

**PAROLE VIOLATORS IN
CALIFORNIA:**

**A WASTE OF MONEY,
A WASTE OF TIME**

Prepared by:

The Center on Juvenile and Criminal Justice
(Formerly the National Center on Institutions and Alternatives/Western Regional Office)
1622 Folsom Street 2nd Floor
San Francisco, CA 94103

(415) 621-5661

Anthony Costello
Rick Garnett
&
Vincent Schiraldi

September 1991

TABLE of CONTENTS

	<u>Page</u>
Introduction	1
The Scope of this Study	2
Parole Violators and Prison Overcrowding	2
California and the United States: A Comparison	3
The Cost	5
Why So Many?	6
What the Parolees Say	8
Recommendations	9
Conclusion	11

Introduction

California's correctional system is under fire and for good reason. For the past decade, a combination of sensationalistic and inflammatory "tough on crime" political rhetoric and tunnel-vision policies have burdened California with a wasteful and costly correctional system. Despite the explosion in prison construction and population, the state's crime rate has remained about the same. Demagoguery and posturing may win elections and fomenting fear about violent crime may give the appearance of responsibility. However in the long run it is the citizen who pays for a system which, at worst, exacerbates the existing problems of its inmates and, at best, merely warehouses over 100,000 men and women in overcrowded and expensive prisons.

Despite what Senator Robert Presley called "the largest prison construction program ever attempted by a government entity" - \$6.2 billion in the 1980's - the California Department of Corrections (CDC) is currently operating at 175% of capacity. The complete lack of effective programming for inmates in and out of prison has turned our prison gates into revolving doors. California's taxpayers have a right to ask themselves whether they are getting their money's worth. Nearly 80% of those released will be back again. And in 1989, 47% of those sent to prison were incarcerated for violating the conditions of their parole - they were not convicted of new crimes by a court.¹

All acknowledge that California needs a prison system capable of housing the dangerous few. But again, despite the rhetoric behind the prison construction boom, our facilities simply are not full of violent murderers: Mansons, Rothenbergs, Singletons, and "Hannibal the Cannibals". As the Center on Juvenile and Criminal Justice found in its recent study, Concrete and Crowds: 100,000 Prisoners of the State, the "typical" California inmate is not a hardened murderer but a young, non-violent, substance abusing, semi-literate, unemployed man of color. And again, many of these inmates - nearly half each year - are incarcerated not for new crimes, but for violations of parole.

Known to the Department of Corrections as "PV-RTCs", parole violators collectively present one of the most important challenges to corrections today. How can we hold paroled offenders accountable, while at the same time sensibly rehabilitate and reintegrate them into society? Perhaps closer to home, how can we stop throwing away millions of dollars - approximately \$360 million in 1989 - re-incarcerating those we fail to re-integrate? The absurd rates of parole failure raise the question of what purpose our prison system serves. How can

¹Department of Corrections, Offender Information Services Branch, California Prisoners and Parolees, 1989, 1990, p. 97.

we better deal with individuals caught on the concrete and steel merry-go-round our prison system has become?

The Scope of this Study

This study has focused on the problem of technical parole violators (PV-RTCs) in California. Because disagreement exists as to what exactly constitutes a technical parole violator, we will use the definition of a PV-RTC used by the Offender Information Services Branch of the Department of Corrections: "A parolee who has violated the conditions of parole and has been ordered by the BPT (Board of Prison Terms) to return to prison."

PV-RTCs are distinguished from PV-WNTs (Parole Violators with New Terms) in that the latter are returned to prison following a new criminal conviction and commitment from court. When making comparisons between California and other states, we have attempted to identify, as much as possible, the same groups of inmates, however categorized elsewhere.

This study will also attempt to address the fiscal and policy implications of California's reliance on incarceration as the means of handling PV-RTCs, implications especially relevant in these austere times of budget cuts in human services and education. Finally, we will offer specific policy recommendations, some taken from the Blue Ribbon Commission on Inmate Population Management's 1990 Final Report, and note legislation currently being considered which could positively impact the parole violator problem.

Parole Violators and Prison Overcrowding

In 1989, 39,976 PV-RTCs were returned to custody in California.² These violators accounted for nearly half of the total inmates received at CDC institutions that year. Since these inmates serve an average of four and a half months in revocation time, their share of the total prison population at a given time will obviously be less than their share of those admitted to prison over the course of the year.

The CDC and the Board of Prison Terms - a governor-appointed board ultimately responsible for parole revocations - have developed a long list of actions and behaviors which can constitute a parole violation. Importantly, the decision to revoke is not made by a judge following a conviction, but by an administrative board following a violation. The BPT's current guidelines allow for technical violation even in cases where there has not been any criminal conduct. Parolees may be violated for ambiguous and arguably harmless actions such as failing to report to a parole agent, involvement in a domestic squabble, or living in a "drug-

² Department of Corrections, op. cit., p. 106.

related area". Other violations include "failure to follow instructions" and "possession of a simulated weapon". Parole agents have complete and unquestioned authority to decide whether or not a parolee on their caseload should be recommended to the BPT for revocation.

Further, despite the fact that parole violators can be subject to up to one year in prison, the actual revocation process never involves a court of law and only faintly resembles the normal judicial process constitutionally protected in criminal cases. For example, accused parole violators do not have the right to an attorney, even though their liberty is certainly at risk. As Senator Presley remarked, "the easiest thing for a parole officer to do now with a parolee he is disgusted with is just to revoke his parole."³

According to the the CDC, during the past seven years, the Board of Prison Terms has consistently revoked between 97 and 98 percent of all cases reviewed. Now, although the parolee does have a right to a hearing - known as a "Morrissey hearing" - before revocation, most choose to waive this procedure, rightly assuming that it will probably only delay the inevitable. As with plea-bargaining in the criminal courts, Morrissey hearings, like criminal trials, are avoided in the hopes that "cooperation" will secure a lighter penalty. The relative ease with which suspected parole violators may be returned to prison is perhaps what most drives California's deplorable parole violator problem.

California and the United States: A Comparison

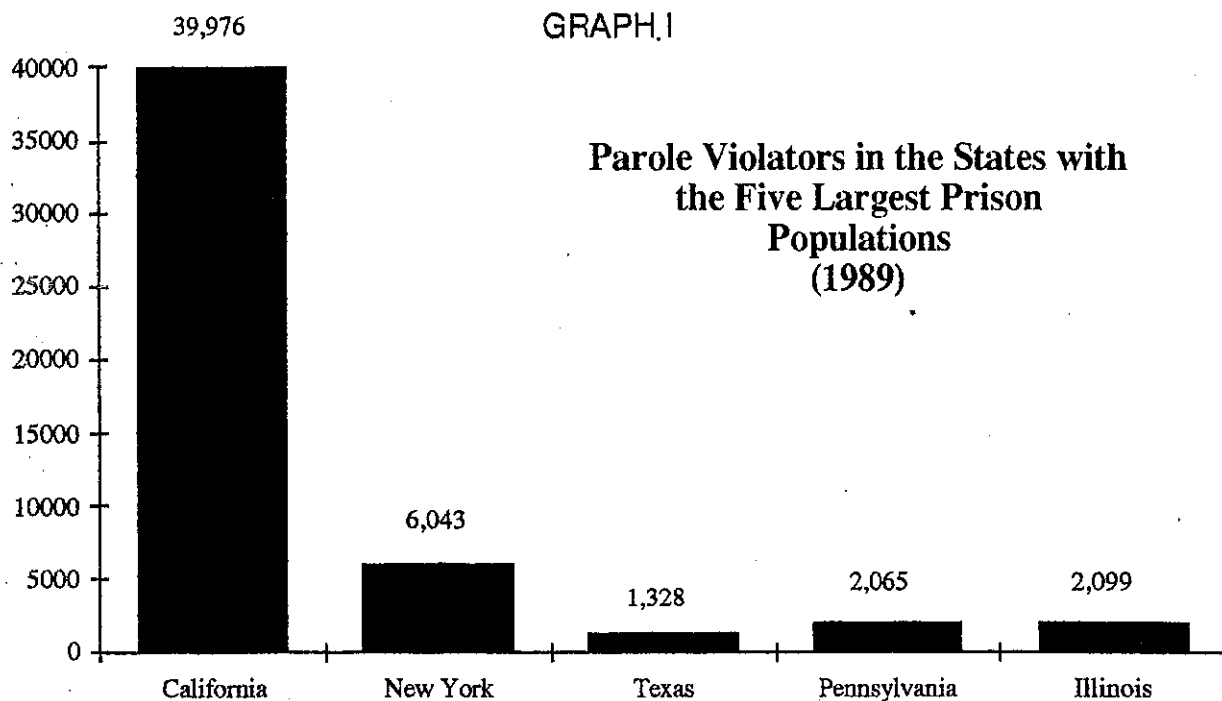
In 1989, the number of PV-RTCs returned to California prisons soared to an unprecedented 39,976. The projections for 1991 approach 45,000.⁴ At the same time, the next two largest prison systems in the country, New York and Texas, had only 6,043 and 1,328 PV-RTCs, respectively.⁵ (See Graph I). According to a CDC report on parole violator trends, "(i)t must be concluded that the significant increases which have occurred in the numbers of PV-RTCs certainly go beyond that which can be attributed solely to the growth in the parole population".⁶

³ Neumann, A. Lin. "Back on the Streets," *Sacramento News and Review*, Vol.3, No. 8, June 6, 1991

⁴ Assembly Ways and Means Committee, Initial Review of the Governor's Proposed 1991-1992 California State Budget. January 1991. p. 50.

⁵ Bureau of Justice Statistics, U.S. Department of Justice, unpublished data.

⁶ "Short-Term Inmate Report: Parole Violators and New Commitments," California Department of Corrections. September, 1989. p. 31



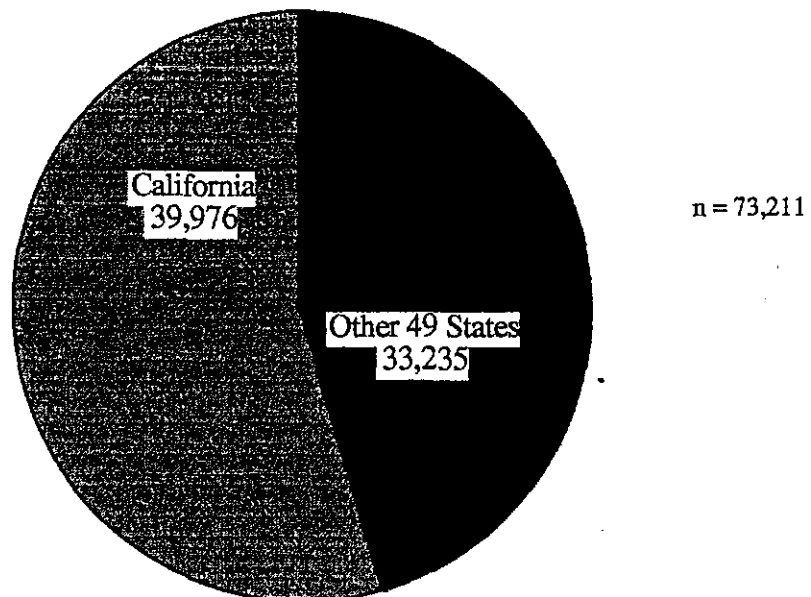
Source: Department of Justice, California Department of Corrections.

From data due to be released in September 1991 by the U.S. Department of Justice, we were able to compare the parole violator situation in California with those of the rest of the states. California aside, the states for which data were available violated between 6,043 (New York) and 12 (Vermont). The most startling fact, however, is that the other states, which collectively had 168,450 people on parole in 1989, violated and re-incarcerated fewer combined than the State of California.⁷ (See Graph II). California may have a reputation as a unique state, but the cultural, economic, demographic, and even criminal factors do not exist which alone could explain California's parole violation policies and practices.

⁷ Bureau of Justice Statistics, op.cit.

GRAPH II

Parole Violators in the United States (1989)



Source: Department of Justice, California Department of Correction

The Cost

The CDC estimates that it costs \$20,562 per year to house a convict in a California prison. This figure is extremely conservative; factoring in debt service alone, the annual tab grows to approximately \$24,000. External and indirect costs - not accounted for in these figures - include capital, fringe benefits for employees, worker's compensation, external oversight, liability, property insurance, transportation and interagency personnel.

On a macroeconomic level, using CDC's annual per inmate prison costs, the 39,976 parole violators incarcerated in 1989 cost the state \$360 million. But the costs won't stop there. These parole violators consumed over five million "bed-days" which could be used to house other, more dangerous, long-term prisoners. Instead, the ever-increasing rate of overcrowding will force the construction of new - and expensive - prisons to house the former residents of today's overcrowded - and expensive - prisons. The debt repayment cost of the new prison construction program will be \$382 million in 1991-92, and is expected to reach \$700 million annually if present rates of incarceration continue. The CDC expects to need \$10 billion in construction costs alone by the year 2000.⁸ We simply cannot afford the results of our government's "tough on crime" rhetoric.

⁸ Assembly Ways and Means Committee, op. cit., pp. 47-57.

Prison money must come from somewhere. In 1990, for the first time in recent memory, the voters rejected several major prison bond proposals. Also, continuing the tradition of "robbing Peter to pay Paul", the Governor's 1991-92 State Budget proposed campus closures and budget cuts of \$195 million for the University of California and California State University systems. Aid to Families with Dependant Children, (AFDC), will be cut by \$176 million, leaving a single mother with two young children only \$631 a month. All this while we spent a total of \$360 million last year housing parole violators in prison! Everyday in the papers we can see the administration and legislature scrambling to cut the deficit by taxing Cheeto's and Milky Way bars, but the swollen Corrections population seems a sacred cow, protected by the demonized vision of Willie Horton.

On the microeconomic level, the costs are just as real and hit perhaps even closer to home. As our prisons swell to bursting, the state must hire more and more guards and staff to maintain a semblance of order. At a time when school districts such as that in Richmond are facing closure, it seems mistaken to throw money at warehouses of concrete and steel. In fact, the annual salary and benefits of a prison guard could pay the salaries of two full-time school teachers in Richmond.

At a time when spending for higher education is being slashed and legislators talk of closing campuses, it is indefensible to spend as much to house a prisoner for a year as it would cost to send three students to a California State University, full-time and residential.

At a time when AFDC benefits are shrinking, and when pundits and politicians decry the "collapse of the family," it is inexcusable to spend \$2,000 a month to house a parole violator, when that money could be given to three needy single mothers or could provide day care for over 40 lower income children.

Why So Many?

The answer to the costly parole violator problem lies in providing both a continuum of community-based options for violators and in providing inmates with meaningful pre-release services. Unfortunately, our Corrections system practically guarantees recidivism by ignoring rehabilitation for retribution and punishment, and by emphasizing incapacitation over education. The poorly developed pre-release programming in CDC institutions virtually guarantees eventual parole failure. Bureau of Justice data indicates that only 19% of California parolees successfully complete their terms in 1989, compared with 43% nationwide. (See Chart I).

CHART 1

Successful Completion Rate on Parole in U.S. and States With the Five
Largest Prison Populations

	Total Leaving Parole	Successfully Completed	Percent Successful
U.S. Total	246,446	105,736	43%
California	75,967	14,304	19%
New York	16,118	7,530	47%
Pennsylvania	19,566	12,434	64%
Texas	22,820	9,195	40%
Illinois	11,915	5,826	49%

Source: U.S. Department of Justice.

In 1988, only 4% of the male prison parole population participated in pre-release programming. This has not changed markedly. As the Blue Ribbon Commission Report found, participation in the scarce pre-release programming is voluntary and lacks necessary components such as job seeking and keeping skills, drug education, and family coping skills. Most California parolees will leave prison with no marketable skills or job experience, no high school diploma, a 6th grade reading level and a drug problem. No wonder a recent study found that, "(i)t is safe to assume that, given the present environment, the longer the parolee's exposure to parole, the better the chance of being returned to prison for some kind of violation."⁹

The single greatest symptom of the system's inadequacies may be drug and alcohol abuse. Although it is estimated that over 80% of CDC prisoners have drug problems, less than 3% will receive drug-related therapy and this will be limited to 12-step-type programming.¹⁰ As any drug or alcohol abuse expert will tell you, substance abuse and feelings of hopelessness go

⁹ California Department of Corrections, 1989, op.cit., p. 13.

¹⁰ Assembly Ways and Means Committee, op. cit.

hand-in-hand. Those who overcome their addictions are those who are helped to develop the skills needed to find a meaningful place for themselves in the social and economic mainstream.

Parole policies do not make things any easier. Parolees are sent out the door with \$200 in "gate money" and an order to report to their parole officer in their commitment county within 24 hours. A convict from San Diego housed at Pelican Bay, near the Oregon border, would have a day and \$200 to travel 1000 miles for a five minute meeting. And if a parolee wants to make a "fresh start," and leave Bayview-Hunter's Point, West Oakland, Compton or wherever, he or she cannot as long as the law requires a parolee return to the county where his or her crime was committed.

Perhaps most significant, however, is that as caseloads grow and treatment options shrink, parole revocation practices seem to have hardened. With few affirmative steps available to parole agents aside from revocation, parole failure rates have doubled over the past 10 years. In fact, as recently as 1977, only 788 parolees were returned for violations compared with 1989's 39,976 figure.

What the Parolees Say

Although originally designed to reintegrate convicts, parole currently serves primarily to return people to prison. In researching this report, several parolees at an East Oakland half-way house were interviewed. One parolee stated:

A few guys come out, they get lucky, but the majority of them will be back. They will be back, you know what I'm sayin'? They got a sayin' that when you get on parole, you will go back to the pen - at least three times. Its a statistic that most guys go back.

Another:

I go to the parole agent and tell him I want to get a job. "Uh, come back and see me next week." I mean, its not really his fault because he got three hundred other guys.¹¹ And he doesn't even know me. All he knows is my number is three seven such and such. All he knows ... if he wants to keep his job, all he got to do is have me come in once a week, piss in the bottle. As long as the bottle don't show no drugs in it, I can stay on the streets another week. First time the piss is not good, all he gotta do is send me to jail, that's it. He put my file back over there

¹¹ CDC estimates the parole caseloads currently approximate 75 parolees per agent.

in "inactive", and that's it. He's still got his job, he goes on ... you know, they don't have to get personally involved with you. 'Cause they can't. You got three hundred guys, ... how you get involved with three hundred guys. Most people don't even have three hundred friends in their whole damn life. You know what I'm sayin'? So how do people deal with three hundred guys' personal damn problems?

The *Sacramento News and Review* recently printed an interview with a former burglar whose expensive drug habit netted him five parole violations and more revocation time in prison than his original sentence.¹² He bluntly stated:

Prison is designed for people to come back. Period. That's the end.

Recommendations

Despite the daunting problems presented by PV-RTCs in California, there are some hopeful answers. The Blue Ribbon Commission on Inmate Population Management's 1990 Final Report suggested a number of possible measures, some of which are currently working their way through the corridors of power in Sacramento, waiting to become law. Unfortunately, the climate of rhetoric and fear makes many practical and simple options "politically unpalatable" to lawmakers.

Additionally, it is clear that the "policing" functions of parole are currently overwhelming the "social work" role parole agents purport to play. The Blue Ribbon Commission on Inmate Population Management has urged that the helping function be reinfused in parole work, and to its credit, the CDC has taken some initial steps in that direction. Nonetheless, evaluating parole work in California today on either dimension - catching criminals or rehabilitation - reveals a system which is woefully lacking. An 82% failure rate indicates that parolees in California are neither deterred nor rehabilitated by parole supervision, and parolees are rarely apprehended by parole agents in the act of committing offenses. This crisis situation requires dramatic action. The following recommendations are designed to increase rehabilitative pre- and post-release options for parolees and allow police and district attorneys to do what they do best - apprehend and prosecute persons who have committed criminal behavior.

- **Eliminate or minimize the supervision/violation function of parole in favor of providing rehabilitative services.** This could most practically be

¹² Neumann, op. cit.

accomplished by abolishing post release supervision for all or select groups of determinate sentence law offenders. This occurred in the state of Maine and resulted in no increase in crime. A second, less desirable option, would be to reduce parole terms to one year and/or to have unsupervised parole for offenders. Unsupervised parolees could still be violated by the BPT if apprehended by police. The state of Washington reduced parole supervision to one year and it too experienced no increase in crime.

- **Reallocate funds currently utilized to pay for parole agents and prison costs to fund a continuum of community based programs.** Such programs could include drug rehabilitation, job training and development, housing assistance, mother-infant care programming, etc. A continuum of community based options was recommended by the California Blue Ribbon Commission on Inmate Population Management, and a Community Corrections Act has been proposed by Senator Robert Presley (SB 187), Senator Bill Lockyer, (SB 26), and Assembly Member John Burton (AB 1871).
- **Develop a Parole Assistance Project for parolees facing violation hearings.** For the parolees that are facing violation hearings, the Board of Prison Terms should have workers available to it to present viable alternatives to returning the individual to prison. A similar program in Virginia showed that, when such community based options were presented at parole hearings, the Virginia Parole Board accepted them 78% of the time.¹³ Such a project is currently proposed as a pilot by AB 2096 sponsored by Assembly Member Barbara Lee.
- **Increase the use of pre-release programming and offer inmates release incentives for faithful participation.** Currently the great majority of CDC releasees receive no pre-release preparation. By providing an intensive, 60 day pre-release program geared towards equipping inmates with basic community survival skills and giving a 60 day good time bonus for successful completion, California could achieve the best of both worlds. Inmates would be better prepared to face the community upon release and the taxpayers would save millions. A pilot project to this effect is currently contemplated by AB 1081, also introduced by Assembly Member Barbara Lee.

¹³ National Center on Institutions and Alternatives, "Parole Assistance Project Summary", 1987.

Conclusion

Our prisons are bursting at the seams and the state's coffers are depleted. We are slashing Health, Education and Welfare budgets, but every year we send more people to prison. The complex socio-economic, cultural and political factors which cause crime may remain a mystery, but the current parole violator system in California provides an urgent opportunity to think clearly and reduce our reliance on costly and debilitating incarceration.

Parolees need assistance with jobs, independent living skills, substance abuse, family difficulties, education and prejudice. They do not need to be given a paper cup to urinate in once a week prior to an almost inevitable bus ticket back to prison. The cycle of imprisonment is self-perpetuating: we cut education and welfare to pay for prisons to house the people who may have become criminals because of cuts in education and welfare. And as the parole situation shows, we are not treating these men and women any better the second time around. Parolees have paid for their offenses. They should not have to pay again. Neither should we.