

SUPPLEMENTARY REPORT ON THE INITIAL SENTENCING GUIDELINES AND POLICY STATEMENTS



JUNE 18, 1987

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UNITED STATES SENTENCING COMMISSION

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INTRODUCTION

This report supplements and further explains the Sentencing Guidelines, Policy Statements, and related Commentary (hereinafter referred to as the "Sentencing Guidelines") submitted to Congress on April 13, 1987, and subsequently modified by technical, conforming, and clarifying amendments submitted on May 1, 1987.*

The governing statute, Section 235(a)(1) of the Sentencing Reform Act of 1984, speaks of a report accompanying the initial guidelines "stating the reasons for the Commission's recommendations." It is the intent of the Commission that Chapter One of the April 13 Sentencing Guidelines and Policy Statements, together with the included Commentary, provide the basic information to comply with that legislative mandate.

This supplementary report provides several types of additional information to assist in understanding the submitted guidelines, their background, empirical basis, structure, underlying rationale, and significant estimated effects. More specifically, three types of information are included. First, a brief historical overview of the landmark Sentencing Reform Act and a summary of the Commission's guidelines development process provide background and context for the recently issued initial guidelines and policy statements. Second, additional explanatory information on certain aspects of the guidelines is included to assist in better understanding their rationale and application. Third, an analysis of the expected effects of the guidelines and recently-enacted legislation on federal correctional resource requirements is included in accordance with 28 U.S.C. § 994(g).

* The Commission would like to express its appreciation to the following staff members and consultants who provided assistance or advice regarding various aspects of this report: Mary Ellen Abrecht, Arnold Barnett, Vivian Belger, Charles Betsey, L. Russell Burress, Alan J. Chaset, Gerry Gaes, Russell Ghent, Kimberly Halbig, Kenneth Feinberg, Michael Lasky, Karla Levins, Debbie Lister, Susan M. Martin, Shelley Matsuba, Catherine McPherson-Bennett, Phyllis J. Newton, Lynne A. Perry, Ronnie May Scotkin, John B. Shadegg, Stephen Schulhofer, Eric Simon, Sharon R. Turner, Cary Lindgren Ann Walters, Camille Williams, and Marla Wilson.

**APPENDIX B - COMPARISON OF SENTENCING GUIDELINE OFFENSE LEVELS
WITH U.S. PAROLE COMMISSION OFFENSE LEVELS**

The following table provides a comparison of the sentencing guideline offense levels with the offense seriousness categories used in the U.S. Parole Commission guidelines. Columns 1 and 2 of the table show the sentencing guideline section number (from Chapter Two of the Guidelines) and corresponding offense level. Column 3 of the table shows the comparable parole guideline offense level. Columns 4, 5, and 6 contain a description of the offense and specific offense characteristics.

The Parole Commission offense categories and most comparable sentencing guideline offense levels are as follows:

<u>Category</u>	<u>Offense Level</u>
1	04
2	06
3	06-09
4	14
5	18-20
6	23
7	25-27
8	31-33 or 31-43 (first degree murder)

The above correspondences are based upon the parole guidelines adjusted to take into account the effect of good time under the new law.

In many cases, the comparisons are only approximate. This may occur, for example, because there are various differences in the definitions used by the two systems in respect to particular offenses and offense characteristics. In some cases, *e.g.*, drug and gambling offenses, the approach used by the two systems is substantially different. For such offenses an asterisk (*) following the guideline section number indicates that a comparison or explanation is provided in the endnotes. In addition, there are a number of offenses for which there are no comparable parole guidelines.

The comparisons in this table should be used with caution because of the significantly different functions served by the sentencing guidelines and the parole guidelines. See pages 25-26 of the text.

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Comparison of Guideline Levels with U.S. Parole Commission Guideline Levels

G/L Section	G/L LEVEL	USPC	OFFENSE	OFFENSE CHARACTERISTIC #1	OFFENSE CHARACTERISTIC #2
2A1.1	43	31-43	FIRST DEGREE MURDER		
2A1.2	33	31-33	SECOND DEGREE MURDER		
2A1.3	25	25-27	VOLUNTARY MANSLAUGHTER		
2A1.4	10	14	CRIMINALLY NEGLIGENT HOMICIDE		
2A1.4	14	14	RECKLESS HOMICIDE		
2A2.1	20	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Bodily Injury	
2A2.1	22	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	For Money	
2A2.1	22	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Planned	
2A2.1	22	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Weapon Brandished	
2A2.1	23	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Bodily Injury	For Money
2A2.1	24	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Planned	Rodily Injury
2A2.1	24	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Planned	For Money
2A2.1	24	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Serious Bodily Injury	
2A2.1	24	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Weapon Used	
2A2.1	25	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Firearm Discharged	
2A2.1	25	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Planned	Weapon Brandished
2A2.1	25	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Weapon Brandished	Bodily Injury
2A2.1	25	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Weapon Brandished	For Money
2A2.1	26	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Permanent Bodily Injury	
2A2.1	26	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Planned	Serious Bodily Injury
2A2.1	26	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Planned	Weapon Used
2A2.1	26	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Serious Bodily Injury	For Money
2A2.1	26	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Weapon Used	Bodily Injury
2A2.1	26	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Weapon Used	For Money
2A2.1	27	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Firearm Discharged	Bodily Injury
2A2.1	27	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Firearm Discharged	For Money
2A2.1	27	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Planned	Firearm Discharged
2A2.1	27	31-33	ATTEMPT/CONSPIRACY/SOLICITATION TO MURDER	Weapon Brandished	Serious Bodily Injury

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**APPENDIX C - SENTENCE LENGTH AND PROJECTED TIME SERVED BY PAROLE
GUIDELINE DETERMINANTS FOR DEFENDANTS GIVEN INITIAL PAROLE
CONSIDERATION HEARINGS BETWEEN OCTOBER 1984 AND SEPTEMBER 1985**

The following table, prepared by the United States Parole Commission, provides information about the length of and variation in sentences and projected time served for defendants given initial parole consideration hearings between October 1, 1984 and September 30, 1985.

Although this table provides very useful information, it must be interpreted with caution. It does not display sentences or projected time served for all defendants, but only for defendants given initial parole consideration hearings.¹ Defendants with sentences of one year or less are excluded, as they are not eligible for parole. Furthermore, some defendants who are technically eligible for parole consideration but whose sentences are below the parole guidelines waive parole consideration and, thus, also are not included. Consequently, these statistics provide the upper bound for estimates of sentence length and projected time served² for most offenses.

The table is organized by offense and offender characteristics as found in the parole guidelines (28 C.F.R. § 2.20). Offense categories are listed on the vertical axis of the table beginning with "murder," offense code "201." The numerical designation following each offense may be used to locate the specific characteristics of that offense in the parole guidelines. Four categories of offender characteristics are listed in the columns of the table. These correspond to the four categories determined by application of the Parole Commission's Salient Factor Score. Each of these columns is broken down into two subcolumns, the first of which displays information relating to the sentences pronounced, and the second of which displays information relating to time served.

For each offense and subcolumn, six items of information are listed. These include the mean and median, the number of cases (N), and three measures of variability: the standard deviation (SD), the coefficient of variation (CV), and the width of the range containing the middle fifty percent of the cases (50 QTL). Where a cell contains fewer than 5 cases, it is left blank.

¹ A defendant receiving an initial parole hearing during the period covered may have been sentenced during that period or at some earlier time.

² Projected time served is based upon the presumptive release date set at the initial parole hearing.

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DISTRIBUTION PARAMETERS FOR SENTENCE LENGTH AND TIME SERVED
 WITHIN OFFENSE BY SALIENT FACTOR SCORE RISK GROUP
 FOR INITIAL HEARINGS * ADULT CASES AND ADULT GUIDELINES
 FROM OCTOBER 1, 1984 TO SEPTEMBER 30, 1985
 EXCLUDING TENVR M CASES GIVEN TEN YEAR SET-OFFS
 EXCLUDING OFFENSES WITH LESS THAN 5 CASES
 SENTENCE = MAXIMUM SENTENCE

OFFENSE	STATISTIC	RISK											
		V GOOD			GOOD			FAIR			POOR		
		SENT/SERV	SENT/SERV	SENT/SERV	SENT/SERV	SENT/SERV	SENT/SERV	SENT/SERV	SENT/SERV	SENT/SERV	SENT/SERV	SENT/SERV	SENT/SERV
MURDER 201	CV	69.7	64.4	62.4	55.9	71.0	62.1	58.4	59.6				
	MEAN	151.0	94.7	201.5	117.2	136.1	87.8	209.9	140.8				
	MEDIAN	120.0	80.0	180.0	120.0	120.0	80.0	210.0	132.5				
	N	62.0	62.0	19.0	19.0	14.0	14.0	20.0	20.0				
	STD	105.3	61.0	125.7	65.5	96.6	54.6	122.6	84.0				
	50 QTL	162.0	94.8	264.0	101.0	127.0	88.3	262.5	168.0				
MANSLAUGHTER 202	CV	46.4	50.6										
	MEAN	125.3	72.6										
	MEDIAN	120.0	67.0										
	N	9.0	9.0										
	STD	58.2	36.7										
	50 QTL	54.0	29.5										
MANSLAUGHTER 203	CV	86.0	54.6										
	MEAN	46.0	25.3										
	MEDIAN	30.0	21.0										
	N	6.0	6.0										
	STD	39.6	13.8										
	50 QTL	57.0	24.0										

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GAO

Report to the Congress

September 1987

SENTENCING GUIDELINES

Potential Impact on the Federal Criminal Justice System



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GAO/GGD-87-111

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United States
General Accounting Office
Washington, D.C. 20548

Comptroller General
of the United States

B-215590

September 10, 1987

President of the Senate and Speaker
of the House of Representatives

The Comprehensive Crime Control Act of 1984 (Public Law 98-473, dated October 12, 1984) made several significant changes to the federal criminal justice system. One of the most significant changes required by the law was the establishment of the United States Sentencing Commission. Its principal purpose is to establish sentencing policies and practices for the federal criminal justice system, including detailed guidelines for federal judges to use to sentence offenders convicted of federal crimes. The guidelines are intended to reduce unwarranted sentencing disparities among offenders with similar criminal records who commit similar crimes.

On April 13, 1987, the Sentencing Commission submitted its proposed guidelines to Congress, and they are scheduled to go into effect on November 1, 1987. Section 235 of the law requires that within 150 days after the Sentencing Commission submits its proposed guidelines to Congress, we report to Congress on the potential impact of the guidelines on the federal criminal justice system. Also, the House and Senate Committees on the Judiciary requested that we examine the Sentencing Commission's basis for requesting a 9-month delay in implementation of the guidelines.

To satisfy our objectives, we interviewed various officials from the judiciary, Department of Justice, and other groups concerned with the federal criminal justice system and reviewed the Sentencing Commission's analyses of increases in future prison populations and how much the guidelines will contribute to those increases. The results of our review are summarized in this letter and discussed in detail in the appendix as are the details of our objectives, scope, and methodology.

Although the Sentencing Commission believes that the population of federal prisons will increase significantly over the next 10 to 15 years, it believes the sentencing guidelines will contribute a relatively small amount to the overall population growth. The Commission's prison population analyses appear to be reasonable. But, how much future federal prison populations will actually grow, and how much the guidelines will contribute to that growth cannot be determined. Factors, such as changes in future prosecution and enforcement policies and practices, the extent of the use and nature of plea agreements, and the extent that

Sentencing Guidelines: Potential Impact on the Federal Criminal Justice System

Background

Public Law 98-473 established the Sentencing Commission as an independent agency within the judicial branch. The Commission is composed of seven voting and two nonvoting members. As required by law, the Commission submitted its proposed guidelines to Congress on April 1, 1987. The guidelines were approved by six of the commissioners, with one commissioner dissenting. The one commissioner dissented generally because he did not believe the guidelines would reduce unwarranted sentencing disparities. The guidelines go into effect on November 1, 1987, unless legislation is enacted to delay or stop their implementation. In submitting the guidelines, the Commission recommended that Congress delay their implementation for 9 months—from November 1, 1987, to August 1, 1988. The Commission wants the additional time to field test the guidelines, train personnel, and propose any necessary amendments to the guidelines before they go into effect.

In accordance with the law, the guidelines limit the sentencing range for offenders with similar criminal records who commit similar crimes. However, the law and the guidelines allow judges to depart from those ranges if they believe that aggravating or mitigating circumstances justify departures. In such cases, judges must state their reasons for departure.

The law also expands the authority of the United States Courts of Appeals (circuit courts) to review sentences. Both the defendant and government can appeal a sentence that is imposed in violation of law that is a result of an incorrect application of the guidelines. In addition, the law permits the defendant to appeal an above-guidelines sentence and the government to appeal a below-guidelines sentence. Under the guidelines system, parole (conditional release of offenders before completion of their original prison sentences) will not exist.

Five years after implementation of the guidelines, the United States Parole Commission is scheduled to be abolished. In the interim, it will continue to make parole release decisions for offenders sentenced under the present system. Section 236 of the law requires us to submit another report to Congress 6 months before the scheduled abolishment of the Parole Commission. The report is to address the actual impact of the guidelines system compared to the operations of the previous sentencing and parole release system and is to be used by Congress to determine whether the guidelines system has been effective, whether changes are needed, and whether parole should be retained in some form.

Appendix I
Sentencing Guidelines: Potential Impact on
the Federal Criminal Justice System

Section 994(g) of Public Law 98-473 directs the Sentencing Commission to estimate the impact of its sentencing guidelines on the population of federal prisons. Also, this section of the law requires that the Commission make recommendations to Congress concerning any change or expansion in the nature or capacity of federal correctional facilities and services as a result of the guidelines. In a June 18, 1987, report to Congress entitled Supplementary Report on the Initial Sentencing Guidelines and Policy Statements, the Commission estimated dramatic increases in future federal prison populations. However, the Commission has not determined the number and types of facilities and services needed to house the increased prison populations, although it has begun work in this area.

Objectives, Scope, and Methodology

Section 235 of Public Law 98-473 requires us to report to Congress on the potential impact of the sentencing guidelines compared to the operation of the current sentencing and parole release system. The report is due within 150 days after the Commission submits its guidelines (by September 10, 1987). Also, the House and Senate Judiciary Committees requested that we examine the rationale for the Commission's request for a 9-month delay in the implementation of the guidelines.

We assembled a panel of five experts to advise us on our audit approach. The panel consisted of two circuit court judges, a clerk of court for a federal court of appeals, a state sentencing guidelines agency director, and an expert on prison population forecasting.

We conducted our audit work from January 1986 to August 1987. We attended the regional public hearings conducted by the Commission, examined testimony and written comments from groups and individuals, and reviewed early drafts of the guidelines as well as the version submitted to Congress on April 13, 1987. In addition, to determine the potential impact of the guidelines on the workload of federal court personnel, we reviewed the Report of the Proceedings of the Judicial Conference of the United States held in Washington, D.C., March 12-13, 1986, Special Session June 30, 1986, and September 18-19, 1986; and the Annual Report of the Director of the Administrative Office of the United States Courts, 1986. We also reviewed statements submitted by witnesses at congressional hearings that were held during 1987 on the sentencing guidelines. It was not within the scope of our review to consider the overall advisability of the guidelines and therefore, we are taking no position on them.

Appendix I
Sentencing Guidelines: Potential Impact on
the Federal Criminal Justice System

Our review was performed in accordance with generally accepted government auditing standards. However, because of time constraints, we did not make a complete verification of the computer model and data used by the Commission to estimate the impact of the guidelines on future prison populations.

Prison Impact

To address the potential impact of the guidelines on the population of federal prisons we reviewed (1) the Commission's June 18, 1987, report to Congress which contains a summary of the Commission's prison impact study; (2) a draft of its technical report being prepared to further explain the methodology for its study; and (3) related documentation.

To estimate the impact of its guidelines on future federal prison populations, the Commission developed a computer simulation model and applied the model to a sample of about 10,500 offenders who were convicted during fiscal year 1985. In order to meet the congressionally mandated reporting requirement, we did not have time to perform a complete reliability assessment of the Commission's model and data. However, we did perform some limited tests of the model and sample data, and had two of our advisory panel members who are experts in sentencing guidelines and prison population forecasting provide us with an assessment of the Commission's study. These experts reviewed the methods utilized by the Commission staff in their impact study.

We reviewed the computer programs used in the Commission's model on a test basis to check for logic or computation deficiencies and to verify the assumptions built into the model. We also verified the sentence computations of the impact model using a sample of drug cases drawn from the data used by the Commission in developing its projections. On a judgmentally selected basis, we recomputed the Commission's prison population projections using its data and model.

The Commission's development of guidelines and prison population estimates relied heavily on data supplied by other agencies. In addition, the Commission conducted an extensive data collection effort to augment existing data on federal sentencing and release practices. We interviewed the Commission members, their staff, and outside agency officials assisting the Commission, regarding the controls used to verify the model and the accuracy of the data used in the model. We then analyzed these controls to assist us in our review. The Commission could not provide written documentation of the application of these controls to its

Appendix I
Sentencing Guidelines: Potential Impact on
the Federal Criminal Justice System

model; therefore, we could not assess their quality. However, we interviewed Commission officials for details on their quality controls. In addition, we reviewed the Commission's documentation of its sample data selection and analyses.

We interviewed Commission officials responsible for preparing the impact study and Federal Prison System (FPS) officials responsible for estimating future federal prison populations and preparing building plans for federal prisons.

Other Impacts and the Delay Issue

To address the potential impact of the guidelines on other components of the federal criminal justice system and the Commission's rationale for the 9-month delay in implementation, we interviewed 26 knowledgeable persons associated with groups or agencies who will be most affected by the guidelines, such as court officials, defense attorneys, and prosecutors. These persons were not selected using procedures that would ensure against bias. We selected these individuals because we believed they were part of a limited number of people who had detailed knowledge of the guidelines at the time of our review and based on our advisory panel's observation that they were likely to be knowledgeable and have differing perspectives.

We interviewed all seven voting and two nonvoting members of the Sentencing Commission and key staff. We also interviewed officials representing sentencing guidelines agencies from four states (Florida, Minnesota, Pennsylvania, and Washington) concerning their experiences in implementing sentencing guidelines. Further, we examined testimony and written comments of groups and individuals who commented on various versions of the guidelines.

Finally, we reviewed the Sentencing Commission's plans for field testing the guidelines and the Federal Judicial Center's plans for training court personnel in the use of sentencing guidelines. We also observed the Commission's 2-day testing session of the guidelines by probation officers held in Washington, D.C., on July 13 and 14, 1987.

Appendix I
Sentencing Guidelines: Potential Impact on
the Federal Criminal Justice System

a result of the guidelines. On June 18, 1987, the Commission provided a supplementary report to Congress that contained a summary of its prison impact study estimating dramatic increases in the future federal prison population. However, the Commission has not determined the number or types of facilities that would be needed to house the increased prison population, although it has begun work in this area.

The Commission's study pointed out the problems inherent in forecasting prison populations, including the absence of reliable methods for predicting future crime rates and changes in federal prosecution and enforcement priorities. The study also noted that uncertainties about sentencing under the guidelines made forecasting the effects of the guidelines on prison populations especially difficult. For example, the study pointed out that the proportion of convicted defendants who plead guilty (about 86 percent during the 12-month period ending June 30, 1986) could change under the guidelines, which could affect the sentences they receive. For example, the longer sentences under the guidelines may provide more or less incentive for guilty pleas. Similarly, the authority of judges to depart from the guidelines (even though they must provide a written explanation) creates uncertainty about the ultimate impact of the guidelines.

After pointing out the unknowns concerning the effect of the guidelines on future prison populations, the study explains how the Commission estimated this impact. Generally, the Commission analyzed sentencing practices for a sample of about 10,500 offenders who were convicted during fiscal year 1985. Then, working with FPS, the Commission developed a computer simulation model to project future prison populations on the basis of a variety of factors, including: (1) current practice; (2) anticipated prosecution trends; (3) the Anti-Drug Abuse Act of 1986 (which requires, among other things, mandatory minimum sentences for certain drug offenders); (4) the career offender provisions of the Comprehensive Crime Control Act of 1984 (which require, among other things, prison terms at or near the maximum prescribed by law for certain repeat offenders); and (5) the guidelines.

Because future prosecution policy cannot be anticipated, the Commission projected prison populations for 1992, 1997, and 2002 using various assumptions concerning prosecution/conviction rates, plea negotiation practices, and the extent that judges would depart from sentences recommended in the guidelines. The Commission believes that the federal prison population will continue to grow. The Commission's prison population estimates range from 67,000 to 83,000 for 1992;



United States Parole Commission

Hori Von Kahl
Req. No. 04565-059
U.S. PENITENTIARY
P.O. Box 1000, E-1
Lewisburg, PA 17837

Customs House
2nd and Chestnut, 7th Floor
Philadelphia, Pennsylvania 19105
6-6-85

Dear Mr. Von Kahl:

This is in response to your request received 5-13-85
for material contained in U.S. Parole Commission records.

Your request will be processed under the U.S. Parole Commission's "Alternate Means of Access" at 28 C.F.R. §2.56. The Commission's records are exempt from disclosure under the Privacy Act of 1974. See 5 U.S.C. §552a(j)(2) and 28 C.F.R. §16.85. This disclosure is greater in scope than would be available to you under the Freedom of Information Act.

The filing of a request for access to records shall be deemed to constitute an agreement to pay all applicable fees charged under 28 C.F.R. §16.47 up to \$25.00.

[] Because it appears that your request would result in a fee of over \$25.00, you must submit a letter stating your agreement to pay the fee (at 10 cents per page and 60 cents per tape) which will be determined after your request is processed.

[✓] However, there is a temporary backlog of unfilled requests which will be processed in order received. Although it is anticipated that your request may not be answered within the 40 business-day deadline of 28 C.F.R. §2.56(a) due to this backlog, it will be processed as soon as possible.

[] The requested file is currently before the National Appeals Board located in our central office. Your disclosure request will be processed as soon as possible after the appeal is decided.

Sincerely,

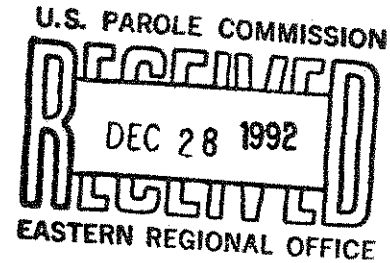
HENRY J. SADOWSKI
Regional Counsel

BY: Rosanne Christinzo
Rosanne Christinzo
Legal Technician

DATE: December 3, 1992

FROM: Yorie Von Kahl
Register No. 04565-059
Quarters: J-3
U.S. Penitentiary
P. O. Box 1000
Lewisburg, PA 17837

TO: U. S. Parole Commission
PPB Park Place Building
5550 Friendship Boulevard
Chevy Chase, MD 20815



Dear Sirs:

I am requesting from you any and all material regarding me that may have been used, or may be used, in your determination of my parole eligibility. This should include all of the tapes of hearings which I have had beginning with my first hearing held in June of 1984 through my latest hearing on December 1, 1992; any interdepartmental memos that may be released; any extra-departmental memos or notices that may have any value to or bearing on your considerations; and any other material that may have been or may yet be utilized in any way in your possible determinations or considerations relating to my parole.

Regarding any material that may not be released to me pursuant to 28 C.F.R. Art. 2.56, the Freedom of Information Act and/or the Privacy Act of 1984, if such material exists, I request that this material be identified to whatever extent is permissible, and that I be notified and informed as to why it is not available to me.

I realize that material from past hearings occasionally require additional time to be made available. Consequently, I ask that recent material from my latest hearing be forwarded to me as soon as possible, and subsequently any other material as it can be made available.

Thank you for your assistance in this matter.

Yorie Von Kahl

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U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, Maryland 20815

January 28, 1993

Yorie Van Kahl
Register No. 04565-059
Quarters: J-3
U.S. Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

Re: Your Disclosure Request Received December 28, 1992

Mr. Von Kahl:

The above-referenced disclosure request is being returned for failure to include the below-checked information:

- Notarized Signature either by a notary public accompanied by the appropriate seal or by a case manager's signature accompanied by the case manager's stamp for administering an oath.
- Failure to include notarized consent form from the subject of the document(s).
- Failure to adequately specify documents requested.
- Lack of sufficient identifying information. Specifically, provide your **registration number** and indicate the full name(s) under which any records may be held by the Parole Commission.

Sincerely,

STEPHEN J. HUSK
Legal Technician

Tr. App. 184-195

Yorie Von Kahl
Register No. 04565-059
(J-3)
P. O. Box 1000
Lewisburg, PA 17837
August 8, 1993

United States Department of Justice
United States Parole Commission
5550 Friendship Blvd.
Chevy Chase, MD 20815

Dear Sir(s):

Following my parole hearing of December 1, 1992, I sent a request for disclosure of materials to your office (pursuant to §2.56 of CFR 28 and/or the provisions of the Freedom of Information Act and/or the Privacy Act of 1974), notifying you that I needed any and all materials available from your files that have had or may have any bearing on my previous parole hearings or considerations bearing upon the same. This would include tape recordings of hearings, summaries of hearings, inter-agency memorandums, extra-agency memorandums (if releasable), etc.....

In response, a letter was sent to me, notifying me that my request was being returned (Jan. 28, 1993) for lack of a notarized signature. I immediately returned a notarized request (although §2.56 of 28 CFR does not specify such necessity). As of this date (August 8, 1993) I have received no materials, nor any response whatever.

I have been forced to file my appeals without the benefit of these important records. As I am still proceeding with available remedies, I again request that these materials be sent to me immediately.

This matter is extremely urgent. Lack of these materials is disrupting my attempts adequately to pursue my remedies.

Thank you for your anticipated efforts to process this request with dispatch.

Sincerely,

Yorie Von Kahl
Yorie Von Kahl

P. Pottios 8-10-93
"P.D. POTTIOS, PAROLE OFFICER"
AUTHORIZED BY THE ACT OF JULY 7, 1955
TO ADMINISTER OATHS
(18 U.S.C. 4004)

196
Tr. App. 185



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, Maryland 20815

September 30, 1993

Mr. Yorie Von Kahl
Reg. No. 04565-059
(J-3)
P.O. Box 1000
Lewisburg, PA 17837

Dear Mr. Von Kahl:

This office acknowledges the receipt of your letter of August 13, 1993, requesting copies of records from the U.S. Parole Commission.

This office has a backlog of unfilled requests and limited personnel resources to process FOIA requests. We are not able to maintain our personnel resources because the statutory abolition and the phase-down of the Commission requires an annual reduction of staff. The agency is therefore operating under exceptional circumstances as defined in 5 U.S.C. Sec. 552(a)(6)(C), and will endeavor to exercise due diligence in responding to your request. Disclosure requests are processed in turn as soon as reasonably possible. We may be unable, however, to process your request within the statutory time requirement. Please note that pre-hearing disclosure requests take precedence over FOIA requests processed under 28 C.F.R. Sec. 2.55 because of the statutory and regulatory deadlines for conducting parole hearings under 28 C.F.R. Sec. 2.12(a).

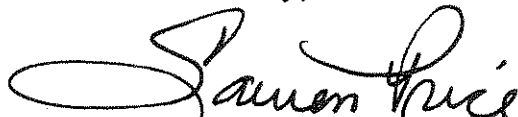
The filing of a request for records shall be deemed to constitute an agreement to pay reproduction fees charged under applicable regulations up to \$25.00. In accordance with applicable fee schedules, you will be required to reimburse the United States if billable search and reproduction costs exceed \$8.00. The Commission will inform you if the fees are assessed, you must make payment before copies will be sent to you.

Any material submitted by you or your representative to the Parole Commission will not be reproduced with our response, unless you specifically request the same. Additionally, your file may contain documents that originated with the Bureau of Prisons. We do not interpret your request to include these documents as you may already have obtained them from the Bureau. If you wish to have the Bureau of Prisons documents in your parole file processed, please advise the undersigned. The Commission will then refer these documents to the Bureau of Prisons for processing and a direct response to you.

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Tr. App. 186

I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. Your continuing courtesy is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Lauren Price". The signature is written in a cursive style with a large, looping initial "L".

LAUREN PRICE
Social Science Technician



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, Maryland 20815

November 17, 1993

Mr. Yorie Von Kahl
Register No. 04565-059
(J-3)
P.O. Box 1000
Lewisburg, Pennsylvania 17837

Re: **Your Disclosure Request of August 13, 1993**

Dear Mr. Kahl:

We are unable to provide you with the information you requested for the following reason: [Only checked boxes apply.]

[] We have no active file on you at this time. If you have had a previous commitment, please resubmit your request and furnish your previous register number, dates and places of confinement.

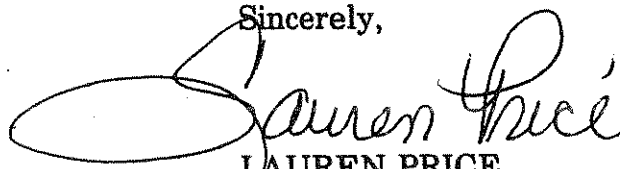
If you have not yet had an initial parole hearing, or have only recently had a hearing, please be advised of the following. The Commission reviews material copied from your Bureau of Prisons files and provided to the Commission by the Bureau in preparation for your parole hearing. Upon completion of this review, the material is returned to the Bureau of Prisons. After the completion of the hearing docket, the material is again forwarded to the Commission by the Bureau. At that time, it is indexed by the inmate's name, incorporated in the Commission's system of records and becomes a parole file. It is suggested that you resubmit your request to the Parole Commission approximately 2-3 weeks after your hearing to allow sufficient time for administrative procedures connected with your file.

[] Your file is not presently available for disclosure processing because it is being used by other Parole Commission staff for procedures connected with your recent or upcoming hearing. Once your file is returned to general circulation, your request will be processed as soon as reasonably possible in the order in which it was received. Attached you will find a copy of our standard acknowledgment letter which contains additional information about the processing of disclosure requests.

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Tr. App. 188

- [] We have no active parole file on you. Under the Sentencing Reform Act of 1984, inmates who commit their offenses on or after November 1, 1987, do not come under the jurisdiction of the United States Parole Commission.
- [] The records you requested are not found in your parole file.
- [X] There is no new information in your file since your last FOIA request of August 18, 1993.
- [] Costs of duplicating the information are likely to exceed \$25.00. Please provide either a more specific listing of the materials desired, or provide a specific acknowledgement that you authorize costs in excess of \$25.00 and you agree to pay the fee (at \$0.10 per page copied and \$0.65 per tape).
- [] Your file is presently being reviewed by
- [] the National Appeals Board,
 - [] the National Commissioners,
 - [] the Office of General Counsel
- located in the Parole Commission's central office in Chevy Chase, Maryland. Once the file has been returned to this office, your request will be processed as soon as reasonably possible in the order in which it was received. Attached, you will find a copy of our standard acknowledgement letter which contains additional information about the processing of disclosure requests.
- [] The file is presently the responsibility of the Regional Office of the Parole commission. Your letter has been forwarded to that office for a response. Please correspond with that office on any future inquiry.
- [] We have received duplicate requests for disclosure of information in the file from and . Please specify to whom this material should be sent.
- [] The records requested are at the Washington National Records Center (WNRC). The file has been ordered and your request will be processed upon receipt of the file. It will take approximately 8-12 weeks to obtain the file from WNRC with additional time needed to process the request after receipt of the file.

Sincerely,


LAUREN PRICE
Social Science Technician



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

North Central Regional Office

10220 North Executive Hills Boulevard
North Pointe Tower, Suite 700
Kansas City, MO 64153

December 12, 1994

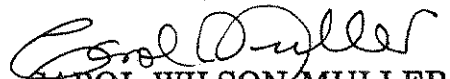
Yorie Von Kahl
Reg. No. 04565-059
United States Penitentiary
Leavenworth KS 66048

Dear Mr. Kahl:

Be advised this office has received many letters on your behalf.

This correspondence has been placed in your Parole Commission file for consideration prior to a final decision being made in your case.

Sincerely


CAROL WILSON MULLER
Senior Analyst

jac

201
Tr. App. 190

7549
FIS



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

Handwritten signature

North Central Region

10220 North Executive Hills Boulevard
North Pointe Tower, Suite 700
Kansas City, MO 64153

December 14, 1994

Case Manager Coordinator
USP Leavenworth
Post Office Box 1000
Leavenworth, KS 66048

Re: Kahl, Yori Von
Reg. No. 04565-059

Dear CMC:

The above-named subject has requested disclosure of his regional office parole file per Form I-24 dated 9/21/94.

The attached information is disclosable to the inmate. Please provide him access to these documents as soon as possible upon their receipt to your institution and prior to his upcoming federal parole consideration. The inmate may not retain copies of any of these materials.

Once disclosure is complete, please have Mr. Kahl annotate the date of his review on this cover letter. Please maintain this correspondence and attached materials at the institution and for the examiner panel's possession during the course of the inmate's parole hearing. Once the hearing has been completed, return this material to this office.

Sincerely,

Jean Cage
Jean Cage
Legal Technician

Enclosures - 223 page(s)

REVIEWED: yv Kahl 12/20/94

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Tr. App. ttt



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

North Central Region

10220 North Executive Hills Boulevard
North Pointe Tower, Suite 700
Kansas City, MO 64153

April 10, 1995

Case Manager Coordinator
USP Leavenworth
Post Office Box 1000
Leavenworth, KS 66048

Re: KAHL, Yori V.
Reg. No. 04565-059

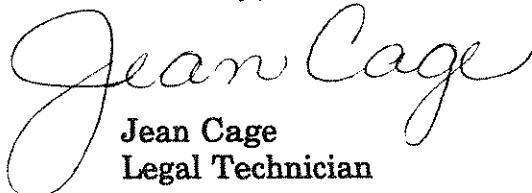
Dear CMC:

The above-named subject has requested disclosure of his regional office file per Form I-24 dated 1/23/95.

The attached information is disclosable to the inmate. Please provide him access to these documents as soon as possible upon their receipt to your institution and prior to his upcoming federal parole consideration. The inmate may not retain copies of any of these materials.

Once disclosure is complete, please have Mr. ^{Kahl} ~~██████████~~ annotate the date of his review on this cover letter. Please maintain this correspondence and attached materials at the institution and for the examiner panel's possession during the course of the inmate's parole hearing. Once the hearing has been completed, return this material to this office.

Sincerely,


Jean Cage
Legal Technician

Enclosures - 21 page(s)

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Tr. App. 192



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, Maryland 20815-7201

December 23, 1996

Mr. Yorie Von Kahl
Reg. No. 04565-059
c/o DeCamp Legal Services, P.C.
414 So. 11th Street
Lincoln, NE 68508

Dear Mr. Kahl:

This office acknowledges the receipt of your letter of 12/16/96 on 12/19/96, requesting copies of records from the U.S. Parole Commission.

This office has a backlog of unfilled requests and limited personnel resources to process FOIA requests. Our personnel resources are limited because the statutory abolition and the phase-down of the Commission requires an annual reduction of staff. The agency is therefore operating under exceptional circumstances as defined in 5 U.S.C. Sec. 552(a)(6)(C), and will endeavor to exercise due diligence in responding to your request. Disclosure requests are processed in turn as soon as reasonably possible. We may be unable, however, to process your request within the statutory time requirement. Please note that pre-hearing disclosure requests take precedence over FOIA requests processed under 28 C.F.R. Sec. 2.55 because of the statutory and regulatory deadlines for conducting parole hearings under 28 C.F.R. Sec. 2.12(a).

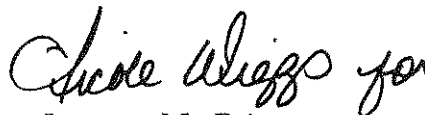
The filing of a request for records shall be deemed to constitute an agreement to pay reproduction fees charged under applicable regulations up to \$25.00. In accordance with applicable fee schedules, you will be required to reimburse the United States if billable search and reproduction costs exceed \$8.00. The Commission will inform you if the fees are assessed, you must make payment before copies will be sent to you.

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Tr. App. 193

Any material submitted by you or your representative to the Parole Commission will not be reproduced with our response, unless you specifically request the same. Additionally, your file may contain documents that originated with the Bureau of Prisons. We do not interpret your request to include these documents as you may already have obtained them from the Bureau. If you wish to have the Bureau of Prisons documents in your parole file processed, please advise the undersigned. The Commission will then refer these documents to the Bureau of Prisons for processing and a direct response to you.

I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. Your continuing courtesy is appreciated.

Sincerely,



Lauren M. Price
Social Science Technician

now

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Tr. App. 194



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, MD 20815
Telephone: (301) 492-5959

July 29, 1997

Mr. Yorie Von Kahl
Reg. No. 04565-059
c/o DeCamp Legal Services, P.C.
414 So. 11th Street
Lincoln, NE 68508

Re: Your Disclosure Request

Dear Mr. Kahl:

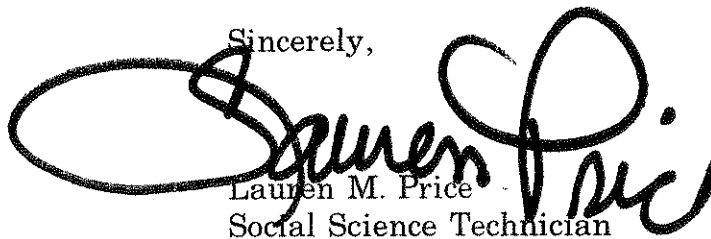
This is in response to your request of 12/16/96 received on 12/19/96 for copies of documents from your parole file. The terms of your request cover:

Copies of the letter from the American Citizen & Lawmen Association.

The Commission is disclosing all of the documents you requested which are in your active file as of the date of this response.

Because the Parole Commission is exempt from the access provisions of the Privacy Act, this disclosure is made under the Freedom of Information Act (FOIA).

Sincerely,



Lauren M. Price
Social Science Technician

Enclosures - 9 pages

lmp

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Tr. App. 195



Memorandum

NAME: KAHL, YORI

DATE: 8/18/97

REG. NO: 04565-059

INSTITUTION:
USP LEAVENWORTH

To
Sam Shoquist
Regional Administrator

From
KAP
Hearing Examiner

TYPE OF HEARING

- | | |
|--|---|
| <input type="checkbox"/> Initial | <input type="checkbox"/> Parole or MR Violation |
| <input checked="" type="checkbox"/> Statutory Review | <input type="checkbox"/> Dispositional Revocation |
| <input type="checkbox"/> Reopen/Reconsideration | <input type="checkbox"/> Rescission |

REASON(S) HEARING NOT CONDUCTED

- | | |
|--|--|
| <input checked="" type="checkbox"/> Waiver | <input type="checkbox"/> Ineligible |
| <input type="checkbox"/> Records incomplete* | <input type="checkbox"/> Subject not at institution* |
| <input type="checkbox"/> Other* | |

NOTES AND EXPLANATIONS (ALL * CASES)

S. WAIVED BECAUSE HE HAS NOT YET RECEIVED
DISCLOSURE - PLEASE FORWARD FILE TO LAUREN PRICE.

NOTE
DISCLOSURE MADE
ON 7/29/97

- Packets left at institution.
- Packets returned to USPC (only return packet if case is going to be heard at another institution).

207
Tr. App. 196



Memorandum

NAME: Kahl, YORI DATE: 2/13
 REG. NO: 04365-059 INSTITUTION: USP LEACHWORTH

To: Sam Shoquist From: PEE
Regional Administrator Hearing Examiner

TYPE OF HEARING

- | | |
|--|---|
| <input type="checkbox"/> Initial | <input type="checkbox"/> Parole or MR Violation |
| <input checked="" type="checkbox"/> Statutory Review | <input type="checkbox"/> Dispositional Revocation |
| <input type="checkbox"/> Reopen/Reconsideration | <input type="checkbox"/> Rescission |

REASON(S) HEARING NOT CONDUCTED

- | | |
|--|--|
| <input checked="" type="checkbox"/> Waiver | <input type="checkbox"/> Ineligible |
| <input type="checkbox"/> Records incomplete* | <input type="checkbox"/> Subject not at institution* |
| <input type="checkbox"/> Other* | |

NOTES AND EXPLANATIONS (ALL * CASES)

1. Packets left at institution.
2. Packets returned to USPC (only return packet if case is going to be heard at another institution).

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Tr. App. 197



U.S. Department of Justice
U.S. Parole Commission

755.3

ORDER

Name Kahl Yori

Register Number 04565-059 Institution USP LUN

In the case of the above-named, the Commission has carefully examined all the information at its disposal and the following action with regard to parole, parole status, or mandatory release status is hereby ordered:

Continue for pre hearing disclosure

Samuel R. Dillon,
Proquist 2/24/98

Date 2-3-98

Date _____

(Date Notice sent)

(Region-specify)

National Appeals Board _____ (check)

National Commissioners _____ (check)

Full Commission _____ (check)

Tr. App. 198
209

MEMORANDUM

To: File Examiner: Robertson, Samuel R.
Name: KAHL, Yori Hearing Date: 2/3/98
Reg. No: 04565-059 Institution: Leavenworth USP

The above captioned prisoner appeared this date (2/3/98) at USP Leavenworth, KS for a scheduled Statutory Interim Hearing. The prisoner advised this examiner that he was not prepared to proceed with this hearing because he had not received requested pre-hearing disclosure. In discussing this matter with the prisoner and his tending Case Manager it was determined that the prisoner had requested disclosure on both his inmate central file and the Parole Commission file.

The Case Manager advised that the I-24 had been forwarded to the Parole Commission regarding the requested disclosure. The Commission had acknowledged receipt of the disclosure request, but, no further communication or instruction had been received.

The prisoner was not willing to waive the requested disclosure and accordingly this examiner is continuing the hearing to the next scheduled docket.

The Case Manager was instructed to insure that this prisoners name is placed on the next scheduled docket

U.S. Department of Justice

Notice of Action

United States Parole Commission
5550 Friendship Boulevard
Chevy Chase, Maryland 20815-7201

Name: KAHL, Yori

Register Number: 04565-059

Institution: Leavenworth USP

In the case of the above-named, the following parole action was ordered:

Continue for pre-hearing disclosure.

THE ABOVE DECISION IS NOT APPEALABLE.

Date: March 9, 1998

Clerk: dzj

Page 1 of 1

KAHL.045



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, MD 20815
Telephone: (301) 492-5959

March 10, 1998

Mr. Yorie Von Kahl
Reg. No. 04565-059
Leavenworth USP
1300 Metropolitan
Leavenworth, KS 66048

Re: Request for Disclosure on I-24 Form Under 28 CFR Section 2.55(b)

Dear Mr. Kahl:

This letter is in response to your recent request for pre-hearing disclosure of documents contained in your U.S. Parole Commission file.

Please be advised that prior to a statutory interim hearing, the Commission only considers information concerning significant developments or changes in your status since your initial hearing.

In your case, we find that your file does not contain any documents informing the Commission of factors that have changed since your last federal parole hearing that are not also available to you in your institution file.

Sincerely,

Lauren M. Price
Disclosure Specialist

LMP/lmp

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Tr. App. 201



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, MD 20815
Telephone: (301) 492-5959

August 13, 1998

Mr. Yori Kahl
Reg. No. 04565-059
Leavenworth USP
1300 Metropolitan
Leavenworth, KS 66048

Re: Request for Disclosure on I-24 Form Under 28 CFR Section 2.55(b)

Dear Mr. Kahl:

This letter is in response to your recent request for pre-hearing disclosure of documents contained in your U.S. Parole Commission file.

Please be advised that prior to a statutory interim hearing, the Commission only considers information concerning significant developments or changes in your status since your initial hearing.

In your case, we find that your file does not contain any documents informing the Commission of factors that have changed since your last federal parole hearing that are not also available to you in your institution file.

Sincerely,

Lauren M. Price
Disclosure Specialist

LMP/lmp

213
Tr. App. 202



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, MD 20815
Telephone: (301) 492-5910

October 22, 1999

Mr. Yori Kahl
Reg. No. 04565-059
Leavenworth USP
1300 Metropolitan
Leavenworth, KS 66048

Re: Request for Disclosure on I-24 Form Under 28 CFR Section 2.55(b)


Dear Mr. Kahl:

This letter is in response to your recent request for pre-hearing disclosure of documents contained in your U.S. Parole Commission file.


Please be advised that prior to a statutory interim hearing, the Commission only considers information concerning significant developments or changes in your status since your initial hearing.

In your case, we find that your file does not contain any documents informing the Commission of factors that have changed since your last federal parole hearing that are not also available to you in your institution file.

Sincerely,


Karla J. Timmons
Disclosure Specialist

KJT/kjt

214
Tr. App. 203 

Yorie Von Kahl
#04565-059
P.O. Box 1000
Leavenworth, KS 66048-1000

Chairman
U.S. Parole Commission
5550 Friendship Blvd.
Suite 420
Chevy Chase, MD 20815

July 30, 2002

Dear Chairman,

I have attempted on numerous occasions to obtain my parole records, including all disclosable materials and tape recordings of all of my hearings since my initial hearing in June 1984. In early 1995 I was able to review portions of letters submitted on my behalf by members of the public. These were made available in increments and I have not had an opportunity to review them all and my efforts to do so since early 1997 have proved futile. I have never received any of the tape-recordings of any of my hearings.

It is my reading of the relevant statutes and regulations that I am entitled by law to obtain these materials. I do know of numerous letters and even quasi-official police investigative reports that have been sent to the Parole Commission on my behalf, as copies of much of this material was additionally sent to my mother. The Parole Commission received such material, as they sent letters of acknowledgement to the senders.

I have consistently applied to see the board at approximately 60 day intervals since early 1997 and with each request I have asked for full disclosure of my parole file to prepare for such a hearing. I have been forced against my will to postpone each

hearing as they approached, as the Commission simply refuses disclosure.

I am now scheduled for a 15 year reconsideration and have again been compelled to postpone the hearing as my request for disclosure has been ignored. I have lost my rights to my statutory interim hearings since early 1997 because the Commission simply refuses to comply with the statutes and regulations that govern those hearings and which include my right to the disclosure I have repeatedly requested. I am now losing my right to a full and fair 15 year reconsideration hearing for the same reason.

If you chose to review my file, you will notice that at my initial hearing in June 1984, the national commissioners found that the facts in the record did not warrant a decision outside the guidelines and ordered a 10 year reconsideration hearing. At the 1986 interim hearing, the Commission stripped me of both the original findings and ordered a 15 year reconsideration, although there were no new facts submitted except my exemplary record, and this action was taken without any explanation whatsoever.

I have been unable to discover the authority for this, as the regulations appear to permit the order of 15 year reconsideration hearings only following an initial or a 15 year reconsideration hearing. Interim hearings do not appear to permit such action.

In 1988, the Commission continued the 15 year reconsideration hearing set in 1986 upon facts considered at the initial hearing in 1984, and upon which the Commission had earlier found did not warrant a decision outside the guidelines.

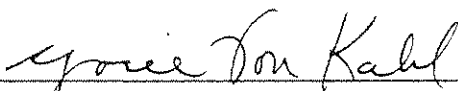
Obviously, major changes in my status had occurred - rightly or wrongly - between my initial hearing and my first interim hearing for which the record does not disclose.

It should be obvious the difficulty one in my position has in preparing for a hearing with the Parole Commission. Neither the statutes or regulations created to regulate such hearings seem to apply in regards to my case, and matters apparently settled arise without explanation to my detriment. My attempts to obtain full disclosure of material I am entitled to by substantive law are ignored or denied as arbitrarily as the decisions of the Commission.

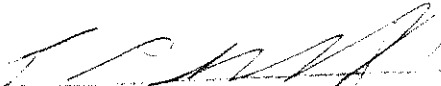
I fully realize the political difficulties influencing affairs in my case from the shadows. I was warned of this element many years ago by a former high-level employee of the Parole Commission and, of course, through numerous Bureau of Prison employees over the years. Be that as it may (and I am in no position to fight these influences), I am, nevertheless, entitled to disclosure of these materials and, if the Commission will not release them to me, I will attempt to secure them from the courts.

Therefore, pursuant to 18 U.S.C. § 4208(b) and (f), 28 C.F.R. §§ 2.55 and 2.56, the Freedom of Information Act and the Privacy Act, I request all available and disclosable materials retained by the Parole Commission that is subject to consideration (whether specifically considered or not) relating to my case and including verbatim records of all hearings to date, that I may prepare fully for a hearing for reconsideration of which I am entitled by law.

Most Respectfully,



Yorie Von Kahl


APPROVED BY THE CLERK OF
JULY 7, 2017 BY ALBERTA
QATNB (18 USC, 4034)



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

FY 02 -
322

5550 Friendship Boulevard
Chevy Chase, MD 20815

September 25, 2002

Mr. Yorie Von Kahl
Reg. No. 04565-059
Leavenworth USP
1300 Metropolitan
Leavenworth, KS 66048

Dear Mr. Von Kahl:

This office acknowledges the receipt of your letter dated July 30, 2002 which was received on September 11, 2002, requesting copies of records from the U.S. Parole Commission.

This office has a backlog of unfilled requests and limited personnel resources to process FOIA requests. Our personnel resources are limited because the abolition of parole (for federal offenders for offenses committed on or after November 1, 1987) has resulted in a reduction in staff. The agency is therefore operating under exceptional circumstances as defined in 5 U.S.C. Sec. 552(a)(6)(C), and will endeavor to exercise due diligence in responding to your request. Disclosure requests are processed in turn as soon as reasonably possible. We may be unable, however, to process your request within the statutory time requirement.

In accordance with applicable fee schedules, you will be required to reimburse the United States if billable search and reproduction costs exceed \$14.00. The Commission will inform you if such reimbursement is required. In such case, you must make payment before the copies of the records you requested will be sent to you.

Any material submitted by you or your representative to the Parole Commission will not be reproduced with our response, unless you specifically request the same. Additionally, your file may contain documents that originated with the Bureau of Prisons. We do not interpret your request to include these documents as you may already have obtained them from the Bureau. If you wish to have the Bureau of Prisons documents in your parole file processed, please advise the undersigned. The Commission will then refer these documents to the Bureau of Prisons for processing and a direct response to you.

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Tr. App. 209

We regret any delay but assure you that your request will be processed as soon as possible.

Sincerely,

Tiffanie C. Tinsley
Legal Technician

TCT/tct



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, Maryland 20815-7201
Telephone: (301)492-5821
Facsimile: (301)492-5525

November 18, 2002

Yori V. Kahl
Reg. No. 04565-059
Leavenworth USP
1300 Metropolitan
Leavenworth, KS 66048

Re: Your Pending Disclosure Request

Dear Kahl:

This is in regard to your pending Freedom of Information Act (FOIA) request of July 30, 2002.

We have estimated that the processing of your request will involve a fee amounting to more than \$25.00. In accordance with 28 C.F.R. §16.11(e), this letter serves as notice that your request will not be processed until you agree to pay the anticipated fee. Please do not submit payment at this time, but only a letter stating your agreement to pay the fee once the exact amount is determined.

In the alternative, you may submit a new request limiting the scope of your request to avoid the incurrence of a fee.

You must respond to this letter within 30 days of the date of the letter or your request will be considered withdrawn. Please forward your response to the FOIA Unit at the address list above.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph Ardito", written over a horizontal line.

Ralph Ardito
Contractor

RXA

220
Tr. App. 204

Yorie Von Kahl
#04565-059
P.O. Box 1000
Leavenworth, KS 66048-1000

December 3, 2002

U.S. Department of Justice
United States Parole Commission
5550 Friendship Blvd.
Chevy Chase, MD 20815-7201

Dear Sir/Madam,

This letter is to inform you that I have received your letter of November 18, 2002 notifying me that you have discovered the records and documents, which I formally requested, and asking my agreement to pay for such copies.

I do hereby agree to pay any required fee necessary to obtain copies of such documents and I do request copies of all available and disclosable materials.

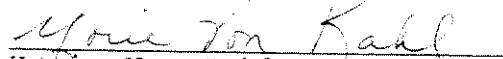
I do, however, wish to point out that I have been seeking this material for a number of years pursuant to provisions of Title 18 U.S.C. § 4208(b) and (f) and the implementing regulations found at Title 28 C.F.R. §§ 2.55 and 2.56 (among others) but have not received them. These provisions require delivery of these documents at my request and do not provide for requiring a fee from me for them. These records are to be provided me upon request as a matter of right pursuant to positive law to enable full and fair parole hearings - also a substantive right created by positive law.

I received notice from the parole commission dated September 25, 2002 that because parole was abolished "for federal offenders and offenses committed on or before November 1, 1987" that the the Parole Commission is short on staff.

I doubt very much that such an excuse legally suffices to deny my statutorily mandated interim hearings or my mandatorily required 15 year reconsideration hearings by withholding the mandatorily required disclosure of records necessary to those hearings. And to require me to pay for these records is contrary to positive law.

It appears to me that the Parole Commission has been rendered legally incompetent to fulfill its statutory functions and has and is depriving me of substantive rights by this legally contrary procedure. Nevertheless, I will pay whatever the cost to obtain these records, as I cannot obtain a fair hearing without them. But this record should reflect that I do so under duress.

Please be prompt with the delivery of these records and to obviate any doubt I reiterate that I require all disclosable records and summaries of any that may not be disclosable.


Yorie Von Kahl

List of enclosures attached

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Attachments:

letter to Parole Comm'n for copies of
records July 30, 2002
notice from Parole Comm'n
September 25, 2002
Notice from Parole Comm'n
Ralph Ardito (Contractor)
November 18, 2002

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U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, Maryland 20815-7201
Telephone: (301)492-5821
Facsimile: (301)492-5525

December 18, 2002

Yori Von Kahl
Reg. No. 04565-059
Leavenworth USP
1300 Metropolitan
Leavenworth, KS 66048

Re: Your Disclosure Request

Dear Kahl:

This is in response to your request of July 30, 2002 received on September 11, 2002 for copies of documents from your parole file. The terms of your request cover:

All documents maintained or generated by the Commission concerning your case.

The Commission is disclosing all of the documents you requested which are in your active file as of the date of this response, except those documents or portions of documents listed below.

Because the Parole Commission is exempt from the access provisions of the Privacy Act, this disclosure is made under the Freedom of Information Act (FOIA).

Any copies of documents provided in previous FOIA responses are not included in this response.

Under the FOIA, a document or portion thereof, may be withheld if protected by any of the FOIA exemptions. These exemptions can be found at 5 U.S.C. Section 552(b)(1)-(9) and are explained in brief on the enclosed attachment.

The following documents have been withheld on the basis of the FOIA exemptions cited below:

1. SIH/RESCISSION/REVIEW PREHEARING ASSESSMENT dated October 17, 1998 (2 pages)

(b)(5)-Privileged Information

2. SIH/RECISSION/PREHEARING ASSESSMENT dated August 14, 1998 (3 pages)

(b)(5)-Privileged Information

3. SIH/RESCISSION/REVEIW PREHEARING ASSESSMENT dated June 13, 1997 (3 pages)

(b)(5)-Privileged Information

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You may request these documents once you have had a hearing conducted by the Commission.

4. Legal Opinion concerning two video tapes entitled "Death and Taxes" and "Firepower" which have been excluded from your parole decision making record (3 pages)

(b)(5)-Privileged Information


5. Parole Review Summary dated April 17, 1995

(b)(5)-Privileged Information

There are documents in your file that are duplicates of documents that originated with the Bureau of Prisons (BOP). These documents are available through your case manager. We have not interpreted your request to include these documents as you may already have obtained them from the BOP. Please advise the undersigned if you wish the Parole Commission to process these documents. Under departmental regulations, the Commission will then refer these documents to the BOP for processing and a direct response to you.

If you are dissatisfied with my action on this request, you have thirty (30) days from the receipt of this letter to appeal this decision to the Chairman of the U.S. Parole Commission. An appeal to the Chairman must be made in writing and addressed to the Office of the Chairman, U.S. Parole Commission, 5550 Friendship Boulevard, Suite 420, Chevy Chase, MD 20815.

Sincerely,


Ralph Ardito
Contractor

Enclosures -400- pages

RXA

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U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, Maryland 20815-7201
Telephone: (301)492-5821
Facsimile: (301)492-5525

December 19, 2002

Mr. Yori Von Kahl
Register No. 04565-059
Leavenworth USP
1300 Metropolitan
Leavenworth Kansas 66048

Dear Mr. Kahl

Your request for copies of records from your file has been processed.

In accordance with departmental regulations, you are required to pay all applicable fees before the requested records are released to you. The fee for processing your request is \$30.00. This is based on the charge of \$0.10 per page in excess of 100 pages (400 pages provided). Once payment has been received, your records will be mailed to you.

Your check or money order should be made payable to the Treasury of the United States and mailed to the U.S. Parole Commission, Disclosure Fee Desk, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. To ensure proper crediting of the payment, the check sent to the U.S. Parole Commission must include your full name and register number.

Sincerely,


Ralph Ardito
Contractor

RXA

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To App. 214

Yorie Von Kahl
#04565-059
P.O. Box 1000
Leavenworth, KS 66048-1000

Ralph Ardito
U.S. Department of Justice
U.S. Parole Commission
5550 Friendship Blvd.
Chevy, Chase, MD 20815-7201

Re: Disclosure Request

February 13 2003

Mr. Ardito,

I received your package of disclosure material forwarded to me on January 22, 2003. You noted that there are documents that have not been copied that are available to me through my case manager and have therefore construed my request to exclude them. Your letter stated that I should advise you if I wanted them processed. This letter is to inform you that I do.

I will be appealing your decision concerning the SIH/REVIEW/SUMMARIES, the legal opinion concerning the two video-tapes and the Parole Review Summary of April 17, 1995.

I would like to point out to you that the material you sent to me is not complete. In fact, it appears to be a relatively small portion of the letters sent to the Commission on my behalf. In 1995 I reviewed two packets of such material both of which were considerably larger than the one you sent me. Numerous letters that are in the packet I received from you were not in the original packets and only a very few in your packet were in the original packet. Consequently, I know this is not the complete file.

This, of course, may not be your fault. I realize since the Commission was "abolished" its record-keeping and compliance with its regulations and statutes governing duties have suffered chaos. Nevertheless, I would like you to make another effort to see if you can discover the whereabouts of the rest of the record.

Additionally, in the packet you forwarded to me, many letters sent the Commission on my behalf are missing pages and many letters were duplicated (some as many as six times). Most letters with missing pages are missing the pages after page 1. Some have only the closing with signature. One letter of 32 pages only had the closing page, which was page 32. Obviously, the substance of many of these letters are missing and are worthless in this condition.

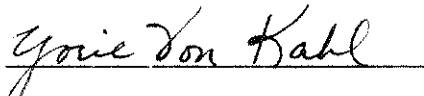
Finally, the file appears that someone deliberately mixed pages from various documents throughout the file. It is in a form like a deck of cards that have been thoroughly shuffled. I have no doubt that the members of the Commission would not and will not try to sort out such a convoluted mess and attempt to mix-and-match various pages of different documents for the purpose of discovering its substance. I am highly concerned that my parole file, upon which determinations concerning my release from prison depends, has been sabotaged.

In closing I would like to remind you that I have been applying

for these records from the Parole Commission virtually every 60 days since approximately February of 1997. My applications were pursuant to Title 18 U.S.C. § 4208 and Title 28 C.F.R. § 2.55 and 2.56 (mandating notice by Commission of right to disclosure and establishing right to disclosure upon request). I am entitled to these records as a matter of right and pursuant to positive law - not in exchange for money. I have not only been denied this right for approximately six years, but I have been compelled to pay for them and they are incomplete and in such a state of disarray as to be virtually useless to both myself and the Commission (if, of course, their copy is in such state). I notice that I have not been supplied with the recordings of my parole hearings (each of which were tape-recorded), although I have expressly and repeatedly requested them.

Please look further and send me a copy of all that is available, as I have requested. And, please try to make only one copy of each document, since I am being financially extorted to obtain these documents. This is not intended to reflect upon you. I am sure you have simply copied the material as you have discovered it.

Thank you.


Yorie Von Kahl

P.S. Your letter (enclosed) noted that the exemptions of 5 U.S.C. § 552(b)(1)-(9) were "explained in brief on the enclosed attachment." No such attachment was enclosed.