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PAROLE IN THE UNITED STATES  
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## BACKGROUND

During the past decade, parole has become the most controversial component of the criminal justice system. In almost every state, the function of parole has come under the scrutiny of legislatures, governors, pressure groups, and the news media. As a result, numerous changes to parole have occurred across the country. The most prominent areas of change include:

- restructuring the parole release decision-making process,
- eliminating parole boards' authority to establish inmate release dates, and
- involving crime victims in the parole process.

While most of the changes are perceived to restrict or limit parole activity, in fact, the function of parole in some states has expanded in scope.

Before describing recent changes to parole and its current status, it is helpful to define parole and review its early development. Parole has traditionally included the authority to release offenders prior to expiration of their full prison sentence, to set conditions to be met by those offenders after release, to provide supervision and assistance for parolees after release from prisons, and to return offenders to complete their prison terms if conditions of release are not met. The evolution of these four aspects of parole in American criminal justice has its roots in European penal practice.

Alexander Maconochie, a British naval officer involved with Australian penal colonies, is considered the "father" of parole. He developed progressive stages of incarceration that gradually restored a prisoner's rights in reward for good conduct and work. His ideas, developed in 1840, were further refined in practices in Germany, Spain, and Ireland. By 1870, as support for prison reform was growing in the United States, the American Prison Association issued a "Declaration of Principles" calling for:

1. rehabilitation as a goal of incarceration,
2. a progressive classification of prisons,
3. rewards for good behavior in prisons,
4. evaluations of prisoners' reformation, and
5. comprehensive programs of supervision and assistance for released offenders.

In 1876, the Elmira (New York) Reformatory became the first institution in the United States to administer a full parole program. Similar programs were established in other states, and in 1884, Ohio passed legislation applying parole throughout the entire prison system. By 1900, some system of parole existed in twenty states. Forty-five states had instituted parole by 1922. But not until Mississippi adopted parole in 1944 did all of the forty-eight states have parole systems. Since sentencing practices varied among the states, the procedures for parole also differed from state to state, as did philosophies and criteria for parole release. But in the 1970's, forces were merging that led to significant changes in parole, especially to attacks on parole and calls for parole abolishment.

The pressures mounting against parole were coming from several sources:

Reduced Support for Rehabilitation - With researchers such as Robert Martinson concluding that there was little evidence showing success for correctional treatment programs, support was eroding for rehabilitation as a correctional function. That change damaged parole in two ways. First, questions were raised regarding the justification for releasing prisoners early if, in fact, their participation in programs was having no effect on behavior. Secondly, doubts were growing about the viability of treatment programs for parolees after their release from prison.

Structuring Discretionary Decision-Making - As information systems and planning/analysis activities increased within criminal justice, it became evident that decisions being rendered at many levels of criminal justice resulted in inequitable treatment of cases with similar characteristics. To increase fairness and justice, pressures grew for structuring discretionary decision points. As a result, guidelines emerged for functions such as pre-trial release, sentencing, and classification designations for inmates. Parole was affected also, with more states reducing or eliminating the discretion of parole boards/commissions to set prisoner release dates, or with boards themselves voluntarily adopting guidelines.

Growing Emphasis on Punishment & Incapacitation - With frustration growing due to society's apparent inability to reduce crime or reform criminals, harsher sentences and the isolation of criminals from society were becoming the objectives for criminal sanctions. Parole, probation, and other forms of community supervision were perceived as "too soft" as more conservative attitudes led to the expanded use

of prisons. During the decade from 1975 to 1984, prison populations in the United States more than doubled. Lawmakers and judges were moving toward policies and laws that locked more criminals in prisons for longer periods of time.

As these forces converged and more questions were raised about parole, some parole officials found themselves unable to provide a defense for parole. Parole had become a complex process, difficult to explain or to attract a supportive constituency. Some contend that paroling authorities, in their efforts to respond to conflicting pressure groups, became ineffective at satisfying any.

These conflicting pressures included the traditional support for rehabilitation of offenders and correctional reform--support for release and treatment services. Prison officials were exerting pressure to release prisoners as a means of reducing prison crowding. Opposing pressures came from the media, victims, and elected officials to keep more offenders incarcerated, especially those involved in violent or sensational crimes. Parole boards were also attempting, in some states, to use parole release as a means of reducing the disparity of sentences handed down by criminal courts. And despite pressures to base parole decisions on objective criteria, many paroling officials resisted in order to permit some flexibility to balance interests of the diverse pressure groups in their decisions. But such subjectivity and the inability to articulate a clear mission complicated and weakened the ability of parole proponents to defend it.

Clearly the time was right in the mid-1970's for review and revisions to parole. Maine was the first state to make a significant change, when in 1976 it abolished both the authority of the parole board to establish prison release dates and post-release supervision. Eleven states and the federal government would eventually eliminate the parole function of setting prisoner release dates. Prosecuting attorneys were the most active group leading opposition to parole; Joseph Palmer's research in 1983-84 revealed that prosecutors were key forces in nine of the states abolishing parole. The abolition of parole was frequently accompanied by sentencing guidelines that limited the sentencing judges to ranges established by legislatures or sentencing commissions. The authority for sanctioning criminals was, in over one-fourth of the states, shifting from the courts and parole boards to legislatures and prosecutors.

Some have observed that parole was an easy target for those looking for political opportunities. The emotional appeal of an attack on the system that released criminals to the streets may have benefitted some political careers more than it actually addressed any of the complex problems of criminal justice. The moves to abolish parole may not have reflected the true sentiment of the public, however. Research conducted in 1984 by Research Justice & Forecasts, Inc., for the Figgie Reports on crime disclosed that only 8% of the general public supported parole abolishment. Their national survey further concluded that only 2% of judges supported the abolishment of parole and 10% of attorneys thought parole authority for releasing inmates should be discontinued. There was, however, clear sentiment to reorganize parole practices (from 61% of the general public, 39% of judges and 50% of attorneys).

With these issues as background, parole in the United States is still undergoing a period of transition. The purpose of the remainder of this report is to highlight some of the major developments and the current status of American paroling systems.

#### **PAROLE ABOLISHMENT**

Parole includes releasing of offenders, setting conditions of supervision, providing supervision, and returning violators. The term "parole abolishment" has created confusion since not all aspects of parole have been abolished by states significantly altering parole. Often conditional release aspects remain that include setting conditions, supervising, and revoking and returning violators to prison. Following are profiles of states that have "abolished" parole:

- Maine - Abolished both decision-making and post-release supervision aspects of parole in 1976. Part-time parole board continues to function to handle residual cases sentenced prior to 1976. Several legislative efforts to reinstate parole have failed.
- California - Adopted determinate sentencing in 1977 that removed parole board from setting release dates in all cases except life sentence. A period of post-release supervision is retained for offenders, with release dates determined by good-time laws permitting reductions of up to 1/3 of sentence.

- Indiana - Implemented determinate sentencing in 1977 that eliminated parole board's authority to set release dates. Full-time board continues to function to set conditions of post-release supervision and to revoke in case of violations. Mandatory conditional release system requires inmate's release when sentence minus "good time" credits has been served. Good time credits may equal 50% of sentence.
- Illinois - Determinate sentencing implemented in 1978 that eliminated parole board's authority to set release dates. Inmates accrue "good time" (up to 50% of sentence), then are released conditionally to community supervision. Full-time board continues to function to establish conditions of release and revoke violators.
- Minnesota - Abolished and eliminated parole in 1982. Determinate sentencing system (with sentencing guidelines for judges) now permits "good time" to reduce prison terms by one-third. Remainder of sentence completed under "supervised release." The Executive Officer of Adult Release has paroling authority over inmates sentenced prior to parole abolishment and also has authority to establish special conditions of supervision and revoke violators of "supervised release."
- Connecticut - Implemented determinate sentencing in 1981 that eliminated the authority of the parole board to set release dates and also abolished post-release supervision. A part-time parole board continues to function to review cases sentenced prior to 1981.
- North Carolina - Adopted presumptive sentencing law ("Fair Sentencing Act") in 1981 that eliminated discretionary parole release. Full-time board continues to function to process cases sentenced prior to 1981. Inmates sentenced under "Fair Sentencing Act" are eligible for "re-entry" parole, a period of community supervision following completion of prison term minus good time reductions. Board may set supervision conditions and revoke violators.
- Washington - Implemented new sentencing law in 1984 that will institute sentencing guidelines for judges and eliminate parole release and post-release supervision. Board scheduled to terminate operations in 1988. Provisions for paroling activities for inmates remaining under old sentencing law as yet unresolved.



- Florida - Adopted sentencing guidelines system in 1983 that abolished both parole release and post-release supervision. Parole board scheduled for elimination in 1987. Questions remain regarding authority to parole and revoke offenders sentenced under old laws after 1987. Legislative efforts to restore post-release supervision are planned.
- New Mexico - Implemented determinate sentencing in 1979 that eliminated the parole boards authority to set prisoner release dates. A full-time board continues to function, setting conditions for offender release, revoking violators, and phasing out parole activities for inmates sentenced prior to 1979.
- U.S. Parole Commission - In 1984, Congress passed legislation to create a Sentencing Commission and abolish the U.S. Parole Commission. Sentencing guidelines are scheduled for implementation in 1986, with the Parole Commission to cease operations in 1991. Sentencing judges will have the option to stipulate post-release supervision (3 years maximum for serious offenses). Issues relating to parole supervision and revocation authority over offenders sentenced prior to 1986 are yet to be resolved.
- Idaho - An optional sentencing system has been adopted that permits the judges to sentence offenders to either fixed terms (with no parole eligibility) or to indeterminate sentences, with the parole board setting release dates. Approximately 10% of the inmate population are serving fixed terms.

#### REINSTATING PAROLE

Some predicted that the move by Congress in 1984 to abolish federal parole would lead to similar action by more states. However, state legislative action in 1985 resulted in the revival of parole in Colorado. In 1979, Colorado had adopted determinate sentencing and removed the parole board's authority to set prisoner release dates. But a highly publicized case served as a catalyst to restore discretionary parole release in Colorado. The case involved an offender, convicted of a lesser crime due to complications in gathering evidence, who qualified for mandatory conditional release as defined in the state's determinate sentencing formula. Realizing that the parole

board had no discretion to deny "parole" to the offender, the legislature reinstated the discretionary release power to the parole board. Ironically, the use of discretion to establish offender prison release dates has now been used to both attack and support the concept of parole.

### **EXPANDING PAROLE TO DEAL WITH PRISON CROWDING**

While much attention since 1976 has been focused on parole abolishment, the role of parole has in fact expanded in some states. Thirteen states have developed accelerated release programs for certain types of offenders during periods of prison crowding. The programs have not been implemented in some of these states because overcrowding levels have not triggered the programs. Their existence highlights a controversial debate, however: should parole release decisions be influenced by crowding in prisons? Many parole officials, legislatures, and criminal justice officials are opposed to releasing parolees in order to relieve crowding. They argue that such releases may compromise public safety and undermine the intent of the sentencing courts. They further argue that the intent of parole is to reward positive behavior and to release offenders at opportune times for personal adjustment. Others support the use of parole over alternative methods of release to deal with crowding problems. They indicate that crowding is a reality that must be faced. If additional cells cannot be provided, some prisoners must be released. Parole, it is argued, involves officials experienced in risk assessment, offender rehabilitation, and related factors to make the most appropriate release decisions. Georgia, Tennessee, and Texas are examples of states that have increased parole, provided additional resources for field supervision, and thereby reduced the number of state prisoners.

### **STRUCTURE OF PAROLE BOARDS**

Of the forty-nine paroling authorities (excluding Minnesota), 30 are full-time parole boards; 14 are part-time, and 5 are combinations of full-time and part-time members. Hearing examiners or analysts are used in 18 states to review cases for and with board members in determining parole release. These examiners/analysts are also involved in the revocation hearings in 8 states. In 38 states, the parole board is autonomous from the field staff, with no administrative authority over the parole officers or agents supervising offenders released by the boards. The average salary for members of full-time parole boards or commissions is approximately \$39,300; the following table reflects the approximate salaries of parole board members.

**PAROLE BOARD MEMBERS  
SALARIES**

STATE	STAFF MEMBERS	TERMS	SALARY
Alabama	3 full-time	6 years	\$ ---
Alaska	5 part-time	4 years	5,000/yr*
Arizona	5 full-time	5 years	39,800/yr
Arkansas	5 part-time	5 years	
California	9 full-time	4 years	62,000/yr
Colorado	5 full-time	6 years	41,600 to 43,600/yr
Connecticut	full-time chairman 10 part-time		110/day
Delaware	full-time chairman 5 part-time	4 years	
Florida	9 full-time	2,3,& 4 years	44,000/yr
Georgia	5 full-time	7 years	49,000/yr
Hawaii	full-time chairman 3 part-time	4 years	44,500/yr 17.42/hr
Idaho	5 part-time	5 years	50/day
Illinois	10 full-time	6 years	30,000/yr
Indiana	5 full-time	4 years	25,600 to 39,600/yr
Iowa	7 part-time	5 years	14,900/yr
Kansas	3 full-time	4 years	43,000 to 45,000/yr
Kentucky	5 full-time	4 years	35,000 to 36,000/yr
Louisiana	5 full-time	Concurrent w/ Governor	27,500 to 33,500/yr
Maine	5 part-time	4 years	50/day
Maryland	7 full-time	6 years	
Massachusetts	7 full-time (chairman's salary) (member's salary)	5 years	40,400 to 50,600/yr 32,000 to 49,000/yr
Michigan	7 full-time (chairman's salary) (member's salary)	Civil Service	39,600 to 53,000/yr 36,600 to 49,000/yr
Minnesota	1 full-time	Corr. Comm. Decision	45,000/yr
Mississippi	full-time chairman 5 part-time	4 years	30,000/yr 40/day
Missouri	6 full-time (member's salary)	6 years	34,000/yr 31,500/yr
Montana	3 part-time	Governor's Discretion	50/day

**PAROLE BOARD MEMBERS  
SALARIES**

STATE	STAFF MEMBERS	TERMS	SALARY
Nebraska	3 full-time 2 part-time	6 years	\$27,000 to 30,000/yr 13,500/yr
Nevada	3 part-time	4 years	27,000 to 30,200/yr
New Hampshire	5 part-time	Governor's Discretion	50/day
New Jersey	7 full-time (member's salary)	6 years	63,000/yr 56,000/yr
New Mexico	3 full-time	3 years	28,000 to 38,000/yr 38,000/yr
New York	15 full-time (member's salary)	6 years	59,000/yr 46,000/yr
North Carolina	5 full-time (member's salary)	4 years	44,000/yr 40,000/yr
North Dakota	3 part-time	3 years	30/day
Ohio	7 full-time	Civil Service	42,000/yr
Indiana	(member's salary)	Coincide w/gov.	38,000/yr
Oklahoma	5 part-time (member's salary)	Coincide w/gov.	2,100/yr 1,500/yr
Oregon	5 full-time	4 years	3,000 to 3,800/yr
Pennsylvania	5 full-time	6 years	--
Rhode Island	5 part-time	Governor's Discretion	--
South Carolina	7 part-time	6 years	135/day
South Dakota	3 part-time	4 years	60/day
Tennessee	5 full-time	6 years	31,200/yr
Texas	6 full-time 9 full-time commissioners	6 years Board's Discretion	49,600/yr 43,200/yr
Utah	3 full-time	6,4 & 2 years	36,000 to 52,600/yr
Vermont	5 part-time	5 years	30/day
Virginia	5 full-time (chairman's salary) (member's salary)	4 years	38,000 to 42,500/yr 38,000/yr
Washington	7 full-time (member's salary)	5 years	48,700/yr 46,300/yr
West Virginia	3 full-time  (member's Salary)	Governor's Discretion	25,000/yr 31,500/yr
Wisconsin	full-time chairman  6 full-time	Appt. by Sec. of Health & Soc. Sec. Civil Service	36,000 to 43,000/yr
Wyoming	5 part-time	6 years	50/day

## PAROLE GUIDELINES

Seventeen states report that parole release decisions are now based on guidelines or specific criteria rather than totally relying on board discretion, which has been criticized for being "arbitrary and capricious." Some states structure guidelines on the basis of research that weighs variables such as prior convictions, offense severity, recidivism data, and age at time of conviction. At least three states have mandated the use of such guidelines through state statute: New York, New Jersey, and Florida. Other states have adopted guidelines voluntarily, frequently in response to the pressure of legislative action or public opinion. Some states' guidelines are less structured, sometimes based on percentages of time served or on specific criteria that must be addressed by parole board members. The U. S. Parole Commission was one of the first paroling agencies to isolate and weigh factors for parole release decision, a system they referred to as "Salient Factors."

## APPOINTMENT OF PAROLE BOARDS

The most common method for selecting parole board members is appointment by governors, often with the approval of state senates. Of the 49 existing parole boards (Minnesota excluded), 41 of the states employ that process of appointment. The eight exceptions are listed below:

1. Idaho - Appointments by the Board of Corrections
2. Maryland - Appointments by Secretary of Public Safety & Correctional Services, with approval of the Governor.
3. Michigan - Appointments by the Governor from candidates selected by the Civil Service Commission.
4. Ohio - Appointments by the Chief of Adult Parole Authority to permanent Civil Service position.
5. Oklahoma - Three appointments by the Governor; one appointment by the presiding Judge of the Court of Criminal Appeals; one appointment by the presiding Justice of the Supreme Court.
6. South Dakota - One appointment by the Supreme Court; one appointment by the Governor; one appointment by the Attorney General.

7. Utah - Appointments by the Board of Corrections.
8. Wisconsin - Appointments by Civil Service.

#### **PAROLE HEARINGS**

The hearing procedures in which members of paroling authorities interview inmates and review the release decision vary considerably from state to state. The trend toward more accountability and openness in all aspects of government has affected parole boards, many of which have adopted policies for public hearings and prior notice to crime victims, sentencing judges, and prosecuting attorneys. The following table is a listing of hearing policies in each state. The notification codes are:

- J - Sentencing Judges
- V - Crime Victims
- P - Prosecuting Attorneys
- L - Law Enforcement Agency
- D - Defense Attorney

TABLE 2: HEARING POLICIES

STATE	OPEN HEARINGS	CLOSED HEARINGS	PRIOR NOTICE OF HEARINGS
Alabama	X		
Alaska		X	none
Arizona	X		J,P,V
Arkansas	X		J,P,V,L & media
California	X		J,P,V
Colorado	X		D,P,L, & County clerks
Connecticut		X	only if required
Delaware		X	V,L
Florida	X		none
Georgia	No formal hearings		none
Hawaii		X	none
Idaho		X	J,P,L
Illinois	X		none
Indiana		X	none
Iowa	X		Public Notice
Kansas		X	J,P, Media, & others if req.
Kentucky		X	none
Louisiana	X		J,V,P,L
Maine	---	---	---
Maryland	Formal hearings usually not held by commissioners		
Massachusetts	X		
Michigan		X	none
Minnesota	---	---	---
Mississippi	X		J,P,V,L
Missouri		X	if req. by V,P
Montana		X	J,P,L
Nebraska	X		V(if req.), P,L
Nevada	X		J,P,L
New Hampshire		X	P,L and media
New Jersey		X	J,V,P
New Mexico		X	J
New York		X	J,P,D
North Carolina		X	J,P,L, V(occas.)
North Dakota	X		J,P
Ohio		X	J,P, V(if req.)
Oklahoma	X		P,J, L & media
Oregon		X	J,P,L
Pennsylvania	---	---	---
Rhode Island	---	---	---
South Carolina	X		J,V,P
South Dakota	X		J
Tennessee	X		P,D
Texas		X	J,P,L
Utah	X		P,L,D
Vermont		X	none
Virginia		X	none
Washington	X		none
West Virginia	X (inmate's discretion)		J,P
Wisconsin		X	J,P
Wyoming		X	none

## OPINIONS ABOUT PAROLE

As previously mentioned, a survey regarding parole was conducted in 1984 for the Figgie Report series on crime and justice. Sponsored by Figgie International, the survey was conducted by Research & Forecasts, Inc., of New York, using a national sample of the general public, judges, attorneys, and parole officials. Following are selected highlights of that survey:

- o The general public favors reorganizing current parole practices (61% response). Only 8% favor abolishing parole, while 24% favor retention of current parole practices.
- o Public attitudes about parole are misread by judges, attorneys, and parole officials. Forty-three percent of attorneys and 25% of judges perceive the public favoring parole abolishment. Likewise, state parole board members (23%) and parole officers and supervisors (26%) significantly overestimate public support for parole abolishment.
- o Judges generally support involvement of parole boards in the sentencing process. Only 2% favor removing the authority of parole boards to set prison release dates. Only 1% of the surveyed judges favor the elimination of post-release parole supervision of offenders.
- o State parole officers and supervisors cite excessive caseloads and limited resources for offender programming as the primary factors interfering in performing parole supervision. Almost one-third (32%) of the field officers supervise caseloads in excess of 100 cases.
- o According to state parole board members, the three main criteria used to determine parole release are:
  1. Nature of the offense by the inmate.
  2. Inmate's institutional adjustment.
  3. Inmate's prior record.
- o The general public surveyed indicate that sentence modification is justified if innocence is later determined and for:
  1. Correcting unfair sentences.
  2. Inmate's substantial rehabilitation efforts.
  3. Inmate's good prison conduct.



- o Only one-third of the public respondents thought that prison sentences, once set by judges, should never be changed.
- o The majority of public respondents (72%) opposed reducing terms of sentenced inmates to relieve prison crowding. Fifty percent of those surveyed indicated they would agree to a 1% increase in state income taxes for 5 years to build new prisons (44% opposed such a tax increase). However, almost half of the respondents (46%) underestimated the annual costs of incarceration. Twenty percent thought the annual cost of incarceration was less than \$700 per year. Actual costs were between \$15,000 and \$20,000 at the time of the survey.

## CONCLUSION

Unquestionably, parole has experienced more challenges and changes in the past decade than ever before. But the movement to abolish parole seems to have peaked. Even though several states continue to consider measures to remove parole from the sentencing/release process for offenders, parole was reinstated in one state and has expanded its role in several others. No single approach to parole has emerged as "the model" for all jurisdictions.

In some states, no parole release or post-release supervision of inmates exists. In other states, parole boards function with full discretion to release prison inmates.

But the major factors influencing changes to parole can be identified. Those factors include the following:

- o The shifting emphasis to punishment, incapacitation, and victim's rights, and the parole boards' ability to respond to and accommodate those shifts.
- o Paroling authorities' ability to justify their function and decisions based on an accepted role in the sentencing process and on defensible criteria.
- o The presence of influential political figures, special interests groups, or media that target parole for close scrutiny or attack.

- o The occurrence of sensational crimes committed by parolees.
- o The efforts of other criminal justice "stake holders" (such as prosecutors, legislators, judges, etc.) to exert more influence in the sentencing/release decision-making process.
- o The traditional strength or political awareness of parole board members.
- o The degree of prison crowding and the perceived role of parole in aggravating or relieving those conditions.

The environment and expectations that existed when parole was created have changed significantly. To effectively serve the public, parole must adapt to those changes. Ideally, modifications to parole or its abolishment will occur without policy makers exploiting the appealing but unfair attacks on parole, but rather through rational analysis of the parole function and proposals for workable modifications or alternatives to parole. Under any method of inmate release, some criminals will commit more crimes. But every criminal cannot be incarcerated forever. Parolees who commit crime are highly visible, but crimes prevented by parole supervision cannot be documented.

Likewise, the public should base its opinions on accurate information and should not expect simple solutions to complex social problems such as crime. And paroling authorities, whether parole in their states is retained, abolished, or modified, should clarify the purpose of parole and seek more objective procedures for granting release and more effective methods of supervising parolees. Parole decisions, like many other public policy decisions, continue to be made in less than ideal situations.

#### **FURTHER INFORMATION**

The National Institute of Corrections (NIC) provides support for states involved in review of parole activities. NIC's Community Corrections Division provides technical assistance to states in developing parole guidelines, analyzing parole practices, and managing parole agencies.

NIC research has focused on intensive supervision programs and issues such as parolee supervision fees. The National Academy of Corrections provides training for parole agency staff. And the NIC Information Center provides documents and literature on almost every aspect of parole. For further assistance or information, contact:

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