live-out, the Center staff is often faced with a serious morale problem because of a double standard.

We believe the record compiled by Federal institutions has demonstrated that we can administer community programs without creating additional risks to community safety. Inmate requests for participation in community programs are carefully reviewed on an individual basis and only those people are approved for community programs who we believe are not dangerous, who are likely to live up to the trust placed in them, and who need the kinds of help community resources can provide. Normally, this does not occur until an inmate has served a substantial portion of his sentence.

We have made substantial use of work and study release, community centers, and furloughs since 1965 and have found the results to be most encouraging.

As an example, of 4,126 furloughs approved in Fiscal Year 1972, less than one per cent failed to return to their institutions. In such cases, of course, a report is made immediately to the FBI. The offender is liable for prosecution as an escapee for which he can receive up to five years in prison.

In the same fiscal year, only about five per cent of some 2800 individuals placed into Community Treatment Centers were reported as missing and only 2.2 per cent of about 1500 work and study releasees failed to return from their community activities. I would also like to make clear that the vast majority of such cases are soon returned to federal custody.

In areas where we have ongoing community programs we find that the citizens are supportive and there are indications that such programs are rapidly increasing in state and local correctional agencies as well.

I call your attention to an article which summarizes the status of furlough programs throughout the United States.

This is a well-developed piece written by Carson Markley, Associate Warden of the Federal Reformatory at Alderson, West Virginia. The article appeared in the March, 1973, edition of *Federal Probation* and I believe it would be of considerable interest to you as you study this legislative proposal.

I thank you for this opportunity to speak on this important legislation and I will be pleased to respond to any questions.

FURLOUGH PROGRAMS AND CONJUGAL VISITING IN ADULT CORRECTIONAL INSTITUTIONS

(By Carson W. Markley, Associate Warden, Federal Reformatory for Women, Alderson, West Virginia *)

The project discussed in this article is a survey and analysis of furlough programs¹ in adult correctional institutions in each of the 50 States, the District of Columbia, and the Federal Bureau of Prisons. It was designed to determine characteristics of existing furlough programs and to determine whether those agencies without furlough programs now are planning to implement such programs. The investigator also hoped to provide additional data regarding potentialities or limitations of furlough programs. In addition, an attempt was made to determine the present attitude of correctional administrators toward conjugal visiting.

Before the project was begun certain limitations were recognized:

- (1) The survey would be limited to adult correctional institutions, e.g., reformatories, penitentiaries, etc.
- (2) Inmates participating in community work release programs and not housed in a correctional institution would not be considered in this study.
- (3) Certain inmates in closed institutions were not eligible for participation in furlough programs due to the seriousness of their crimes, and would not be likely to become eligible.

*This article was prepared while the author was a criminal justice fellow at Harvard Law School.

¹ For our purpose "furlough" means any unsupervised visit away from the correctional facility for the purpose of visiting the offender's family, job interview, school interview or test, funeral trip, etc. For this study we are not interested in programs where the offender leaves the institution regularly, e.g., work release.

In spite of these obvious limitations it was hoped that the results would: (1) indicate whether wider implementation of furloughs and greater utilization of community-oriented programs, e.g., work release, halfway houses, community school, etc., were advisable; and (2) provide data for future research studies regarding furloughs.

BACKGROUND OF THE PROJECT

The President's Commission on Law Enforcement and Administration of Justice states in its report, *The Challenge of Crime in a Free Society*: "Graduated release and furlough programs should be expanded. They should be accompanied by guidance and coordinated with community treatment services."

Correctional administrators are beginning to recognize the limitations of rehabilitative efforts within the structure of an institution and are recommending the development of programs more relevant to life in the community. During recent years various schemes have been devised to enable the offender to make a more satisfactory adjustment in the community. Probation has come into increasingly common use; parole has come to be seen as a necessary, rather than optional, precursor to discharge; work release has been developed for the misdemeanant, and eventually adopted for the felon; interaction between inmates and community members has been increasingly used within institutions; staff-escorted trips of inmates away from the institution have become relatively common in many areas; conjugal visiting has been receiving greatly increased attention; and a few states have begun wide use of unescorted leaves, or furloughs, as a deliberately planned and utilized treatment option.²

The term "furlough" is frequently confused with special leave, which most adult institutions have long been willing to grant under extenuating circumstances, such as family crises. A prisoner on special leave customarily travels under escort, while on furlough he is on his own. From a correctional standpoint, one of the most compelling reasons for granting furloughs is to reinforce family ties, where these exist.³ Correctional workers have long been accustomed to witnessing the steady and seemingly inevitable erosion of prisoners' family ties over years of confinement, in spite of the fact that efforts have been directed toward preparing offenders for normal community life, including the resumption of normal family ties and responsibilities. Correctional workers have also become concerned that correction may have been one-sided in the sense that while substantial investments in offenders were being made in institutions, little or no work was being done with the offenders' families. The timely and judicious use of home furloughs may do much to alleviate such an imbalance.⁴

The use of furloughs has been seen to reinforce the self-esteem of the offender when he finds that he is trusted to take care of himself while still serving his sentence. It provides the offender with the opportunity to do things for himself, rather than having them done for him by institution officers or parole officers, and this tends to lessen his dependence on others and preserves his ability to make decisions concerning his own actions and conduct—an ability often atrophied through institutionalization.⁵

Furloughs for adults benefit the children by allowing the parent to appear in the home on occasion before he is completely forgotten.⁶

Correctional administrators indicate that furloughs are effective in release planning. Furloughs serve as a bridge between the institution and the community, and gradually reintegrate the offender into the community and expose him to beneficial programs and experiences which are not available in the institution.

And finally, furloughs are conceived of as being a positive aid to rehabilitation and to a crime-prevention program.

FURLOUGHS IN EUROPEAN AND LATIN AMERICAN COUNTRIES

Cavan and Zemans state that furloughs are a regular part of the program of rehabilitation in England, Wales, Northern Ireland, Scotland, Denmark, Switzerland, Germany, Greece, and Sweden. They add that England and Wales, since 1951, have granted home leaves of 5 days toward the end of the offender's

² O. R. Chambers, "Temporary Leaves for Male Felons? Oregon's Experience," May 1971, Salem, Oregon, p. 1.

³ Mark Richmond, "On Conquering Prison Walls," Federal Probation, June 1966.

⁴ *Ibid.*, p. 17.

⁵ State of Maine, Policy Statement, "Granting of Furloughs," 1969, p. 1.

⁶ *Ibid.*, p. 1.

sentence in order to enable him to renew his contacts with his family and to prepare himself for freedom. Northern Ireland and Scotland have a similar plan. In Denmark, furloughs are confined to inmates of penal work houses and juvenile prisons. In Switzerland, certain categories of prisoners are granted the privilege of visiting their families for 8 to 24 hours. In Germany, inmates of closed institutions may be granted leave of up to 7 days to enable them to attend to urgent personal or business affairs. Greece has a similar provision.⁷

Sweden is most lenient and also most generous with furloughs. Furloughs are granted at regular intervals—the first, 6 to 10 months after admission of the prisoner, with subsequent leaves following at 4-month intervals. The prisoner may be absent from 48 to 72 hours, exclusive of travel time.⁸

Chile, Puerto Rico, Argentina, and Mexico all provide furloughs for prisoners in their institutions. Practices vary from country to country, but generally prisoners are permitted visits in cases of illness or death in the family, family anniversaries, the birthday of a wife or son, and to obtain work.⁹

METHODOLOGY

The instrumentation for the project consisted of a questionnaire containing 14 questions. The questionnaire was developed from information compiled from the literature in the field and with the advice of social science researchers. The goal of the survey was to provide comprehensive data on the current status of furloughs in adult correctional institutions. The areas of inquiry included in the questionnaire were: number of participants, purposes of furlough, criteria for selection, when the program was implemented, anticipation of changes, restrictions on individual participants, problems, and current attitudes about conjugal visiting.

The population sample used in this study consisted of 205 adult correctional institutions in the 50 States and the District of Columbia.

The total instrument was administered in the following manner: Questionnaires were mailed to the directors or commissioners of correction in each State and the District of Columbia. The respondents were instructed to answer the questionnaire for those institutions identified on the questionnaire. Additional information was obtained from telephone calls to state correctional agencies and the Federal Bureau of Prisons.

RESULTS

The Fifty States and the District of Columbia.—All 50 of the State departments of correction, plus the District of Columbia, completed and returned the questionnaires, a response of 100 percent. Of the 51 responses, 29 departments of correction (or 57 percent) indicated they now have furlough programs. Twenty-two departments are currently without furlough programs, but 16 of these plan to implement programs in the near future.¹⁰ Only six states indicated that they had no plans for such programs.¹¹

Table 1 lists those States currently conducting furlough programs and presents information regarding furloughs: criteria for selection, restrictions placed on individual participants, purposes of visits, date implemented, problems encountered, number of participants to date, and anticipation of any program changes.

⁷ Ruth S. Cavan and Eugene S. Zemans, "Marital Relationships of Prisoners in Twenty-Eight Countries," *Journal of Criminology, Criminal Law, and Police Science*, July-August,

⁸ *Ibid.*, p. 135.

⁹ *Ibid.*, p. 135.

¹⁰ The 16 are: Alabama, Colorado, Georgia, Hawaii, Indiana, Massachusetts, Missouri, Montana, New Hampshire, New York, Ohio, Oklahoma, Rhode Island, Tennessee, Virginia, and Washington. In Hawaii and Illinois, the departments of correction conduct furlough programs but from prerelease guidance centers or special facilities.

¹¹ These six are Kentucky, Nevada, South Dakota, Texas, West Virginia, and Wyoming. The Texas Department of Pardons and Parole does permit selected inmates home leaves in emergency situations.

TABLE 1.—STATES WITH FURLOUGH PROGRAMS

State	Date program was introduced	Number of participants	Purposes of visit	Criteria used for selection of participants	Anticipate any program changes	Restrictions on participants	Problems encountered
Alaska	July 1970	34	Home visits, job or school interview, medical care, attendance at civic or social functions in community.	Custody, time remaining to serve, program participation, analysis of furlough situation, need for furlough.	Yes, expand the program.	Compliance with furlough agreement, no drugs, no alcohol, notify institution if any problems develop.	None.
Arizona	1970	Numerous	Home visits, job or school interview, etc.)	Institutional adjustment, needs, record, no detainers.	No	Same as parole.	Do.
Arkansas	1922	do	Home visits, job or school interview, emergency trips (sickness, death, etc.)	Institutional adjustment, security risk, status of inmate, parole eligibility.	No	Can not leave a specified area.	Do.
California	1969	do	Pre-release planning, emergency leaves, job or school interviews, family, residence, family visits, obtain auto license.	Individual need, no detainers, no life sentences or condemned prisoners, no serious custody risks.	No comments	Up to 72 hours and remain within the State.	Yes, bad publicity. One participant allegedly killed a person, accused of murdering the inmates.
Connecticut	December 1969	do	Home visits, job or school interviews, critical illness, medical care, etc.	Minimum risk, no objection from local police	No	Obey all laws, no alcohol or drugs; remain in specified area.	None.
Delaware	1969	do	Home visits, job or school interviews, etc.	Institutional adjustment, offense, program participation.	Yes, change law to expand program for more offenders.	No alcohol or drugs	Do.
Florida	October 1971	do	Emergencies, e.g. funeral, sickness, etc. Employment, residence, other compelling reasons. Church, A.A., civic club, recreation, family, other.	Minimum custody, good work record, program participation, no disciplinary problems.	Yes, minor policy changes.	Not available	Minimal.
Idaho	July 1971	do	Home visits, job or school interviews, sickness or funeral trips.	Minimum custody, must have a parole date, permitted 2 leaves.	Yes, change law to expand program for more offenders.	Remain within the State	None.
Illinois	1969	do	Family visits, medical trips, residence job interview, family illness, panel discussions television/radio programs.	Different criteria for different purposes of visits.	Increased use of furloughs.	No alcohol, obey laws, no contracts, without permission, use approved transportation, return on time, possibly have medical exam on return.	Minimal.

Iowa	1969	do	Job or school interview, funeral trips, short term (14 days) training.	Needs, parole eligibility, work release, minimum custody, trust, near end of the sentence.	Yes, expand program.	Family association, travel time to specified place restricted, place of confinement specified.	Minimal, but some alcohol and tardiness.
Kansas	1971	do	Home visits, job or school interviews, etc.	Minimum custody, no major crimes, good institutional adjustment.	No	Obey laws, remain in State, no contacts with other inmates, and no firearms.	None.
Louisiana	1964	do	Home visits, job or school interviews, critical illness or death in family, participated in work release, Christmas passes for inmates.	Offense, sentence, and disciplinary record.	Yes, remove restrictions on offender class.	Stay out of trouble.	Do.
Maine	1969	do	Home visits, job or school interviews, funeral trips.	Institutional adjustment, approval of community (read and notify).	No	Obey laws.	Do.
Maryland	1969	678	Weekend leave, funeral trips, special training.	Must be participating in pre-release program.	Extension of family leaves.	Obey laws, no drugs, etc.	Minimal.
Michigan	April 1971	16 limited, 30 extended.	Home visits, job or school interviews, funeral trips, and home conditions.	Type of crime, length of sentence, mental stability, custody, within 6 months of parole, strong family ties.	No	Remain in State, no alcohol, obey laws.	None.
Minnesota	October 1971	Not available	Help family in emergency, obtain medical care, job or school interviews, residence, participate in family activities, solitary relationships.	Eligible for parole, institutional record, demonstrated a level of responsibility, reduced custody for 90 days.	Yes; changes in general policy.	Not to exceed 5 days.	Minimal.
Mississippi	1918 (approximately)	250 to 300 annually.	Home leaves for 10 days.	Good record in institution, 2 years prior to release, must be serving state sentence, half or full treaty.	No	Not available	None.
Nebraska	1971	300 annually	Home visits, job or school interviews, illness, medical services, find residence, treatment in interest of inmate.	Length of sentence, behavior, adjustment, custody, and abnormal circumstances.	No	Obey laws, return on time and go to designated place.	Do.
New Jersey	June 1971	Not available	Home visits, job or school interviews, resolving family conflicts, completing parole plans, sick bed visits, birthdays, graduations, births of children.	Minimum custody, must be within 3 months of parole or 1 month of release.	No	None	Do.
New Mexico	December 1971	do	Home visits, job or school interviews, visit all members of family, and funeral trips.	Institutional record, crime, time remaining to serve, purpose of furlough, residence and ties during furlough.	No	Must remain in area and must report to parole officer.	Do.
North Carolina	1965	Numerous	Home visits, community volunteer work.	Be in good grade; be within 6 months of parole or release, type of offense.	No	Return on time and remain in assigned place.	Do.

TABLE 1.—STATES WITH FURLOUGH PROGRAMS—Continued

State	Date program was introduced	Number of participants	Purposes of visit	Criteria used for selection of participants	Anticipate any program changes	Restrictions on participants	Problems encountered
North Dakota	1970	20 to 30 annually.	Home visits, job or school interviews, funeral, sickness, etc.	Work record, efforts at self-improvement, custody, behavior, attitude change, mental and emotional stability, safety of the public, funds, home situation.	Yes, establish a policy statement with written guidelines. No	Remain within the State. Not to exceed 30 days.	Communications to staff concerning leaves and who is to receive them. None.
Oregon	1967	Numerous	Visit family, sickness, funeral trips, obtain medical care, job interviews, and other approved trips.	History of offenses, length of sentence, time served on present sentence, parole hearing date, detainers, self-control patterns, escape history, patterns of conduct, emotional stability, community factors.			
Pennsylvania	1971	do	Home visits, job or school interviews, strengthen family ties.	Individual need, overall adjustment and behavior, participation in programs.	Yes, stricter selection of cases.	Same as parole.	Do.
South Carolina	May 1967	NA	Home visits	Must have been in "AA" trusty status for a minimum of 90 days prior to applying, clear conduct record, no community objections.	No	Remain at home, notify sheriff's office.	Do.
Utah	1965	Numerous	Home visits, job or school interview, funeral trip, strengthen family ties.	Custody, satisfactory institution adjustment.	Yes, increase number of participants.	Observe all institution rules, no alcohol or drugs.	Yes, escapes drug and alcohol.
Vermont	1967	do	Home visits, job or school interview, work, funeral trips, Christmas visits, and hospital appointments.	Attitude of community, attitude of family, general living conditions, overall effect on treatment.	No	Remain in general area.	Minimal.
Washington	1971 and 1972	do	Home visits, job or school interviews, family visits, sickness, death in family, strengthen family ties.	Minimum custody and good adjustment.	No	Obey laws	A few participants involved in criminal activities.
Washington, D.C.	1965	12 to 15 months.	Home visits, job or school interviews, illness, funeral trips, other serious family problems.	Offense, length of sentence, length of time remaining to serve, psychological status, minimum custody, reward for measured progress.	Yes, expand the program and use it more as a treatment tool than reward.	No alcohol or drugs, remain in area.	Yes, negative reaction from local community and police.

The survey revealed that special legislation was required in approximately 98 percent of the States that permit adult offenders serving sentences for felony convictions to participate in furlough programs.

Mississippi, in 1918, was the first State to introduce furlough programs; these were 10-day holiday leaves for minimum custody inmates. Arkansas followed in 1922; Louisiana was next in 1964. The Federal Bureau of Prisons, North Carolina, Utah, and the District of Columbia began their programs in 1965. The remaining States instituted programs during the period from 1967 to the present.

Furlough programs vary from State to State, but most States permit furloughs on the basis of the individual's need. Other factors determining participation are: custody classification, length of sentence, institutional adjustment, parole eligibility, release date, attitude of the family, etc.

During the next few years 88 percent of the State departments of correction will be conducting furlough programs, thus providing the offender a greater opportunity for community involvement and the development of satisfactory release plans.

More than 50 percent of the States anticipate some minor changes in their furlough programs. Illinois, for example, plans to expand its program to all institutions and to more offenders; Louisiana and Idaho are planning changes in the law that presently restricts many offenders; and other States indicated that they plan to make changes in their general policy. Only one State indicated that it planned stricter guidelines.

Correctional administrators in 23 or 82 percent, of the States currently conducting furlough programs state that they have experienced minimal or no serious problems since introducing furloughs in their institutions. One State indicated that its only problem had been in communicating guidelines to staff members. Three States indicated that there had been adverse publicity from their local communities and police. They added that a few of their participants had been involved in serious crimes, and in two of these reported cases police officers had been killed. As a result of these problems, one State reported that it was establishing stricter guidelines in the selection of participants. It had initially adopted a very liberal policy but now felt that it was necessary to restrict the category of offenders to those inmates serving sentences for less serious crimes.

Federal Bureau of Prisons.—The Federal Bureau of Prisons introduced furlough programs in all of its institutions in 1965, and several hundred inmates are granted leaves annually. The program is used quite extensively for inmates in institutions for young adults; inmates serving sentences in the more secure institutions, such as penitentiaries, are permitted furloughs in family emergencies. In addition, those inmates nearing completion of their sentences are permitted furloughs for employment or school interviews, etc.

The program has had remarkable success and in only a few cases—less than 1 percent—have problems arisen. Legislation has been introduced to expand the program to enable prison administrators to make greater use of furloughs for more offenders in all Federal institutions.¹²

Conjugal Visiting.—An effort was made in this project to determine the present attitude of correctional administrators toward conjugal visiting. Each correctional agency was asked if it had a conjugal visiting program or was planning one. Administrators from 50 agencies, including the District of Columbia and the Federal Bureau of Prisons, responded that they do not have conjugal visiting programs and are not planning programs at this time. Only the departments of correction from California and Mississippi currently conduct conjugal visiting programs.

Correctional administrators stated that conjugal visiting is considered a specific treatment program, while the furlough program is far broader and provides for far more flexibility in aiding the reintegration of the offender. Furloughs accomplish the goals of conjugal visiting, and in addition are much more normal and eliminate the possibility of degradation. Other comments regarding conjugal visiting were: It discriminates against the single inmate; it is embarrassing to the wives; it does not provide for any community involvement on the part of the inmate; and it is contrary to most correctional administrators' philosophy of an increasingly community-oriented program.

Administrators in 50 percent of the replies also stated that present facilities are not adequate for conjugal visiting programs.

¹² Interview with Mark Richmond, Federal Bureau of Prisons, April 1972.

CONCLUSIONS

One problem beyond the scope of the present project which needs to be resolved is the effect furlough programs have on recidivism and other criteria for success or failure. Before any firm conclusions can be drawn, considerably more research will be required. California and Oregon have been the only States to conduct followup evaluations of their furlough programs at this time.

Norman Holt's study of California's prerelease furlough program for State prisoners during 1969 indicates that prerelease furloughs have substantial benefits in preparing inmates for their return to the community. In all, 82 percent of those furloughed looked for, confirmed, or secured a job for parole. The responses of the families, in turn, suggest strong support and a positive beginning. An independent rather listed 86 percent as having accomplished "most" of the things planned.¹³

Holt and Miller's study, again in California, found that furloughs are successful by almost any standard. They found that furlough programs enjoyed almost unanimous support from the inmates. Almost all inmates hoped to participate, yet those who could not were not resentful. There were no serious administrative problems. In addition a followup study found that the participants did better on parole than nonparticipants. Sixty percent of the participants experienced no difficulty during the first year, compared to 42 percent of the nonparticipants. The number of participants was small, and the result must be interpreted with caution. However, the findings held up under the application of numerous control variables. The study recommended that more extensive use of furloughs should be made, and suggested that it should be permissible to grant furloughs at any point during incarceration.¹⁴

The results from Oregon's study are inconclusive at this time; however, correctional officials feel that furloughs tend to strengthen family ties more than institutional visits and that they will prove to be positively related to release adjustment. Further, the rate of known misconduct other than escape is 1.34 percent; the escape rate is 1 percent.¹⁵

The Federal Bureau of Prisons stated that it had experienced no major problems, and that preliminary studies indicate that furloughs are very successful in strengthening family ties and reintegrating the offender into the community.

Donald Johns suggests that many (probably most) convicted persons would be harmless at large at any time during confinement, and could be released from time to time without undue risks. For these men and women furloughs could serve as a rehabilitation tool throughout confinement.¹⁶

It is difficult to develop accurate measuring instruments to evaluate treatment programs in correctional institutions. Many studies have been conducted, but there are so many factors that may influence the offenders' success or failure on release that the conclusions derived are generally assumptions and not necessarily facts.

Studies by Messrs. Ohlin,¹⁷ Glaser,¹⁸ and Holt and Miller¹⁹ have shown that those inmates with strong family ties, and who have maintained those ties during incarceration, are more successful on release than those offenders without such ties. It is inmates with strong family ties who are likely to be selected to participate in furlough programs. Thus the apparent success of the programs could be illusion, since it may be that these inmates would have done as well without furloughs. However, interviews with correctional officials and directors of community treatment centers indicate that some community treatment centers and halfway houses which are less selective in their intake also support the idea that furloughs are effective. These officials state that offenders having contact with the community before the release recidivate at lower rates than those not having such contact.

¹³ Norman Holt, "California Pre-Release Furlough Program for State Prisoners," California Department of Corrections, Sacramento, 1969.

¹⁴ Norman Holt and Donald Miller, "Explorations in Inmate-Family Relationships," Research Report No. 46, Sacramento, California, January 1972, p. 63.

¹⁵ Chambers, *op. cit.*, p. 61.

¹⁶ Donald R. Johns, "Alternatives to Conjugal Visiting," Federal Probation, March 1971, p. 51.

¹⁷ L. E. Ohlin, *The Stability and Validity of Parole Experience Tables* (Ph. D. dissertation), University of Chicago, 1954.

¹⁸ D. Glaser, *The Effectiveness of a Prison and Parole System*, Bobbs-Merrill, Inc., New York, 1964, p. 366.

¹⁹ Holt and Miller, *op. cit.*, p. 61.

The chief recommendation flowing from this research is that furlough programs be widely implemented and expanded, while subjected to continued evaluation. During the implementation and expansion care should be taken to consider the public's interests, which range from its need to understand what is happening to its rights to be protected from needless incidents. It will be remembered that one State reported that it had introduced the program with few restrictions on the participants and had experienced many difficulties. Perhaps, in order to insure public understanding and to insure that safeguards keep pace with the new program, it would be well to initiate a program with the less serious offenders, and gradually expand to the other classes of offenders. Written guidelines and procedures should be very specific, and every staff member should be kept abreast of current objectives.

18,000 ADDICTS LATER: A LOOK AT CALIFORNIA'S CIVIL ADDICT PROGRAM

(By Roland W. Wood, Superintendent, California Rehabilitation Center, Corona)

The California Legislature, in 1961, passed comprehensive legislation for both stricter penalties for narcotic infractions and a compulsory civil commitment program for the hard narcotic user. By definition this was to become both a treatment and control program in a nonpunitive setting, not only for their own protection and treatment, but for the prevention of continuation of others.

Since the effective date of the legislation, over 18,000 addicts have been admitted for treatment. Some of these, because of defects in the procedures of commitment, were able to remove themselves from the Civil Addict Program through court actions, some were excluded, some were committed to state prison for further felony involvement, over 2,500 were discharged either upon the completion of their term of commitment or upon completion of 3 consecutive drug-free years in the community. There are now over 8,000 men and women either in inpatient care or being supervised in the communities throughout California.

These past 11 years have demonstrated the appropriateness of civil commitment in a controlled setting with supervised aftercare and the ability to return the resident for additional periods of inpatient care without court intervention. A description of the current status of the program will be presented in this article, some recent legislative changes will be discussed, and the results of program efforts these past 11 years will be reviewed.

CALIFORNIA REHABILITATION CENTER

The California Rehabilitation Center located near Corona, California, is not technically a penal institution, but is operated by the State Department of Corrections. It is, however, an institution for the control, treatment, and rehabilitation of civilly committed narcotics addicts. The Center is run by a staff of over 500 persons, and has dormitories for 2,400 male addicts. A separate branch with a capacity for 350 female addicts is located on the grounds of Patton State Hospital in nearby San Bernardino. An additional 100 residents are programmed at three other designated branches of the California Rehabilitation Center.

Not only has it been necessary to find ways of controlling the addict so that he does not resort to criminal activity to support his habit, but it has been necessary to develop and experiment with techniques to assist him in making wise decisions for himself independent of the influence of drugs.

After a careful evaluation of experience in several other State and Federal programs, including the experience of California with experimental narcotics programs, a long period of legal control was provided for therapeutic reasons.

Mr. CARLSON. The statement discusses the provisions of H.R. 7352, which was introduced by the Chairman of the Judiciary Committee. I might comment that I personally, from the standpoint of the Federal Bureau of Prisons and Department of Justice, support this bill fully. It would expand the furlough legislation. As you recall, it was in 1965 that Congress passed the Prisoner Rehabilitation Act which was very important so far as Federal corrections is concerned. This legislation also has had an effect on State and local governments and has served as a model for their own correctional improvements.

The Prisoner Rehabilitation Act of 1965 had several very key and important facets. It provided for the work and study release programs, and enabled us to expand our Community Treatment Centers (halfway houses) for federal offenders. It also provided the legislative authorization for the furlough program which we are presently using.

As you may recall, the initial legislation had some very specific criteria, however, in terms of the type of cases in which we could use furloughs. They included the visiting of a dying relative, a funeral for a member of the family, medical services not provided by the institution, and contact with employers immediately prior to release. However, it did not give us as broad an authorization as we feel we would like to have to expand the use of furloughs to other offenders.

Essentially the bill before you today would amend this legislation and provide another set of criteria which includes the re-establishment of family and community ties or other significant correctional reasons consistent with the public interest. Essentially this would give us the broader authority and flexibility which we feel would be of great value to us in improving Federal correctional system.

As Congressman Koch testified, we have used the furlough law since 1965 and have found it to be a very effective correctional tool. We have expanded the use of it over the years as we have gained experience with this legislation.

I might comment that in fiscal 1971 we approved just over 2,000 furloughs. In fiscal 1972 we had 4,126, and during fiscal 1973—our statistics are only through the third quarter, as of March 31—4,122 furloughs were approved. So the total for fiscal year 1973 will be over 5,000, which points out the fact we have expanded on a gradual basis as we have gained experience with the use of this technique.

In approving furloughs under existing authority, we have been careful to exclude violent and dangerous offenders and offenders we feel would present a significant threat to the community. Response to offenders in our institutions has been generally positive and has had what we believe to be a positive effect both on their morale and on their subsequent reintegration into the community.

I believe that furloughs have several very important benefits. First of all, there is the maintenance of family and community ties. We know that 98 percent of all the Federal offenders are someday going to be returning back to society. If they go back without any family ties or community ties I think it is obvious what is likely to happen to them. I think this is one of the key factors in the very high rate of recidivism which is so frequently mentioned.

In addition, I think it does provide a very key element as far as motivating the offender in the institution to give him something to look forward to. As Congressman Koch said, the average person looks forward to his vacation very much as I look forward to mine next week. I think the furlough is a correctional tool which serve as a positive reinforcer to the offender, motivating him to maintain a conduct record which is appropriate and to avail himself, of the various programs in the institution. I think it can be most useful in that regard.

At Morgantown, W. Va., we have worked with this for several years and found by rewarding the offender, it serves to reinforce the type of constructive use of the offender's time that we are concerned with.

In conclusion I would like to assure the committee that if the proposal which is before you is enacted we will continue with what has

been our practice since 1965, that is to implement the program in a manner that will serve to make the Federal correctional system more effective than that has been in the past.

That concludes my remarks, Mr. Chairman. I will be happy to answer any questions and respond to anything you have in mind.

Mr. KASTENMEIER. Thank you, Mr. Carlson.

To recapitulate, section 4082 was enacted in 1965, right?

Mr. CARLSON. That is correct, sir.

Mr. KASTENMEIER. Did that enactment take place in an omnibus bill or did it specifically deal with this subject alone?

Mr. CARLSON. Yes, it specifically dealt with this subject. I was involved with the development of the legislative proposal. It involved Jim Bennett who was the Director for 27 years and who was really the primary author and was introduced by Mr. Celler. Extensive hearings were held and the result was that the Federal Prison Rehabilitation Act was passed as proposed by the Federal Bureau of Prisons at that time with very few additions or deletions.

Mr. KASTENMEIER. There are several things which I am sure concern the subcommittee and will concern the Congress about the proposal. If the number of escapes were unconscionable, it would undercut the program. What has been your experience since 1965 with respect to individuals who fail to return or who perhaps commit a crime while on furlough? Do you have some statistics on this?

Mr. CARLSON. Yes, Mr. Chairman. Actually, I can primarily go back to 1971 and 1972. I can provide the material. It will have to be hand tallied. We are in the process of doing that.

Mr. KASTENMEIER. I think your recollection would be adequate.

Mr. CARLSON. It is very comparable to recent history, Mr. Chairman. In fiscal 1971 we granted 2,103 furloughs and had 25 escapes out of that number. In fiscal year 1972 we had 4,126 furloughs, of which 32 escaped. During fiscal 1973 for the first three quarters I can only give you the total number of furloughs. We don't yet have the final calculation. It is too current a figure for the computer to spell out, but as soon as it is available we will furnish it for the committee.

I can only say, going back to the rate of escape, it has been constant, has been no great surge at all. It has been a very low rate over the years.

Mr. KASTENMEIER. Mr. Koch has suggested that the escape rate may indeed be higher for people under restraint, as on a prison farm or whatever, than they might be in this program; does this seem reasonable?

Mr. CARLSON. Yes, I would agree with you, Mr. Chairman. However, there are some selective factors which do go into the furlough program. Offenders assigned to one of our prisons or farms are not as carefully screened and they do have a great deal of freedom and opportunity to escape.

Mr. KASTENMEIER. I believe Mr. Koch stated in the District of Columbia prison system there were 20,000 furloughs approved and there were only 16 escapes. Does that seem a plausible figure to you?

Mr. CARLSON. Mr. Chairman, I have no responsibility for the District system, and I have not heard those figures before. Their statistics are entirely separate from ours. I have never encountered them.

Mr. KASTENMEIER. Actually, from a percentage standpoint they would seem to be better than the Federal system or perhaps any other system. It is obviously the record that that is the case.

I do not ask this question to embarrass you, of course, but it strikes me that the advance of the furlough program suggests that the specific limitations of the law authorizing the furloughs are perhaps being liberalized. Statistically the number of furloughs the Federal system is granting is increasing. So one must assume that there is not necessarily an increase in dying relatives, funerals, or the need for medical services so much as a liberalizing of your own criteria, perhaps to the extent where you do in fact need a change in the laws to permit the policies you are presently effectuating.

Mr. CARLSON. Yes, Mr. Chairman, I will obviously agree with you. We are making a very liberal interpretation of the statute, however I will point out we are using the statute as presently written. Our legal counsel has given us an opinion on it and we have used that in terms of the existing criteria.

Mr. KASTENMEIER. You will have no criticism from me on that point.

What would the cost of an expanded program be? How do you compare the per diem cost of maintaining an inmate in an institution with the cost of having an individual offender on furlough for up to 30 days? How does that balance out?

Mr. CARLSON. First of all, Mr. Chairman, there are no actual funds expended by the Federal Government in the furlough legislation. We do not provide for the transportation or any type of maintenance for the offender while he is on furlough. It actually does reduce the cost of the operation of the institution, of course, when the offender is gone from the institution. There is a net reduction in the cost of the institution. However, there are other costs. To be very candid, there are costs of the screening, analysis, probation officers' contact with the family, and so forth.

If I could hazard a guess I would say there are no increased costs and the two pretty well balance each other off. There are no additional funds required to implement the furlough program. We don't have to utilize any additional funds from Congress.

Mr. KASTENMEIER. Then we can assure the House that you will not be requesting additional funds because of this program?

Mr. CARLSON. That is correct, Mr. Chairman, there would be no additional funds.

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. This may not be exactly the case in respect to a furlough program. I remember a couple of weeks ago when we tried to increase the number of probation officers that would be available as part of the Federal judicial system, I obtained figures as to what it would cost to supervise somebody out on parole or out on probation, and institutional costs to incarcerate a person for 1 year. As I recall, the per capita cost of Federal supervision in the community during fiscal 1972 was \$385 a year. The 1972 per capita cost for confinement in Federal Bureau of Prisons institutions was \$5,200 a year.

So I would think that although a furlough is different because it is a short-term thing some of the institutional costs may be lessened. In any case, I would be inclined to agree with you that it certainly wouldn't increase the costs, and if anything, I would think would probably decrease the cost.

Mr. KASTENMEIER. Mr. Carlson, what sort of supervision would be the practice if the amendments were adopted? What sort of supervision are these individuals under furlough given?

MR. CARLSON. Mr. Chairman, there is no direct supervision, to be responsive to your question. There is indirect supervision. The U.S. probation officer who will supervise the prisoners is notified and asked to contact the family and frequently does. Also the offender is asked, if at all possible, to stop by and meet his probation officer and talk about his ultimate release plan. We find it a very useful tool. The probation officer is always notified that the offender is coming out on furlough and if his caseload permits, very frequently he will actually see the offender and perhaps even the family during the furlough situation. There is a close liaison situation.

MR. KASTENMEIER. The interaction this program would have with ultimate parole is beneficial as you see it, is preparatory in a sense. Right?

MR. CARLSON. Transitional.

MR. KASTENMEIER. How does it—what connection does it have with so-called good time? I suppose it is as though he were in the institution?

MR. CARLSON. Yes, the enabling legislation in 4082 of title 18 provides that the maintenance of good time continues, so there is no interruption of any benefit he may accrue while he is in the institution.

If I could, I would like to point out in response to an issue Congressman Koch raised that in title 18, section 4082, it does provide that when an offender violates the rules and does not return that he is subject to the punishment provided in chapter 52; in other words, a 5-year sentence is provided for. That was built in initially as you will recall, Mr. Fuchs.

MR. SMITH. This is a carrot-and-stick thing.

MR. CARLSON. Yes, that is correct.

MR. KASTENMEIER. We have been talking about up to 30 days and in the case of Mr. Koch's bill, 12 to 30 days. In practice at the present time what would be the average length of a furlough?

MR. CARLSON. Mr. Chairman, generally 3 days at home exclusive of traveltime. We feel this is an appropriate guideline to use to provide sufficient time but not too long, and we think that has worked out quite satisfactorily.

The frequency is another matter, again depending on the offender and the type of offense and the response to the furlough program.

MR. KASTENMEIER. I wonder what a prisoner would do on furlough for a period of up to 30 days at home without work. Would this be beneficial or would he just have time on his hands and have to find something to do for an extended period of time. In this connection I want to ask you comparatively to comment on Mr. Koch's proposal, both in terms of mandatory time, 12 to 30 days, and for the period involved, that is up to 30 days. Does it constitute an administrative problem? Would it be beneficial in the long run, and so forth?

MR. CARLSON. Mr. Chairman, first, as you realize, I am testifying as the administration, Department of Justice spokesman for the bill which we are commenting on, and obviously this is the bill my remarks are addressed to.

I think there is no question, as Congressman Koch indicated, that intent of both bills is identical. I think there is a different vehicle provided in the way the two bills are written.

As an administrator, and this is a very personal view, I feel the has introduced. I for one would prefer to have the broader flexibility

utilizing the program than the other bill which Congressman Koch has introduced. I for one would prefer to have the broader flexibility in terms of time elements and in terms of time utilized for offenders. There are some offenders, it is very difficult to precisely define, that we feel would not be very good subjects for the use of furlough.

Perhaps what we should do is provide a written response to an offender indicating why he is not being given this furlough, but it is difficult to try to enumerate all the reasons in any precise statement so far as legislative language is concerned.

Mr. KASTENMEIER. Do you have criteria presently or do you contemplate establishing criteria other than what the statute terms as a need?

Mr. CARLSON. Yes. I will be glad to supply to the committee at this time a copy of our present policy statement on the use of furloughs. It provides criteria according to the types of institutions. For example, we use them most frequently with the juvenile and youth offenders. We use them least often in our major penitentiaries where we are dealing with the hard-core, long-term offender. We do not generally approve furloughs where there has been a series of serious and violent offenses—persons convicted of serious crimes against a person and persons whose presence in the community would attract undue public attention.

In such cases, if furlough is considered, the ultimate responsibility rests in my office. In other words, the warden does not have the authority. Only my office could make the authorization for furloughs in those latter categories.

Mr. KASTENMEIER. In my hand I have been handed a policy statement, Bureau of Prisons, subject, "Inmate furloughs."

Mr. CARLSON. That is correct.

Mr. KASTENMEIER. The criteria you were just referring to are contained where?

Mr. CARLSON. On page 2, paragraph C-2, "General disqualifications."

Mr. KASTENMEIER. General disqualifications.

This is a public document?

Mr. CARLSON. That is correct.

Mr. KASTENMEIER. I think it might be very useful to be made a part of the record and it will be received.

[The document referred to follows:]

BUREAU OF PRISONS,
Washington, D.C., December 15, 1969.

POLICY STATEMENT

Subject: Inmate furloughs.

1. *Purpose.* To revise inmate furlough policies and procedures in accordance with institution mission.

2. *Directives affected:*

- a. P.S. 7300.12 (M.B. 510), dated 8/8/65—cancelled hereby
- b. PS 7300.44, dated 11/18/68—cancelled hereby
- c. O.M. 7300.69, dated 7/16/69—cancelled hereby.
- d. P.S. 7500.20A, dated 4/4/67—referenced

3. *Policy:*

a. Inmate furloughs are intended as treatment tools leading to the attainment of correctional goals for selected offenders and may be granted by delegated authority, in accordance with the provisions of Title 18, Section 4082, amended.

b. Offenders granted furlough remain in the custody of the Attorney General. Furlough time in the community is creditable toward service of the sentence. An offender on furlough who willfully absconds shall be processed as an escapee.

c. Each request for a furlough shall be reviewed to determine that it is bonafide, is consistent with basic furlough policies and will contribute to the attainment of correctional goals for the inmate.

d. All expenses of a furlough (transportation, food, lodging and incidentals) must be borne by the inmate, his family or other appropriate source, as approved by the Warden, Director or Superintendent. Government funds shall not be used.

4. Administration:

a. *Community Relations.* Correctional program managers and staff shall promote public understanding of and support for the furlough program by developing and maintaining communications to impart basic information, interpret the aims of furloughs and explain their relationship to the total correctional process.

Official and other important segments of the local communities shall also be advised of the continuing progress and modifications of the program.

The U.S. Probation Officer is a resource person who may help assess local community reaction to a proposed furlough and who may be able to assist in furlough arrangements. Whenever furlough is to a district in which release supervision is to occur, the Probation Officer concerned shall be notified.

b. *Purposes of furlough.* Furloughs may be granted for the following purposes:

(1) To visit and assist in family emergencies, such as critical illness or death of a member of the immediate family.

(2) On the recommendations of the Chief Medical Officer, to obtain necessary medical treatment, at a U.S. Public Health Service Hospital or Veterans Administration Hospital, that is not available at the institution.

(3) To participate in completion of release plans, including such as interviews with prospective employers, school enrollment and obtaining suitable housing.

(4) To participate in special courses of training of 30 calendar days or less when daily commuting from the institution is not feasible.

(5) To participate in family and selected community religious, educational, social, civic and recreational activities when it is determined that such participation will directly facilitate the release transition from institution to community.

c. Selection:

(1) General qualifications:

(a) *Custody.* An inmate must have full minimum custody to be considered for a furlough.

(b) A furlough candidate shall be physically and mentally capable of completing the trip without escort.

(c) A furlough candidate shall have demonstrated a level of responsibility which will provide reasonable assurance that he will comply fully with the furlough requirements.

(d) Each furlough request shall be investigated by casework staff to verify the situation and to assess the suitability of the requested furlough.

(2) General disqualifications:

(a) Any furloughs for private medical or dental treatment are to be referred to the Assistant Director for Institutional Services.

(b) Furloughs may be considered for the following categories of inmates only for the most compelling reasons: (i) persons identified with large scale organized criminal activity; (ii) persons convicted of serious crimes against the person; (iii) persons whose presence in the community would attract undue public attention or create unusual concern. *The Director, Bureau of Prisons, retains authority to grant furloughs in such cases.*

d. *Records and reports.* The following requirements are temporary pending further revision of the Inmate Information System.

(1) Overnight furlough shall be reported as discharge and admission on Commitment and Diagnostic Summary (Form BP-DIR-78).

(2) Each institution shall maintain a Furlough Log showing all authorized furloughs by date, inmate name, institution number, length of furlough, reason for furlough and results (returned or escaped). At quarterly intervals, a tabular statistical report from the Furlough Log shall be sent to the Community Services Division, Bureau.

5. *Implementation:*

a. *General.* A furlough is any authorized absence from the institution, for any period of time, when the inmate is not under escort of a member of the staff or a U.S. Marshal. A furlough may not be granted automatically because an applicant is technically eligible nor as a reward for good behavior.

b. *By institution mission.* As with other correctional tools and procedures, furloughs shall be authorized in keeping with the mission of each institution and the nature of the population it serves.

(1) *Institutions for juveniles, youths and young adults.*

It is expected that this group of institutions will make the greatest use of furloughs as a device to minimize the offender's alienation from the family and the community, to test realities of his readiness to adjust acceptably to community life and as an incentive tied to his attainment of specific correctional goals.

All furlough purposes listed in Paragraph 4b are appropriate. The more liberal use of furlough for participation in family and selected community activities should be reserved primarily for offenders who are within six months of a probable release or parole eligibility date or who are already involved in community-based programs. Ordinarily, non-emergency family visits should be limited to three days, exclusive of travel time. Release planning furloughs should be limited to the actual time required to accomplish their purpose.

(2) *Institutions for short term adults and camps (except New York and Florence).*

This group of institutions may use furloughs liberally as a device to minimize the offender's alienation from family and the community and to test realities of his readiness to adjust acceptably to community life.

All furlough purposes listed in Paragraph 4b are appropriate. The more liberal use of furlough for participation in family and selected community activities should be reserved primarily for offenders who are within six months of a probable release or parole eligibility date or who are already involved in community-based programs. Ordinarily, non-emergency family visits should be limited to three days, exclusive of travel time. Release planning furloughs should be limited to the actual time required to accomplish their purpose.

(3) *Institutions for intermediate term adults.*

This group of institutions may use furloughs conservatively as a device to minimize the offender's alienation from family and the community and to test realities of his readiness to adjust acceptably to community life.

All furlough purposes listed in Paragraph 4b are appropriate. Furloughs for participation in family and selected community activities shall be limited to offenders who are within six months of a probable release or parole eligibility date or who are already involved in community-based programs. Non-emergency family visits shall be limited to two days, exclusive of travel time. Release planning furloughs shall be limited to the actual time required to accomplish their purpose.

(4) *Institutions for long term adults.*

This group of institutions may make only limited use of furloughs. It is expected that offenders for whom more liberal furloughs and other program opportunities may be indicated will be transferred to other appropriate facilities.

Furloughs are limited to items (1) and (2) of Paragraph 4b. Furloughs for any other purpose must be approved by the Bureau. Recommendations should be submitted to the Case Management Branch.

(5) *Other institutions.*

(Springfield) : Inmates in Camp status may be considered for furloughs in accordance with sub-paragraph (2) above. Inmates in regular patient status may be considered for furloughs in accordance with sub-paragraph (4) above. Prisoners committed for study and observation or for other special medical or psychiatric reasons ordinarily will be ineligible for furlough. In any unusual circumstance, recommendation may be submitted to the Bureau, Case Management Branch.

(New York and Florence) : Sentenced prisoners for whom these institutions have been designated may be considered for furlough in accordance with sub-paragraph (3) above. All others ordinarily will be ineligible for furlough. In any unusual circumstance, recommendation may be submitted to the Bureau, Case Management Branch.

(Alderson and Terminal Island Women's Division) : These institutions may use furloughs liberally as a device to minimize the offender's alienation from family and the community and to test realities of the offender's readiness to adjust acceptably to community life.

All furlough purposes listed in Paragraph 4b are appropriate. Local policy issuances shall reflect the special problems and needs of female offenders and shall differentiate implementation in accordance with such factors as age, length of sentence and nature of the offense for which committed. The more liberal use of furlough for participation in family and selected community activities should be reserved primarily for offenders who are within six months of a probable release or parole eligibility date or who are already involved in community-based programs. Ordinarily, non-emergency family visits should be limited to three days, exclusive of travel time. Release planning furloughs should be limited to the actual time required to accomplish their purpose.

6. *Delegation of Authority.* This Policy Statement shall be implemented in accordance with the provisions of Paragraph 5, Implementation. Prior approval of the Bureau is required for the authorization of a furlough for any other purpose or in any special circumstance not provided for in this Policy Statement.

At the Bureau level, authority to approve furloughs is delegated to the Assistant Director, Deputy Assistant Director of Institutional Services and Chief, Case Management Branch. At the institution level, Wardens, Directors and Superintendents are delegated authority to grant furloughs. This authority may be further delegated to, but not beyond, the next echelon.

7. *Action.* The head of each institution will develop a local policy issuance covering selection criteria, limits and operating procedures. This and all subsequent amendments shall be submitted to the Bureau for approval.

MYRL E. ALEXANDER,
*Director, Bureau of Prisons,
 Commissioner, Federal Prison Industries, Inc.*

Mr. KASTENMEIER. If the subcommittee should report out Mr. Koch's bill, and if in fact certain inmates were given 12 to 30 days furlough, in your experience, would there be any problem with what an individual on furlough would do for a period of 12 to 30 days?

Mr. CARLSON. As I read Congressman Koch's bill I don't believe it would require 12 days consecutively. I believe it would require 12 days during the year. That would not present any problem at all. It would be fully consistent with our operations.

Frankly, the use of a 30-day furlough, in my opinion, would have very little benefit—I would say a person who could sustain himself in the community for 30 days shouldn't be in the prison in the first place. He could maintain himself on parole.

Mr. KASTENMEIER. It would be very much like accumulating vacation time, but there would be limitations probably as to how much would be granted in any given time.

I have questions but I would like to now yield to my colleague, the gentleman from Illinois.

Mr. RAILSBACK. I want to just express the gratitude of the subcommittee to Director Carlson. I read his written statement and I think it will prove to be very helpful.

Other than the Federal experience, I know that Illinois is experimenting with furloughs, and I think in the case of the Federal institution at Vienna, they are also using primarily 3-day furloughs. Is this true throughout the country?

Mr. CARLSON. Congressman Railsback, in talking to my colleagues in the correctional administration, we have come to the conclusion that a 3-day furlough is probably a sensible approach to the situation. There is flexibility so that it can be extended beyond that, but as the chairman indicated, a lengthy period could have some negative consequences as well.

As I indicated earlier, I think if a person is eligible for a long furlough it raises a question of whether he shouldn't be out on probation or parole, which is far less costly to society. He could maintain a job and support his family.

Mr. RAILSBACK. At the present time with the experimentation going on under some of these systems, are there 3-day furloughs that are given more than once a year?

Mr. CARLSON. Yes; in our case, for example, Congressman Railsback, we don't provide how many furloughs a prisoner may have during the course of the year. It is based on the offender and his unique situation. We have some cases where furloughs are used on a fairly routine basis. The Kennedy Youth Center criteria, I know, requires at least two furloughs before he is released. They use it as a step where he goes back and meets his probation officer and tries to find a job in the community.

Again, I would point out I think furloughs need great flexibility, and that is one of the reasons I prefer the flexibility which I believe our bill does provide.

Mr. RAILSBACK. I have no other questions, Mr. Chairman.

Mr. KASTENMEIER. The gentleman from New York, Mr. Smith.

Mr. SMITH. Thank you, Mr. Carlson.

The present bill, I understand, does provide not to exceed 30 days so that you have the flexibility of any time within that period. I would expect that the present bill does not limit the number of furloughs during the year as you have indicated.

Whenever a prisoner is being considered for furlough do the prison authorities who are deciding this always contact the family ahead of time or have some input from the family to see if they are welcome?

Mr. CARLSON. Yes, very definitely. First of all, the inmate must request the furlough and state where he is going to go and the purpose of the furlough. This is checked out with the family, at least, and very frequently, as I mentioned earlier, with the probation officer. So we just don't turn the offender out of the institution. We know where he will go, where he will be, how he can be contacted, and when he will return to the institution.

Mr. SMITH. But you also check with the family to see if they want him to come home.

Mr. CARLSON. By all means.

Mr. SMITH. That is all.

Mr. KASTENMEIER. If an individual does not have a family but otherwise his behavior is good and he would like to get out on furlough, can such an individual qualify even if he has no family?

Mr. CARLSON. He can, Mr. Chairman. However, it is more difficult. We do have offenders who work in our industry who accumulate funds which they utilize. It is not infrequent for an offender who is nearing release to be given a furlough to go back to find a job. Again, we require he check in with the probation officer. We find out where he will stay, but he can be given a furlough although he doesn't have any family to go to.

Mr. KASTENMEIER. Returning in conclusion, to the number of escapes, I think you said there were 25 in fiscal 1972, and 21 in fiscal 1973. What is the incidence of crimes or offenses committed while on furlough which is somewhat different than an escape?

Mr. CARLSON. It is far less than the number I included. I will have to supply that for the record. This will require hand tabulation. Our computer does not have that information. The number which have been apprehended in criminal activities are far less than the escapes. In general the number would coincide. There would be duplication, but I will try to provide that information.

Mr. KASTENMEIER. That would be useful, because I think the community fears are not so great as to whether the individual escapes, but if the individual commits a violent crime that really does undermine confidence in the program. The incidence of it in terms of experience would be useful to reassure our colleagues on this point.

[Subsequently the following was submitted:]

U.S. DEPARTMENT OF JUSTICE,
BUREAU OF PRISONS,
Washington, D.C., July 27, 1973.

Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, House Judiciary Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The following data on furloughs of federal offenders is submitted at the Subcommittee's request to be included in the record of testimony delivered on July 19, 1973 by Norman A. Carlson, Director.

<i>Total furloughs by year</i>	<i>Total escapes</i>
Fiscal year:	
1972—4,126	32
1973—5,522	38

CRIMES COMMITTED BY INMATES IN FURLOUGH STATUS

FY 72:

Federal Correctional Institution, Terminal Island, Calif.; one female offender convicted of shoplifting.

Kennedy Youth Center, Morgantown, West Virginia; one female offender charged with shoplifting. Charges dropped.

Federal Correctional Institution, Milan, Michigan; one offender arrested for fighting with his wife. Later, had fight with deputy in jail. Disposition unknown.

FY 73:

Kennedy Youth Center, Morgantown, West Virginia; one offender arrested in Chicago for armed robbery, auto theft, and personal injury accident which occurred while he was trying to elude police.

United States Penitentiary, Leavenworth, Kansas; one offender charged with robbery of bank at Kansas City.

I hope that this additional information will be of help to the Subcommittee. If I can be of any further assistance, please let me know.

Sincerely,

LOY S. HAYES,
Acting Director.

Mr. SMITH. I think you testified, Mr. Carlson, that the incidence of that kind of commission of crime while on a furlough was much less than the escapes and the escapes are at a very low rate.

Mr. CARLSON. Yes.

Also, I could point out that our criteria for referring to an escape are very rigid. Many of the offenders are late. Many of them unfortunately go out and become engaged in some activity such as intoxication and come back late, but have already been listed technically as escapees.

Mr. SMITH. Are there any methods of ameliorating his activities?

Mr. CARLSON. Yes; whatever action is taken by the institution. The warden of a Texas institution had two recent cases of alcoholics and the U.S. attorney elected not to prosecute. I agree fully with the U.S. attorney's decision.

Mr. KASTENMEIER. If there are no other questions, we would like to again express our gratitude to you for appearing this morning. Your testimony and that of Mr. Koch has fallen on receptive ears, and I would predict that the subcommittee will look with favor on the proposal before us in this connection.

I also note that this legislation is moving in the other body as well, is it not?

Mr. CARLSON. That is correct. I understand the Senate subcommittee will report out a bill in the very near future. Testimony has been submitted.

Mr. SMITH. One further question, Mr. Chairman.

Mr. Carlson, as a criminologist, what would be your personal predilection between your legislation and Mr. Koch's which gives a right to a certain furlough during a year unless they can't come up to requirements and the present practice in which a furlough is a matter of grace, likewise given only to people who can measure up?

Mr. CARLSON. As an administrator, I prefer the permissive legislation, the type that would give us the ability to set the criteria rather than to have it as a right of the offender. I agree with the intent of Mr. Koch's bill. Certain prisoners shouldn't have furlough rights, and it is very difficult to enumerate those. Most offenders, I think, should be eligible for furlough and would be under the provisions, but there are some that very candidly are not the type that I feel should be in the community at this time with furlough authority.

Mr. KASTENMEIER. The gentleman from Illinois.

Mr. RAILSBACK. It occurs to me that because of the present Federal law that has kind of restricted you from releasing on furlough, that it may be wise to adopt the Rodino bill approach which would make it easier for you to grant furloughs and then perhaps at a later time we can look again at Mr. Koch's approach. In other words, we really haven't had enough experience for an expansive furlough program.

Mr. CARLSON. That is correct, Congressman Railsback. We started out with a very limited program as I understand New York City is doing, and we have built on the experience. I think that is prone to be a wise decision on our part not to expand to any greater extent but to see what the experience was and to predict whether the offender was ready for furlough in the community.

Mr. KASTENMEIER. I rather agree with the gentleman's comments. Under different circumstances it might be desirable to go to the approach suggested by Mr. Koch, but I think where you have a progressive minded administration that has already evidenced a little growth in the use of the program, so that we can anticipate a wide complement of this program—it probably is not necessary at this point to mandate precisely how the program must be administered as to the number of days and the entitlement.

In any event, again we express our thanks to you, Mr. Carlson.

Our last witness this morning is Mr. Eddie Harrison, Director of the Pretrial Intervention Project of Baltimore.

TESTIMONY OF EDDIE HARRISON, DIRECTOR, PRETRIAL INTERVENTION PROJECT

Mr. HARRISON. Like the other witnesses, Mr. Chairman, I would like to express my appreciation for being asked to appear here today and share with you my views concerning H.R. 7352.

I think there is much to be said in support of the bill. Like the other gentlemen who testified this morning, I am very much in favor of the bill because it does recognize the importance of reestablishing community ties and family ties for persons incarcerated.

However, I would like to take an opportunity to express the issues about this bill—H.R. 7352—and, becoming aware of H.R. 684, some of the things that concern me about both of the bills.

Concerning one of the points that H.R. 7352 addresses, that is, reestablishing community ties and family ties, does not take into consideration that a large percentage of the men and women in institutions, simply do not have family or community ties. The furlough program should also be used to a large degree to allow inmates to be released for the purpose of establishing these community and family ties. Considering that a large number of the people confined don't have those ties, coming from broken homes and having very poor relationships with their families, the furlough program should be used to strengthen those kinds of ties with family and community.

The intent of both these bills is very positive, but I think greater specificity can be added. It concerns me when bills like this are not clear. I understand it is very difficult to be clear with bills of this nature, but a statement that inmates can be released "for any other significant correctional reason consistent with the public interest" is a little too ambiguous. The interpretation of a statement this broad concerns me a bit.

I perhaps dream a bit about furlough programs because I am very much in favor of them. I see things like prevention of drug abuse definitely in the public interest, prevention of school dropouts and

antisocial attitudes and behavior on the part of young offenders in the public interest. I would suggest that furlough programs be used in the public interest for the purpose of allowing mothers or fathers or sisters or brothers in institutions to come out for the specific purpose of addressing a behavioral problem with their child.

As director of the pretrial program in Baltimore I have found that the causes of many of the problems I have mentioned has been because the father was absent from the home. There has not been any strong positive male image within the family. In our attempts to address those problems with the youth we work with we have to find a figure like that. We have to find a dominant positive male figure. I am not suggesting that the fathers of the kids we work with are in the institutions. The thing I am suggesting is that they are not in the home.

I am very strongly recommending, if possible, this bill consider those kinds of purposes for furlough programs and make them specific.

Mr. SMITH. Mr. Harrison, couldn't that be said to be a significant correctional reason?

Mr. HARRISON. If a correctional person—classification officer—considered an application for release on furlough and the reason given was because my child is having problems in school, and he were to acknowledge that as, in fact, a significant correctional reason, of course.

Again, my initial statement is I am concerned with the interpretation of a clause like that. It leaves a little too much open for interpretation and the purposes of the bill may be lost if it were improperly interpreted.

Mr. RAILSBACK. I think he makes a good point, but I think we could spell out by the legislative history our intent by the dialog and possibly the report if the subcommittee agrees with Mr. Harrison. I think we should spell out that these are some of the reasons which would justify a furlough. I think his point is very well taken.

Mr. HARRISON. I am a little bit of a dreamer when it comes to the question of reform anyway. I kind of let my imagination go wild.

Mr. SMITH. Mr. Harrison. I expect everybody in this room is. It is being done piecemeal. Mr. Carlson is doing something and everybody else is doing a little bit, but I think we all are.

Mr. HARRISON. In terms of the application of the program or its potential to be an extremely positive motivational factor and having a large impact on criminal justice in general, I think it offers a tremendous amount of motivation to maintain good conduct but also, to create within the inmate a chance for correctional treatment programs to be implemented. That is just one of the aspects of the inmates' knowing that a program is available to them, it does make them maintain their conduct.

One of the other things I am concerned about is the statement enclosed in the letter from the Attorney General which is somewhat consistent with some of the implied statements in the other bill (H.R. 684), is that, nondangerous inmates or offenders or inmates would be the only persons eligible for such a program. It really concerns me when you consider what is a nondangerous offender. Does that mean the nature of the offense itself, the circumstance of the offense itself, the charge itself, past record, current prison record? In other words, what kinds of things determine dangerous offenders?

Furthermore, if a person is labeled a dangerous offender, how long does he wear that title? When does it come off? Is he forever considered a dangerous offender and thereby ineligible for the program?

My primary reason for bringing that point up is that more often than not the person ineligible for release is the person who can most benefit, not the person who has strong community ties, but the person who doesn't have any family. Again, in terms of dreaming, I can see that a furlough program would best benefit that kind of individual.

Those are the two primary problems I have with both these bills.

I would like to conclude that furlough programs are most certainly a risk-taking adventure, but the benefits are fantastic when you think in terms of furlough programs having an impact on prison life itself. The fact that men know there is an opportunity to be released prior to the end of sentence takes a lot of heat out of institutional life itself. Let me quote an example.

I have had 8½ years' experience in institutions. Most of the men that I have notice involved in prison disturbances and riots, are men that do not have anything substantial remaining in their lives on the outside. By and large, the men who have families, or visitation, tend to stay out of trouble because of the fact that there are other people who care about them; they are considering other people and not so concerned about themselves. A visitation program would add humanistic dimensions to a person's life in an institution that are otherwise unavailable. In terms of the potential impact that a very good furlough program would have, I support this program, but I would like to have consideration given to the concerns I brought up.

Mr. KASTENMEIER. Thank you, Mr. Harrison.

First, I would like to ask you to be good enough to tell the committee about the work of your organization.

Mr. HARRISON. It is funded by the U.S. Department of Labor. It is a juvenile diversion program. It is also a community based juvenile diversion program whose objective is to divert cases from the criminal justice system, that can be better served by a community based project as opposed to court adjudication.

The overall objective of this program is to prevent the reoccurrence of serious crime by juvenile offenders. The program is working.

What is the impact of offenders in the city of Baltimore? In general terms, that is basically what the term is all about. The program is concerned in changing the attitude and thereby the behavior of juvenile offenders and providing alternatives to crime for offenders. It is a program that has been developed to assist young men in becoming adults.

Mr. KASTENMEIER. So that the subcommittee may interpret your own analysis of the two bills—do I understand that you feel both are imperfect, you don't prefer one over the other particularly, but you would prefer enactment of one of them rather than not at all?

Mr. HARRISON. Most certainly. I am in favor of both the bills. It doesn't really matter which of the bills would be enacted, however, I do again think it is very important that certain specificity be added as to who is eligible for the program.

Again, that clause that seems to prohibit certain types of offenders from being eligible is definitely one that should be reconsidered. I think every person in an institution should be eligible for furlough pro-

grams. Perhaps the criteria would be different for different offenders, but everyone should be eligible.

Mr. KASTENMEIER. Mr. Koch has some criteria in his bill. He suggests that, referring to the prisoner, his record of conduct during confinement shows "he has not engaged in serious misconduct for which punishment including revocation, forfeiture, or withholding of good time allowance, has been imposed; and he is not of a violent nature." How do you react to that?

Mr. HARRISON. I don't think that is a valid criteria, because institutional life is very explosive. I don't think that criteria can be justified because of the way that it is worded. Given the fact that prison life is explosive, that prison life is something that individuals cannot control, it is very difficult at times not to be involved, or be thought to be involved in violence, and be completely justified in doing so. But this criteria would render him ineligible. I don't think it is valid.

Mr. KASTENMEIER. The second criterion is that the inmate "is deemed to be of trustworthy nature notwithstanding prior offenses."

Mr. HARRISON. My response is that it is also difficult to determine which prisoners are of a trustworthy nature. Again, in my opinion, the persons needing this kind of program the most are not those kind of individuals you would give an opportunity to demonstrate their trustworthiness.

Mr. KASTENMEIER. Would you not agree that if a good many prisoners were released and a relatively high incidence, of crimes committed while on furlough or escapes it would tend to undercut the program's public confidence?

Mr. HARRISON. I think it would tend to, even though I would disagree with that. There are going to be escapes. You have to take risks.

Again, in reference to public opinion in support of the program, I am not one who feels that program like the furlough programs, which are very, very good programs, should be changed, modified, et cetera, because of public opinion. For instance, you always hear about the failures, never the successes. If someone on a furlough committed some type of very serious crime, I would not like to see a change in the program itself instituted. The administration of correctional facilities and programs has been hampered by public opinion long enough.

Mr. KASTENMEIER. I gather you recommend some risk be taken, and it is your view that in the long run the program will be borne out. I gather you would say it isn't just the honor prisoners that need a furlough program, it is indeed some of the others who have greater needs?

Mr. HARRISON. Most certainly. Myself as an example. My 8 years in an institution was the result of a murder conviction. During that period of being in an institution, I was always in a maximum security institution, always under the most secure conditions there possibly could have been, not so much of myself as an individual, as a person, but because of my charge and my sentence. I know a number of other people in the same kind of situation and conditions who are not dangerous, who have been convicted of murder charges, et cetera, who would cause no further danger to the community, who could be released but have not been released because of the charge.

Mr. KASTENMEIER. I understand.

Mr. RAILSBACK. I had the pleasure of spending a number of days near Ditchley, Oxford, with Mr. Harrison, and his lovely wife who is also present, and he made some outstanding contributions.

Many of us have introduced a pretrial diversion bill, H.R. 9007, and my interest in this legislation was really developed from hearing the experience Mr. Harrison has had with what he calls the pretrial diversion over in Baltimore. If we can get hearings, I hope you will make yourself available to really go into detail about your experience with the pretrial diversion program.

Mr. HARRISON. Yes, sir.

Mr. SMITH. Mr. Harrison, with your pretrail diversion program with juveniles to keep them out of the court and so forth, I assume this is the idea, and try to make juveniles into adults and assume the responsibility of adults. You must have some supportive services or some homes or other places where these kids can have a safe and secure place to stay for counseling. Is this part of your program?

Mr. HARRISON. Well, most of it—a large percentage of them, I think even actually 85 or 90 percent, are released to the custody of their parents immediately, so we don't have a problem of trying to find a place. Others need a home or some other type of care.

Mr. SMITH. But then having the advantage of counsel and help from people in your program or other people in the community, is important.

Mr. HARRISON. The program offers a number of manpower related services. It offers remedial education, preparation for job development. By far most of the youngsters are placed in counseling because the adolescent population is in its impressionable stages and needs to be influenced in a positive fashion.

Mr. SMITH. The reason I am asking this is that if there were to be established within the federal system, a pretrial deferral program that would go as far as I gather that you would like to have it go, and that is for people who don't have any community ties or family, and people who might be said to have been at least incarcerated because of some kind of violent crime. It seems to me that if it were to go that far you would have to have some kind of a home atmosphere, a group home or some other kind of accommodations where they could go; and second, there should be some kind of support while they were out and to see that they didn't get into trouble again?

Mr. HARRISON. I think those kinds of programs are fairly easy to establish and the most recent ones I am aware of, and I am sure Mr. Carlson is aware of, is the man-to-man program here in Washington, one community person for one inmate and the establishment of a relationship between them.

Mr. SMITH. Is this a program young lawyers are involved in or junior bar association or something like that or maybe the junior chamber of commerce?

Mr. HARRISON. They are accepting all kinds of persons.

Mr. SMITH. These are volunteers?

Mr. HARRISON. If such a program were implemented on a Federal scale so there would be one person involved with a person who does not have family ties or community ties but would be working toward the establishment of such a relationship. They would secure a place for him to stay, would develop community ties is more the application, I would say.

Mr. SMITH. That is why I think it would be absolutely necessary to have some sort of program for people like that who don't have community ties, or whose community ties may have been bad ones.

Mr. HARRISON. Well, I think the same thing would hold true that the furlough program in itself doesn't serve as an end in itself. What happens is when the man is in the community. Consideration is given to (1) whether the person is welcome in his home; (2) whether there is support in the community and whether he will be doing something constructive in the community. It is not only that I want to go home. Everybody in the institution wants to go home for 3 days, but there are some safeguards for the communities.

I would suggest again it not be limited to what has been specified.

Mr. SMITH. Thank you.

Mr. KASTENMEIER. We are indebted to you for your appearance this morning.

I note Mr. Carlson is still in the room. I have one last question, prompted by Mr. Harrison's comments.

Could you comment on whether the language of the bill which reads "the reestablishment of family and community ties" might read the "establishment or reestablishment of"—on that; and second, could you amplify what is meant by "significant correctional reasons," which replaces "compelling reason," how you envision that might include—

Mr. CARLSON. Mr. Chairman, I think your first suggestion is a very valid one. That is a refinement that would clarify the intent, as Mr. Harrison has alluded there. There are a number of offenders who have no ties. They have to develop a new set of ties in the community.

The second is that granted a very broad term "significant correctional"—I would say, however, that I subscribe to the comments of Mr. Harrison in terms of the intent. I think it is fully consistent that he calls for correctional reasons the offender goes out, be it at an AA meeting, speak at a group, or any other purpose, those are some of the correctional reasons.

Mr. KASTENMEIER. Those are some of the things you had in mind?

Mr. CARLSON. Precisely. We tried to tie it into corrections. I think there has to be an explicit purpose involved. I think it should be correctional and not something outside of the correctional spirit.

Mr. KASTENMEIER. Might it be a rehabilitative purpose?

Mr. CARLSON. Yes, I certainly would include that as a significant correctional reason, but again I would subscribe to the points Mr. Harrison makes, and add we do have many offenders who go out of our institutions now. They are escorted by staff members, and this is one of the reasons we propose to expand the legislation, because I think this is a very definite correctional vehicle.

Mr. KASTENMEIER. Thank you for your comments.

This, then, concludes the hearings on these two bills. I hope that we can meet on the markup of a bill dealing with this subject within the next week or two.

Accordingly, the subcommittee stands adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned.]



