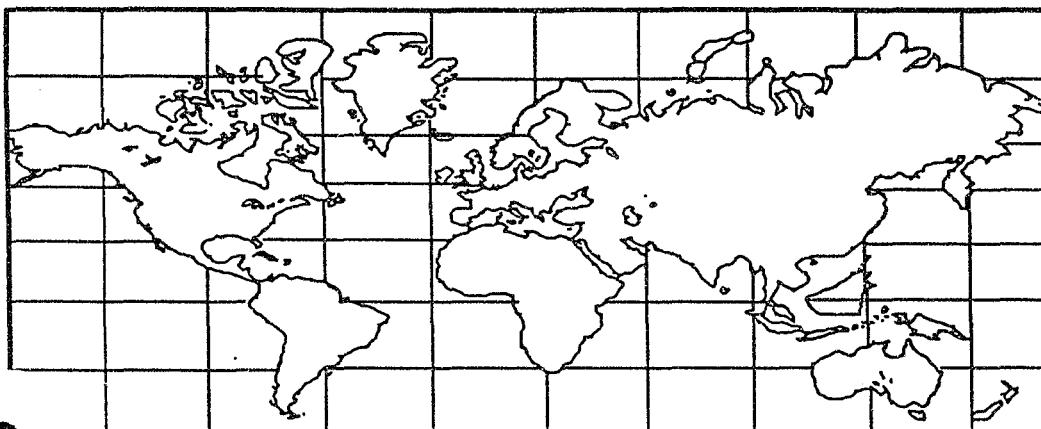


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# OBSERVATIONS ON PAROLE:

A COLLECTION OF READINGS FROM  
WESTERN EUROPE, CANADA AND THE  
UNITED STATES



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ASSOCIATION OF PAROLING AUTHORITIES

INTERNATIONAL

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OBSERVATIONS ON PAROLE:  
A COLLECTION OF READINGS FROM  
WESTERN EUROPE, CANADA AND THE  
UNITED STATES

Proceedings of the First  
International Symposium on Parole  
Compiled by

Edward E. Rhine  
Program Chairperson

and

Ronald W. Jackson  
President, Association of  
Paroling Authorities International

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TABLE OF CONTENTS

	<u>PAGE</u>
Foreword	v
About the Contributors	vi
<b>Part I. International Perspectives on Parole . . . . .</b>	<b>1</b>
107832 Parole in the United Kingdom . . . . . Eric Morrell	3
The Parole System in Canada. . . . . Margaret Bensen	15
107833 Parole in the Netherlands. . . . . Hans Tulkens	19
Criminal Justice and Parole in Austria . . . . . Helmut Gonsa	27
107834 Crime, Prison and Parole in Denmark. . . . . William Rentzmann	33
107835 Imprisonment, Rehabilitation and Parole in Sweden. . . . . Bo Martinsson	43
<b>Part II. Parole in the United States: Current Issues and Trends.</b>	<b>49</b>
107836 Parole: Controversial Component of the Criminal Justice System . . . . . Barbara Krauth	51
The Status of Parole in Maine. . . . . Peter J. Tilton	59
107837 The Impact of Sentencing Guidelines on Parole in Minnesota and Florida . . . . . Donnie A. Lee	63
Parole and Determinant Sentencing. . . . . Richard T. Mulcrone	73
107838 Parole Risk Assessment: A Tool for Managing Prison Populations and Recidivism. . . . . Daryl R. Fischer	77
Parole Guidelines: An Effective Prison Population Management Tool . . . . . Michael P. Sullivan	83

	<u>PAGE</u>
<b>Part III. The Future of Parole . . . . .</b>	87
Parole: Part of the Solution to the Problem of Crime . . . . .	89
<b>John J. Curran, Jr.</b>	
Plus ca Change, Plus ca Pareil: Parole During the Next Quarter Century . . . . .	93
<b>William R. Outerbridge</b>	
The Renaissance of Parole. . . . .	105
<b>Allen F. Breed</b>	
<b>Part IV. Epilogue . . . . .</b>	111
Towards Systemic Change In Criminal Justice. . . . .	113
<b>Christopher Dietz</b>	

## FOREWORD

On April 6-9, 1986, the Association of Paroling Authorities International (APAI) hosted the first International Symposium on Parole at the Lyndon B. Johnson School of Public Affairs, University of Texas in Austin, Texas.

The Symposium brought together over 150 parole and criminal justice professionals from Europe, the United States and Canada. For three days the participants discussed the many complex issues, and problems impacting on their respective jurisdictions. Of significance were the attendance and presentations by representatives from five European countries and Canada.

A majority of the presentations made during the Symposium are included in this document. They have not been edited or revised. Rich in detail, they cover a wide array of topics confronting paroling authorities in much of the Western world. The articles offer a "sympathetic" assessment concerning the current status and future prospects of parole, as well as the relationship of parole to the other components of the criminal justice system. Together, the articles provide far-reaching proposals and insightful analyses--written from the point of view of policymakers and committed advocates of criminal justice reform.

The National Institute of Corrections is making these papers available so that those who did not attend the Symposium can review the proceedings. The presentations contained here offer an opportunity to reconsider the issues and concerns voiced during the First International Symposium on Parole in the United States.



Raymond C. Brown  
Director  
National Insitute of Corrections

## ABOUT THE CONTRIBUTORS

**Margaret Bensen** is a Board Member, Ottawa Division and Appeals Committee, National Parole Board of Canada.

**Allen F. Breed** is a Criminal Justice Consultant, former Director of the National Institute of Corrections, and Vice President of the American Correctional Association.

**John J. Curran, Jr.** is Chairperson of the Massachusetts Parole Board.

**Christopher Dietz** is the former Chairperson of the New Jersey State Parole Board, and the immediate Past President of the Association of Paroling Authorities International.

**Daryl R. Fischer** is Director of Research for the Arizona Board of Pardons and Paroles.

**Helmut Gonsa** is Director of Prison Administration, Federal Ministry of Justice, Vienna, Austria.

**Barbara Krauth** is an Information Services Coordinator for the National Institute of Corrections Information Center in Boulder, Colorado.

**Donnie A. Lee** is a District Director for the Georgia Board of Pardons and Parole.

**Bo Martinsson** is Director General of the National Prison and Probation Administration, Sweden.

**Eric Morrell** is the Chief Probation Officer, Northumbria Probation and After Care Service, United Kingdom.

**Richard T. Mulcrone** is the General Manager of Corrections Systems, Control Data Corporation, Minnesota. He is a former U.S. Parole Commissioner and the former Chairperson of the Minnesota Corrections Authority.

**William R. Outerbridge** is the former Chairperson of the National Parole Board of Canada, a position he held for ten years.

**William Rentzmann** is Director for Kriminalforsorgen, Ministry of Justice, Denmark.

**Michael P. Sullivan** is the Parole Guidelines Director for the Georgia Board of Pardons and Paroles.

**Peter I. Tilton** is Director of the Division of Probation and Parole, Department of Corrections, Maine.

**Hans Tulkens** is the Director of Prison Administration, Ministry of Justice, the Netherlands.

PART I

INTERNATIONAL PERSPECTIVES

ON PAROLE



PAROLE:  
CONTROVERSIAL COMPONENT OF THE CRIMINAL JUSTICE SYSTEM

By  
Barbara Krauth

The 1970's: A Troubling Decade for Parole

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 of which include:

- (1) reconstructing the parole release decision-making process,
- (2) eliminating parole boards' authority to establish inmate release dates, and
- (3) 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.

Beginning in the 1970's a number of forces were merging that led to significant changes in parole, especially to attacks on parole and calls for parole abolishment.

These pressures against parole were coming from several sources:

Reduced Support for Rehabilitation - With researchers such as Robert Martinson concluding that there was little real evidence of 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 pretrial release, sentencing, and classification designations for inmates. Parole was affected also, with more states reducing or eliminating the discretion of parole boards/committees 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 and unable 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 to review and revise 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.

Clearly, 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.

Parole in the United States is still undergoing transition.

#### Parole "Abolished" in Some Jurisdictions

The parole process includes releasing 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 supposedly "abolished" parole:

Maine - Abolished both decision-making and post-release supervision aspects of parole in 1976. A 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 the parole board from setting release dates in all cases except a 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 one-third of sentence.

Indiana - Implemented determinate sentencing in 1977 that eliminated the parole board's authority to set release dates. A full-time board continues to function to set conditions of post-release supervision and to revoke in case of violations. A mandatory conditional release system requires inmate's release when sentence minus "good time" credits has been served. Good time credits may equal 50 percent 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 percent of sentence), then are released conditionally to community supervision. A 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. A full-time board continues to function to process cases sentenced prior to 1981. Inmates sentenced under the "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. The parole board is scheduled to terminate

operations in 1988. Provisions for paroling activities for inmates remaining under the old sentencing law as yet unresolved.

Florida - Adopted sentencing guidelines system in 1983 that abolished both parole release and post-release supervision. The parole board is 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 board's 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 1987, 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 date of implementation 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 percent of the inmate population are serving fixed terms.

#### Restoration and Expansion of Parole Considered in Some States

Despite the fact that 11 states and the federal government have reduced the discretionary power of the parole boards, there is, at present, a counter move both in those states and others to reinstate this power. State legislative action in 1985, for example, 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 both to attack and support the concept of parole.

While much attention since 1976 has been focused on parole "abolishment," the role of parole has also expanded to deal with prison crowding 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 have increased parole, provided additional resources for field supervision, and thereby reduced the number of state prisoners.

The parole decision-making process itself is also undergoing change. 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. Others 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 a parole release decision, a system they referred to as "Salient Factors."

#### Public Opinion About Parole and Rehabilitation Favorable

Perhaps the most surprising change in parole is a change in public attitudes. Although parole officials, judges, and attorneys widely believe the public favors parole abolishment, recent research suggests that they are wrong. A survey of attitudes toward parole was conducted in 1984 for the Figgie Report series on crime and justice. Sponsored by Figgie International, the survey was conducted by Research and Forecasts, Inc., of New York, using a national sample of the general public, judges, attorneys, and parole officials. The results of that survey are quite surprising. The researchers found, for example, that:

Only 8 percent of the general public favors abolishing parole, while 24% favor retention of current parole practices.

Public attitudes about parole are misread by judges, attorneys, and parole officials. Forty-three percent of attorneys and 25 percent 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.

Judges generally support involvement of parole boards in the sentencing process. Only 2 percent favor removing the authority of parole boards to set prison release dates. Only 1 percent of the surveyed

judges favor the elimination of post-release parole supervision of offenders.

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.

The general public surveyed believe that a 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.

Only one-third of the public respondents thought that prison sentences, once set by judges, should never be changed.

The majority of public respondents (72%) opposed reducing terms of sentenced inmates to relieve prison crowding. Fifty percent of these surveyed indicated they would agree to a 1 percent 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.

### Parole in Transition

In conclusion, I would like to emphasize the fact that although parole has experienced more challenges and changes in the past decade than ever before, the movement to abolish parole seems to have peaked. While 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 facts influencing change can still be identified. Those factors include the following:

The shifting emphasis to punishment, incapacitation, and victim's rights, and the parole boards' ability to respond to and accommodate those shifts.

Paroling authorities' ability to justify their function and decisions based on an accepted role in the sentencing process and of defensible criteria.

The presence of influential political figures, special interests groups, or media that target parole for close scrutiny or attack.

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 appealing but unfair attacks on parole, but rather through rational analysis of the parole function, and via 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, need to continue to clarify the purpose of parole and seek more objective procedures both for granting release and for supervising parolees. Positive changes such as these are indeed occurring. It is also clear that the public recognizes the value of parole decision-making more than parole decision-makers have realized.