

RESEARCH REPORT NO. 58

✕ RATIONALIZING THE CONDITIONS OF PAROLE: SOME RECOMMENDED CHANGES

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TABLE OF CONTENTS

	<u>Page</u>
LIST OF TABLES	ii
RECOMMENDATIONS	1
CHAPTER I: INTRODUCTION	2
CHAPTER II: THE QUESTIONS	6
CHAPTER III: THE DATA	7
CHAPTER IV: THE ANALYSIS	9
The Conditions Charged (Question 1)	9
The Patterns of Conditions Charged (Question 2)	15
Method	16
Results	18
Regrouping the charge patterns	23
Parole Board Actions (Question 3)	25
The Reporting Rules (Question 4)	28
Five major reporting rules and their ranking	29
Results	31
CHAPTER V: SUMMARY OF FINDINGS	36
CHAPTER VI: DISCUSSION	38
CHAPTER VII: CONCLUSION	45
REFERENCES	46
APPENDIX : Conditions of Parole, State of California (Effective April 19, 1971)	48

LIST OF TABLES

<u>Table number</u>		<u>Page</u>
1	Number and Percent Charged and Not Charged for Each Condition of Parole	10
2	Number and Percent Charged Alone and Not Charged Alone for Each Condition of Parole	12
3	Parole Agent Recommendation by Kind of Charge	14
4	Number of Violation Charges	15
5	Distribution of Thirteen Conditions of Parole Amongst Thirty-one Patterns	21
6	Violation Charge Patterns (Regrouped)	24
7	Parole Board Action by Violation Charge Patterns	26
8	Reason for Submission of Violation Report by Violation Charge Patterns	33
9	Returns to Prison by How Processed by Regular Criminal Justice System	41

LIST OF FIGURES

<u>Figure number</u>		<u>Page</u>
1	Thirty-one Charge Patterns	19

RECOMMENDATIONS

Parolees may be charged with and returned to prison for violations of the California Conditions of Parole. Through an examination of the use of fifteen different conditions of parole during a 1971-72 parole violation reporting period, this study found that nine of the conditions were never or rarely charged as being violated in reports to the parole board, and when charged, they were never or rarely the primary charge resulting in a parole board order to return to prison. Furthermore, a lack of correspondence was noted between the conditions and another parole revocation standard, reporting rules governing which violations must be reported to the board. The evidence here supports the conclusion that a reduction in the conditions of parole can occur without reducing returns to prison ordered by the parole board.

It is therefore recommended that the number of parole conditions be reduced to include, at a maximum, the following conditions: Laws, Absconding, Violence, Alcohol ("5B") and Drugs. This means that some nine of the fifteen conditions surveyed here could be eliminated. They are: Release, Work, Alcohol ("5A"), Associates, Motor Vehicles, Cooperation, Civil Rights, Cash Assistance and the Special Condition. Also, for the sake of consistency with the rules which govern the reporting of violations to the parole board and in order to avoid double charging for the same incident, it is recommended that the Residence and the Reports condition be combined to reflect the violation incident of absconding; and the Personal Conduct and the Weapons condition be combined to reflect violent or aggressive incidents. The spirit of these two recommendations was recently incorporated by a reduction in the California Conditions of Parole which took place (in August, 1975) during the drafting of this report.

CHAPTER I

INTRODUCTION

The California Conditions of Parole are a set of rules governing the behavior of prisoners released to parole. They are established by the Parole and Community Services Division (parole division) of the California Department of Corrections and the California Adult Authority (parole board for male felons), with the parole board having final authority (per Sections 3052-53 of the California Penal Code).

Parole rules are supposed to function as both specific and general guidelines for the parolee as to what kind of behavior is expected for a successful adjustment in the community. But since an agreement to abide by the conditions must be signed by the prisoner prior to release to parole and since not abiding by the conditions can result in a return to prison, the conditions can be said to serve a second, distinct function - they are the official sanctions for parole agent and parole board decisions to return a parolee to prison.

When the supervising parole agent determines that some misconduct on the part of the parolee is "serious enough" to warrant a violation report to the parole board, the misconduct becomes translated into charges of violating one or more of the conditions of parole. The parole board then, at its discretion, decides whether the parole condition violation(s) warrants a return to prison. Thus, the kinds and number of conditions in existence

determine what is sufficient cause to order a parolee returned to prison. The existence of many conditions covering a variety of behaviors creates a situation where the parolee can be returned at almost any time for almost any reason. Given this sanctioning function of the conditions of parole, and given the possible consequences that a violation of a condition can have, it would be reasonable to argue that each condition of parole should be rationalized. Parole rules need to be explicitly stated and need to reflect directly the kind of behavior necessary to avoid being returned to prison. A similar argument could be made for the need to justify the existence of any conditions of parole in terms of some broader goal. Although this issue will not be given a rigorous empirical examination here, it will be addressed later in the discussion.

The need to rationalize the conditions of parole becomes even more important today. When this study began the conditions of parole were the most numerous and specific conditions California had ever had¹. They covered many aspects of the daily life of a parolee. A study of the trend in the ten versions of the conditions of parole which have existed over the last twenty-four years showed the number of conditions had steadily increased, both in sheer volume and in their degree of detail and specificity (Star, 1974).

¹During the initial preparation of this report, the number of parole rules were the largest there had ever been. However, before this report's final publication (effective August, 1975), and in the spirit of its recommendations, the parole board and parole division revised and reduced the conditions to four (California Adult Authority, 1975).

National (Standard 12.7, National Advisory Commission on Criminal Justice Standards and Goals, 1973) and State (Standard 13.17 Project Safer California, 1974) goals have been established to reduce the parole rules to an absolute minimum. Despite these recommendations a recent survey of parole conditions in the United States has noted that "While reductions may be occurring in some states, no marked trend is sweeping the country" (American Bar Association, 1973, p.2).

Given the interest in reducing parole rules, the issue becomes which conditions and for what reasons. One possible criterion to follow in reducing the conditions is to maintain only those rules judged "reasonable" or "fair" (e.g., the behavior expected is that expected of any other citizen). Another is to maintain only those rules which are "effective" in aiding the parolee to complete parole successfully or to lead a law-abiding life. But each of these standards is subjective and difficult to apply. A far more objective standard is to maintain only those parole rules which are actually "enforced", that is, only those rules which if violated are highly likely to result in a report to the parole board and a return to prison. The criterion used here was that dropping the condition would lead to no substantial decrease in the overall rate of parole revocation (i.e., return to prison). A derivative, secondary criterion also used here was that the conditions of parole be revised to make them correspond more closely to the rules which govern the kinds of violations which the parole board

requires to be reported to it for revocation consideration.

The intended audience for this report is the California Department of Corrections and the California Adult Authority. However, since the existence of each condition of parole utilized by any state should be rationalized, it is hoped that a wider audience will find it of interest.

CHAPTER II

THE QUESTIONS

This study addressed the following four questions regarding the California Conditions of Parole. The first three attempt to determine which conditions, if violated, are likely to result in a report to the board and a return to prison disposition. The fourth question determines the degree of correspondence between the conditions and various reporting rules.

1. Which conditions of parole are seldom or never charged as violations of parole and which conditions of parole are most frequently reported?
2. In what combinations are these conditions charged?
3. Which frequently reported conditions, or patterns of parole condition charges, result in final parole board orders to return to prison?
4. Which and how many conditions of parole are charged when a violation report is submitted under one of the major rules which govern the kinds of violations which the parole board requires to be reported to it?

CHAPTER III

THE DATA

This study is based on an analysis of the parole condition charges made in 9,563 statewide male felon parole violation reports presented at the then weekly 1971 and 1972 Parole and Community Services calendar hearings held by the parole board.

Certain types of reports heard at the community calendars were excluded from this analysis. These included initial emergency reports (since they were usually followed up by full violation reports), reports involving changes in the parolee's status only (e.g., restoration of civil rights, adding special conditions and reviews for discharge) and "automatic" decision reports. Automatic decision reports are those on which the final parole board action is fixed by either a court commitment or by parole board policy. Specifically, these include reports for parolees returned "with new commitments" (WNC) to prison, new commitments to the California Rehabilitation Center (CRC, an institution for civilly committed narcotic addicts) and reports initially declaring a parolee an absconder or a "parolee-at-large" (P.A.L.). Only those full violation reports which had at least one charge of a parole condition violation and for which the kinds of decision which could have been made were not fixed (automatic) by the courts or by parole board policy were studied.

During the two-year study period, there were fifteen different conditions of parole in effect.² Shortly after the 1971-72 study period, the total number of conditions expanded to sixteen. A "Search" condition specifying the right of the parole agent to search the person and property of the parolee was added. Since it was not a condition of parole in effect during the 1971-72 study period, the extent of its use as a parole violation charge was not examined. Only those fifteen conditions in effect during 1971-72 are examined here. For a listing of these conditions and an examination of the exact language in which they are stated, the official State of California Conditions of Parole, and accompanying "Agreement of Parole", document (effective April 19, 1971) signed by parolees upon release is attached as the Appendix.

²In actuality, there were three different sets of conditions effective at some time during 1971-72. Two were longer versions with the same 15 rules but with small differences in phrasing; and the third was a shorter seven-condition version combining four pre-existing conditions into one and eliminating five conditions (Star, 1973 (a)).

CHAPTER IV

THE ANALYSIS

The Conditions Charged (Question 1)

Table 1 shows the frequency with which each of the fifteen conditions was charged in the 9,563 violation reports, and if charged, the number of times that particular condition was charged in the report. The "Law" condition was the only condition charged in the majority (63.0 percent) of the reports. The next most frequently charged conditions were the "Drugs" and "Residence" conditions, each charged in approximately one-third (34.1 percent and 28.8 percent respectively) of the reports.

The most infrequently charged conditions of parole were the "Cash Assistance" condition (cited only once) and the "Civil Rights" condition (cited in only 21 of the 9,563 reports surveyed). In addition to these two conditions, six others were each charged in less than 5 percent of the reports: "Release" (1.6 percent), "Motor Vehicle" (1.8 percent), "Alcohol-5A only"³ (2.0 percent), "Work" (3.0 percent), "Associates" (4.8 percent) and "Cooperation" (4.9 percent). The "Special" condition was charged in a little over 5 percent of the cases but a closer examination revealed that many of those charges were actually "Alcohol-5B" charges which were written up as "Special" condition violations during a period of

³ California's Alcohol Condition had two parts, part 5A not to drink alcohol to excess and a more strict part 5B not to drink alcohol at all. The 5B part was more frequently charged than the 5A part.

TABLE 1

Number and Percent Charged and Not Charged for Each Condition of Parole

Conditions of Parole	Number of reports			Number of times charged			
	Total ^a	Not charged	Charged	1	2	3	4
Release	9,503 (100.0)	9,353 (98.4)	150 (1.6)	150 (1.6)	0 (0.0)	0 (0.0)	0 (0.0)
Residence	9,503 (100.0)	6,764 (71.2)	2,739 (28.8)	2,730 (28.7)	9 (0.1)	0 (0.0)	0 (0.0)
Work	9,503 (100.0)	9,219 (97.0)	284 (3.0)	284 (3.0)	0 (0.0)	0 (0.0)	0 (0.0)
Reports	9,503 (100.0)	7,971 (83.9)	1,532 (16.1)	1,530 (16.1)	2 (0.0)	0 (0.0)	0 (0.0)
Alcohol-5A	9,503 (100.0)	9,312 (98.0)	191 (2.0)	191 (2.0)	0 (0.0)	0 (0.0)	0 (0.0)
Alcohol-5B	9,503 (100.0)	8,683 (91.4)	820 (8.6)	789 (8.3)	28 (0.3)	2 (0.0)	1 (0.0)
Drugs	9,503 (100.0)	6,258 (65.9)	3,245 (34.1)	3,082 (32.4)	149 (1.6)	11 (0.1)	3 (0.0)
Weapon	9,503 (100.0)	8,866 (96.3)	637 (6.7)	624 (6.6)	11 (0.1)	2 (0.0)	0 (0.0)
Associates	9,503 (100.0)	9,043 (95.2)	460 (4.8)	458 (4.8)	2 (0.0)	0 (0.0)	0 (0.0)
Motor Vehicle	9,503 (100.0)	9,335 (98.2)	168 (1.8)	168 (1.8)	0 (0.0)	0 (0.0)	0 (0.0)
Cooperation	9,503 (100.0)	9,034 (95.1)	469 (4.9)	461 (4.9)	6 (0.0)	2 (0.0)	0 (0.0)
Laws	9,503 (100.0)	3,512 (37.0)	5,991 (63.0)	4,724 (49.7)	1,001 (10.5)	199 (2.1)	67 (0.7)
Personal Conduct	9,503 (100.0)	8,647 (91.0)	856 (9.0)	789 (8.3)	55 (0.6)	12 (0.1)	0 (0.0)
Civil Rights	9,503 (100.0)	9,482 (99.8)	21 (0.2)	21 (0.2)	0 (0.0)	0 (0.0)	0 (0.0)
Cash Assistance	9,503 (100.0)	9,502 (100.0)	1 (0.0)	1 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)
Special	9,503 (100.0)	8,980 (94.5)	523 (5.5)	497 (5.2)	21 (0.2)	4 (0.1)	1 (0.0)

a Excluded are 60 cases for whom this information was not recorded (9,563 - 60 = 9,503).

time when a shorter list of conditions were in effect and Alcohol-5B was not a separately specified condition of parole (Star, 1973 a). Subtracting these 5B violations from the Special condition would lower the frequency of its use to less than 5 percent and would bring the total number of conditions charged in less than 5 percent of the reports to nine.

As rarely as these nine conditions were used, it is still important to determine whether when used, they were the only charge and thus the primary reason for the report. Table 2 shows that never or rarely are these "less frequent" conditions the only charge, and thus the primary reason for the report to the board. Four conditions - the "Work", "Motor Vehicle", "Civil Rights" and "Cash Assistance" conditions - were never the only charge in a violation report. And the remaining five conditions - "Special", "Release", "Alcohol-5A", "Associates" and "Cooperation" - were the only charge in 21.6 percent, 7.3 percent, 2.6 percent, 0.7 percent and 2.6 percent respectively of the reports in which each was used. Since the "Special" condition was used to charge 5B violations during part of the study period, it was the most frequent (though still rare) of the nine conditions charged alone. Overall, the less frequently used conditions were charged alone in only 144 of the 2,267 (6.4 percent) reports involving these conditions, and in most of these (113 of the 144) the "Special" condition alone was charged.

One of the themes explored by the analysis above is the use of various conditions as "banking" charges. It has been observed

TABLE 2

Number and Percent Charged Alone and Not
Charged Alone for Each Condition of Parole

Condition of parole	How Charged		
	Total	Alone	Not alone
Release	150 (100.0)	11 (7.3)	139 (92.7)
Residence	2,739 (100.0)	83 (3.0)	2,656 (97.0)
Work	284 (100.0)	0 (0.0)	284 (100.0)
Reports	1,532 (100.0)	2 (0.1)	1,530 (99.9)
Alcohol - 5A	191 (100.0)	5 (2.6)	186 (97.4)
Alcohol - 5B	820 (100.0)	239 (29.1)	581 (70.9)
Drugs	3,245 (100.0)	809 (24.9)	2,436 (75.1)
Weapons	637 (100.0)	95 (14.9)	542 (85.1)
Associates	460 (100.0)	3 (0.7)	457 (99.3)
Motor Vehicle	168 (100.0)	0 (0.0)	168 (100.0)
Cooperation	469 (100.0)	12 (2.6)	457 (97.4)
Laws	5,991 (100.0)	1,467 (24.5)	4,524 (75.5)
Personal Conduct	856 (100.0)	126 (14.7)	730 (85.3)
Civil Rights	21 (100.0)	0 (0.0)	21 (100.0)
Cash Assistance	1 (100.0)	0 (0.0)	1 (100.0)
Special	523 (100.0)	113 (21.6)	410 (78.4)

(Irwin, 1970) that certain violations of conditions of parole are not considered severe enough, on their own, to warrant a violation report. Instead they are held in abeyance and only brought forth and charged when a "main" charge(s) is being submitted. Used in this manner they are charged only to "bank" or "stack" the main charge, and thereby "build a case", for return to prison. The conditions listed above which never or rarely occur alone but only in combination with some other main charge may be employed in this "stacking" practice.

A test of whether the parole agent only charges certain conditions to bank some other main charge and build a strong case for return can be made by examining the parole agents' recommendations for these conditions. If they are being used to "beef-up" the report, then return to prison recommendations should be more frequent in violation reports which have banking type charges in addition to some main charge than in violation reports with a main or a banking charge only. Table 3 examines this hypothesis. For simplicity the nine rarely-charged-alone conditions were grouped and termed "banking" conditions while the remaining six frequently-charged-alone conditions were termed "main" conditions. The table shows that the parole agent is more likely to recommend a return to prison in a report that has both main and banking conditions charges (46.1 percent recommended for return) than in reports that have only main (24.0 percent recommended for return) or only banking (37.7 percent recommended for return) kinds of conditions charged.

TABLE 3
Parole Agent Recommendation by Kind of Charge

Kind of charge	Number of cases	Percentage of total parole agent recommendations		
		Return to prison	Continue on parole	Other
Total	9,488 ^a	28.9	65.8	5.3
Main	7,357	24.0	70.7	5.3
Banking	146	37.7	53.4	8.9
Both	1,985	46.1	48.7	5.2

a Excluded are 75 cases for whom this information was not recorded (9,563 - 75 = 9,488).

In summary, this analysis has shown that some nine of California's fifteen conditions were rarely ever charged with having been violated. It is not clear why these nine rules were never or rarely charged. One possible explanation is that they are simply not violated. Without an examination of the kinds of conditions violated but never formally charged, it is impossible to determine if this is the case. However, since the conditions cover many daily aspects of a parolee's life, it seems unlikely. What does appear more likely and what follows from the evidence just presented, is that some nine different conditions of parole are violated but rarely enforced via violation reports to the parole board. When they are enforced they are not uniformly enforced, as evidenced by their predominance in reports with return to prison recommendations.

The Patterns of Conditions Charged (Question 2)

It has already been shown in Table 1 that, with the exception of the "Laws" condition, rarely and sometimes never was any one condition of parole charged two or more times in a single report. And yet Table 4 shows that the majority of reports had two or more charges made. What appears likely from the analysis thus far is that the conditions charged in reports with at least two charges are two different conditions and probably combinations of the six frequently-charged conditions identified earlier. All that remains here is to discover those frequent combinations or patterns which characterize most parole violation reports so that we may in turn identify which combinations are being enforced by parole board orders to return to prison.

TABLE 4
Number of Violation Charges

Number of charges	Number	Percent
Total	9,503 ^a	100.0%
One charge	2,966	31.2
Two charges	3,574	37.6
Three charges	1,914	20.1
Four or more charges	1,049	11.0

^a Excluded are 60 cases for whom this information was not recorded (9,563 - 60 = 9,503).

Method. To do this, a special statistical technique known as "association analysis" was used to identify the most frequently used patterns, or combinations of conditions of parole charged. Rather than identifying how factors "hang together" for a group of cases (as factor analysis does) association analysis identifies how cases "hang together" on a number of factors. The factors here studied are the conditions of parole. The technique utilized the product-moment correlation coefficient (Pearson r) between presence (scored 1) or absence (scored 0) of the various conditions charged to sub-divide a ten percent random sample of the violator population (N = 878) into homogeneous groups that have similar patterns of parole condition charges.⁴

Since the above analysis indicated that some conditions were never or hardly ever charged, while others were frequently charged, the association analysis of the various conditions was conducted on only those conditions frequently charged. For this reason, the "Release", "Work", "Motor Vehicle", "Civil Rights", "Cash Assistance", "Alcohol-5A" and "Special" conditions were dropped from the analysis ("Associates" and "Cooperation" were borderline

⁴The Association Analysis technique followed was first developed by Williams and Lambert (1959) in the field of plant ecology and later used in the field of criminology by Gottfredson, Ballard, and Lane (1963) in their classification of offenders by various characteristics. The procedures followed are similar to those utilized by Gottfredson et. al and the reader is referred to the latter source for a detailed description. The primary differences included the use of the Pearson r instead of the Chi Square statistic and the use of different rules for terminating the sub-division of the groups formulated.

conditions, in terms of frequency of use, and were not dropped); while the "Law" condition, on the basis of both its high frequency of use and the wide range of ways in which the laws can be violated was further sub-divided. The law subcategories included Laws-Aggressive (homicides, assaults, robbery and sex crimes), Laws-Property (burglary and theft), Laws-Narcotics, and Laws-Misdemeanors.⁵ The "Personal Conduct" condition was also further divided into the two different ways it was used: Personal Conduct-Assaults and Personal Conduct-Other. As a result, the less frequently charged conditions were eliminated and the more ambiguous conditions were further defined, leaving 13 conditions which could have been charged in up to 1,092 different combinations (or 13 conditions taken 1, 2, 3 or 4 or more⁶ at a time). Obviously, the objective of the association analysis was to reduce the 1,092 possible combinations into a smaller number of frequently charged combinations.

⁵Misdemeanors are defined in this paper as crimes which can not be prosecuted as felonies (thereby eliminating prison sentences as dispositions for people convicted of them) regardless of whether or not they actually were prosecuted as felonies or misdemeanors. This definition thus excludes from the Laws-Misdemeanor tabulation, those few law offenses "capable" of being prosecuted as a felony and receiving a prison sentence but instead prosecuted as misdemeanors.

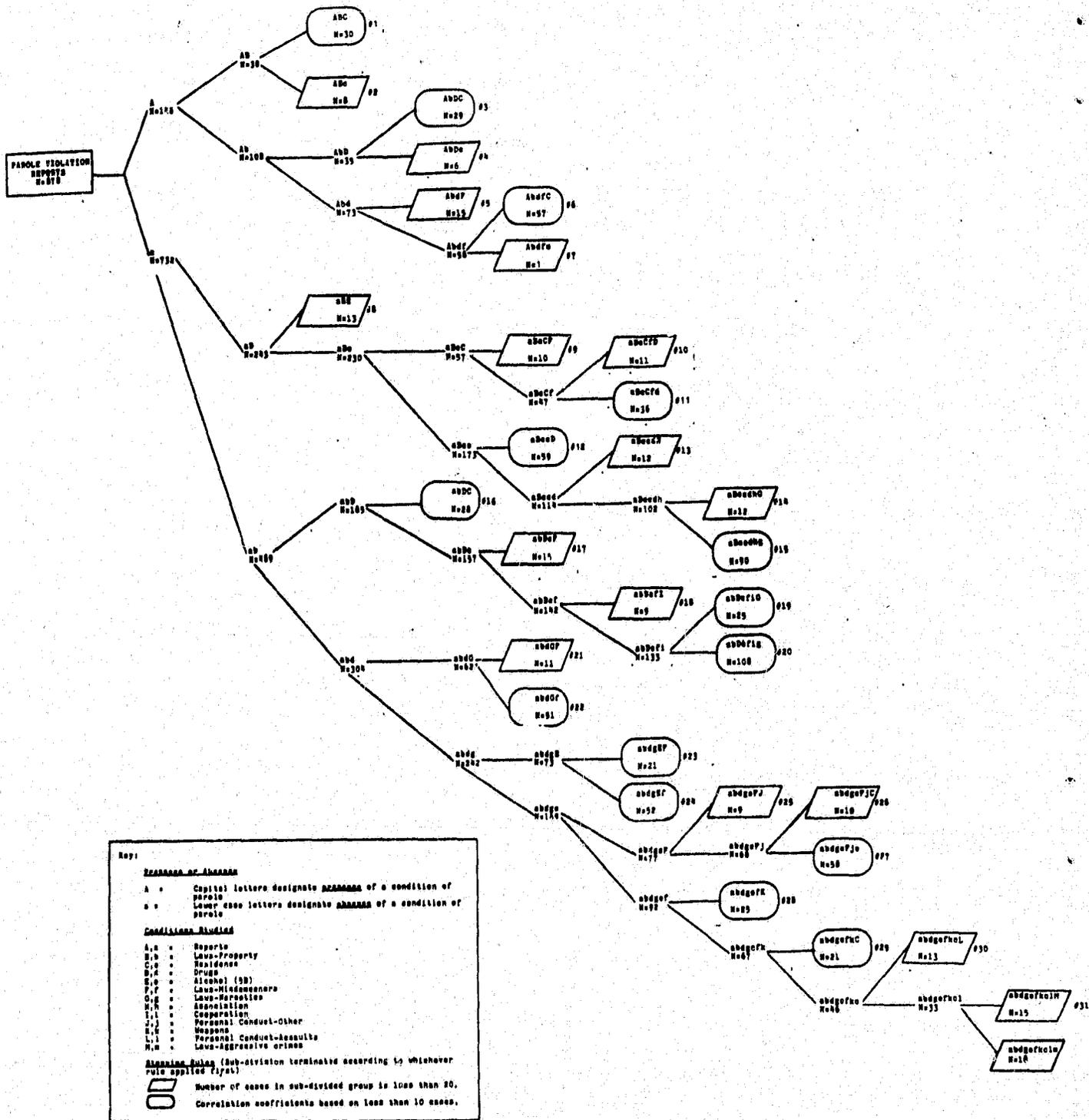
⁶The data system purposely limited the number of charges recorded to only four since the proportion of reports with five or more charges was estimated to be small (less than 11.0 percent). A prioritized scale of "most serious" parole conditions charges was used to determine which of the number of conditions exceeding four should be dropped from the tabulation.

F-2

The procedure followed involved a series of sub-divisions. Each sub-division was made according to the strength of a single condition's (or group of condition's) association (correlation) with each other condition. As Figure 1 shows the single condition most strongly associated with the other conditions was "Reports". Therefore, the ten percent random sample of the violator population was first divided on this condition according to whether the "Reports" condition was charged (present) or not charged (absent). Then these two sub-groups were considered independently and the strength of their association with the presence of the other conditions was determined. This process continued, with each new sub-group being again sub-divided on the condition showing the strongest association with all remaining (undivided) conditions, until either the number of cases in each sub-group became too small ($N < 20$) or the correlation coefficients were based on a small number of cases ($N < 10$). The sub-division process is depicted in Figure 1.

Results. Thirty-one different "charge patterns" covering 98 percent of the violation reports were identified via the association analysis. When applied to the total population of 9,563 violation reports each occurred in, at a minimum, 59 reports. Of these 31 patterns, only two were charged in over 10 percent of the cases - the "Laws-Property" and the "Drugs" patterns, 11.7 percent and 12.9 percent respectively.

FIGURE 1. THIRTY-ONE CHANGE PATTERNS



Key:

PAROLE VIOLATION

A = Capital letters designate PAROLE of a condition of parole
 a = Lower case letters designate ABANDON of a condition of parole

Conditions Studied

A, B = Reports
 B, b = Laws-Property
 C, c = Residence
 D, d = Drugs
 E, e = Alcohol (3B)
 F, f = Laws-Misdemeanors
 G, g = Laws-Ferocious
 H, h = Association
 I, i = Cooperation
 J, j = Personal Conduct-Other
 K, k = Weapons
 L, l = Personal Conduct-Assaults
 M, m = Laws-Aggravate crimes

Planning Rules (Sub-division terminates according to whichever rule applied first)

Number of cases in sub-divided group is less than 20.
 Correlation coefficients based on less than 10 cases.

While an initial survey of the 31 patterns shows that no one pattern singly describes the majority (or even any large proportion) of the charge patterns in the violation reports, a closer examination of the distribution of the 13 conditions which are "on" or present in the 31 patterns (Table 5) indicates that 25 of these 31 patterns included at least one of four main conditions. These four main conditions include the "Law" condition (specifically three types: Laws-Property, Laws-Narcotics, and Laws-Misdemeanors) and three non-law or status⁷ conditions - Alcohol (5B), Drugs, and Residence and/or Reports.⁸

Three other (of the 31) charge patterns involved three conditions of parole charged alone, and rarely or never in combination, and sharing a common theme - namely violence or

⁷Termed "status" charges since they can only apply to persons in a "parolee status" as opposed to law violations which can be charged against any individual.

⁸It is important to note that the association analysis technique identified frequent combinations of charges (conditions which usually occur together). The conditions in each charge pattern are the primary ones. It is still possible that conditions other than those used to classify (and name) the charge pattern are present in the reports so classified. But because that charge was not strongly associated with the other conditions that the pattern was classified on, it was not named as part of the pattern. Therefore, when we speak of the presence of law type charge patterns identified via association analysis, for instance, we are identifying how many of the common combinations of conditions involved laws as the primary conditions. In no way are all reports with laws charges identified and covered by these common charge patterns. For a precise account of how many violation reports contained a charge of any one condition of parole, Table 1 should be used.

TABLE 5

Distribution of Thirteen Conditions of Parole Amongst Thirty-one Charge Patterns

Charge patterns	Number	Per cent	Thirteen (selected) conditions of parole															
			Reports	Laws-Property	Residence	Drugs	Alcohol (5B)	Laws-Misdemeanor	Laws-Narcotics	Associates	Cooperation	Personal Conduct-Other	Weapons	Personal Conduct-Assault	Laws-Aggressive			
1. Laws-Property, Residence, Reports	331	3.5	X	X	X													
2. Laws-Property, Reports	64	0.7	X	X	O													
3. Drugs, Residence, Reports	259	2.7	X	O	X	X												
4. Drugs, Reports	60	0.6	X	O	O	X												
5. Laws-Misdemeanor, Reports	217	2.3	X	O		O			X									
6. Residence, Reports	537	5.7	X	O	X	O			O									
7. Reports	64	0.7	X	O	O	O			O									
8. Laws-Property, 5B	109	1.1	O	X				X										
9. Laws-Property, Laws-Misdemeanor, Residence	61	0.6	O	X	X			O	X									
10. Laws-Property, Drugs, Residence	105	1.1	O	X	X	X		O	O									
11. Laws-Property, Residence	237	2.5	O	X	X	O		O	O									
12. Laws-Property, Drugs	488	5.1	O	X	O	X		O										
13. Laws-Property, Associates	86	0.9	O	X	O	O		O										X
14. Laws-Property, Laws-Narcotics	99	1.0	O	X	O	O		O		X	O							
15. Laws-Property	1,108	11.7	O	X	O	O		O		O	O							
16. Drugs, Residence	389	4.1	O	O	X	X												
17. Drugs, Laws-Misdemeanor	225	2.4	O	O	O	X		X										
18. Drugs, Cooperation	110	1.2	O	O	O	X		O					X					
19. Drugs, Laws-Narcotics	276	2.9	O	O	O	X		O		X			O					
20. Drugs	1,225	12.9	O	O	O	X		O		O			O					
21. Laws-Misdemeanor, Laws-Narcotics	107	1.1	O	O		O		X		X								
22. Laws-Narcotics	563	5.9	O	O	O	O		O		X								
23. Laws-Misdemeanor, 5B	289	3.0	O	O	O	O		X	X	O								
24. 5B	630	6.6	O	O	O	O		X	O	O								
25. Laws-Misdemeanor, Personal Conduct-Other	59	0.6	O	O		O		O	X	O			X					
26. Laws-Misdemeanor, Residence	134	1.4	O	O	X	O		O	X	O			O					
27. Laws-Misdemeanor	607	6.4	O	O	O	O		O	X	O			O					
28. Weapons	258	2.8	O	O		O		O	O	O							X	
29. Residence	262	2.7	O	O	X	O		O	O	O							O	
30. Personal Conduct-Assault	129	1.4	O	O	O	O		O	O	O							O	X
31. Laws-Aggressive	235	2.5	O	O	O	O		O	O	O							O	O
32. All Others	179	1.9	O	O	O	O		O	O	O							O	O
Total	9,502 ^a	100.0																

^a Excluded are 61 cases for whom this information was not recorded (9,563 - 61 = 9,502).

Key: X - Condition of parole is "on" (present in charge pattern)

O - Condition of parole is "off" (not present in charge pattern)

Blank - Condition of parole was not a defining condition in the charge pattern; that is, the charge may be either present or absent in the reports having the charge pattern.

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aggressive violations. The "Weapons", "Personal Conduct-Assault" and the "Laws-Aggressive" were the three patterns where each of the conditions was the only charge. Together they were found in a total of 6.5 percent of the reports.

Finally, the remaining three charge patterns (of the 31) involved three conditions of parole which were more likely to be charged in combination with some other main charge rather than alone. The second charge in each of these three patterns - "Laws-Property with Association", "Drugs with Cooperation" and "Laws-Misdemeanors with Personal Conduct-Other (non-assaults)" - were conditions of parole rarely charged alone (Table 2) and more frequently charged in combination with some other main condition (such as "Drugs" or "Laws"). It should be noted that both the "Association" condition and the "Cooperation" condition were identified in the above analysis of the less-frequently-charged conditions as conditions rarely charged alone and rarely the primary (only) charge associated with a parole agent's return to prison recommendation. Personal Conduct-Other (non-assaults) may now be added to this list of possible banking conditions. The fact that these three conditions were not discovered in the association analysis as single patterns of their own but only as conditions charged with some other condition adds further support for the earlier assertion that the conditions are enforced on a discretionary basis.

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Regrouping the charge patterns. Having identified the four main conditions, plus the conditions with a commonality of violence, which were able to stand alone as the only charges and whose combinations accounted for 28 of the 31 patterns, the authors recombined the charge patterns to reflect more directly these four main conditions. The new groupings were those reports whose major charge pattern component was:

1. law charges
2. status charges (Drugs, Alcohol-5B, Residence and/or Reports)
3. law and status charge combinations
4. status charge combinations
5. aggressive conduct charges

The different "Law" charge combination patterns were too numerous and each contained too few cases to warrant a separate category. Thus, as Table 6 shows, 24.0 percent of the common patterns had "law" charges, 27.9 percent "status" charges, 24.3 percent had "law and status" combinations, 6.8 percent status charge combinations and 6.5 percent aggressive conduct charges. The remaining 10 percent of the violation reports ("All Others") involved charge patterns which did not neatly fit into these divisions and which were relatively small in frequency.

One strong finding emerges from this analysis of the combinations of frequently charged conditions of parole. The "Law" condition is the most predominant condition of parole that is

TABLE 6
Violation Charge Patterns (Regrouped)

Charge patterns regrouped by their major components	Number	Percent	Pattern No. (from Table 5)
Total	9,502 ^a	100.0%	
Non-aggressive <u>law</u> charges	<u>2,278</u>	<u>24.0</u>	
Narcotics	563	5.9	22
Property	1,108	11.7	15
Misdemeanors	607	6.4	27
Non-aggressive <u>status</u> charges	<u>2,654</u>	<u>27.9</u>	
Residence with or without Reports	799	8.4	6, 29
Alcohol (5B)	630	6.6	24
Drugs	1,225	12.9	20
Non-aggressive <u>laws and status</u> charges	<u>2,306</u>	<u>24.3</u>	
Laws-Narcotics and Drugs	276	2.9	19
Laws-Property and Residence with or without Reports	568	6.0	1, 11
Laws-Property and Alcohol (5B)	109	1.1	8
Laws-Property and Drugs	488	5.1	12
Laws-Misdemeanor and Residence or Reports	351	3.7	5, 26
Laws-Misdemeanor and Alcohol (5B)	289	3.0	23
Laws-Misdemeanor and Drugs	225	2.4	17
Non-aggressive <u>status charge combination</u>	<u>648</u>	<u>6.8</u>	
Drugs and Residence with or without Reports	648	6.8	3, 16
<u>Aggressive</u> conduct charges	<u>622</u>	<u>6.5</u>	
Laws-Aggressive	235	2.5	31
Personal Conduct-Assault	129	1.4	30
Weapons	258	2.7	28
Sub-total, excluding all others	<u>8,508</u>	<u>89.5</u>	
<u>All other</u> charge patterns	944	10.5	2, 4, 7, 9, 10, 13, 14, 18, 21, 25, 32

a Excluded are 61 cases for whom this information was not recorded (9,563 - 61 = 9,502).

enforced. It not only accounts for a majority of reports with just one charge but it is almost always one of the conditions charged in patterns with two or more charges. Criminal conduct prosecuted and resulting in court convictions appears to be the foundation of parole violation report charges.⁹ Charge patterns involving non-law (or status) conditions alone are less common and charge patterns involving aggressive type conditions are even more infrequent. Having identified the common patterns of conditions charged the next section identified the extent to which these charge patterns are differentially enforced by parole board orders to return to prison.

Parole Board Actions (Question 3)

Table 7 shows that the parole board responded differentially to the various patterns of charges. Several findings emerged as did several explanations.

First, the highest return to prison rate was 66.7 percent for reports charging a violation of the "Weapons" condition. The lowest was for reports charging a single "Law" condition involving narcotics (26.8 percent returned). Since weapon use or possession typifies actual or potential violence, it is possible that the parole board orders more returns for violations of this condition because they are seen as more dangerous. In contrast, a

⁹The "Law" condition was rarely charged in the absence of a court conviction.

TABLE 7

Parole Board Action by Violation Charge Patterns

Violation charge patterns	Number of cases	Percentage of total parole board actions		
		Return to prison	Continue on parole	Other
Total	9,502 ^a	41.8	52.5	5.7
Non-aggressive <u>laws</u> charge	2,278	34.6	61.0	4.4
Narcotics	563	26.8	68.6	4.6
Property	1,108	33.8	61.9	4.3
Misdemeanors	607	43.2	52.5	4.3
Non-aggressive <u>status</u> charge	2,654	36.9	56.2	6.9
Residence with or without reports	799	29.7	55.4	14.9
Alcohol (5B)	630	38.4	57.0	4.6
Drugs	1,225	40.8	56.3	2.9
Non-aggressive <u>laws and status</u> charges	2,306	43.6	51.4	5.0
Laws-Narcotics and drugs	276	38.8	57.6	3.6
Laws-Property and residence with or without reports	568	39.8	52.1	8.1
Laws-Property and 5B	109	54.1	40.4	5.5
Laws-Property and drugs	488	43.6	53.3	3.1
Laws-Misdemeanor and residence or reports	351	42.2	48.4	9.4
Laws-Misdemeanor and 5B	289	44.3	54.0	1.7
Laws-Misdemeanor and drugs	225	55.2	44.4	0.4
Non-aggressive <u>status charge combination</u>	648	58.8	38.3	2.9
Drugs and residence with or without reports	648	58.8	38.3	2.9
<u>Aggressive conduct</u> charges	622	56.1	32.6	11.3
Laws-aggressive	235	45.6	37.0	17.4
Personal conduct-assault	129	54.3	41.1	4.6
Weapons	258	66.7	24.4	8.9
Sub-total, excluding all others	8,508	41.2	53.1	5.7
<u>All other</u> charge patterns	994	46.9	47.9	5.2

a Excluded are 61 cases for whom this information was not recorded (9,563 - 61 = 9,502).

Laws-Narcotic charge typifies a parolee who has been convicted and locally sentenced for a drug crime. Since the crime is a victimless offense and since some punishment (typically a local jail sentence) has already been received, the board may view such parole violations as less serious.

Table 7 also indicates that the parole board orders more returns when the "Law" condition is violated by commission of a misdemeanor offense than any other criminal offense; and when the "Drug" condition is violated as opposed to the other status type charges. Furthermore, when these two conditions are charged together they have a higher return rate than any other law and status charge combination. Obviously something about a misdemeanor court conviction and drug usage makes return to prison more likely. Possibly the repetitiveness of crimes committed by drug users and the minor punishment (typically a local jail sentence) received by the courts for misdemeanor convictions are key features explaining the high return to prison rate for this combination of conditions.

Finally, Table 7 also indicates that the return to prison rate is generally higher for combinations of status and law condition patterns than for any law condition charged alone. Any one of several explanations are plausible. The parole board may simply be responding to the higher number of violations committed; or the board may be responding to the notion that the status condition charged is more serious than the law condition; or the higher return rate for these combinations may reflect the parole agents'

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decision to build a case for return to prison by stacking a report with additional status charges and the board's acceptance of the agent's recommendation. The only firm conclusion which can be drawn from this analysis is that different conditions have different action outcomes depending on which other condition(s) is also charged.

To summarize, the parole board enforced each of the charge patterns (which involve only some six of the fifteen conditions) by ordering returns to prison in at least one-fourth of the reports involving these patterns. The only single condition of parole violations which strongly increased the chance of being ordered returned were those involving aggressive conduct (i.e., Personal Conduct-Assault, Weapons, or Laws-Aggressive). The remaining main conditions were enforced by orders to revoke parole but their impact was less clear and varied according to which other condition was also charged. Clearly no one principle accounts for the differential return rates, and the information contained in the charge patterns is not sufficient to determine the possible combined effects of the several possible principles.

The Reporting Rules (Question 4)

When a parole agent learns about some type of inappropriate behavior on the part of the parolee under his supervision he has to scrutinize this behavior in terms of two sets of standards: one contained in the Parole Agent Manual (California Department of Corrections, 1964) which spells out certain misconduct which must

be reported to the parole board,¹⁰ and a second set of standards contained in the actual Conditions of Parole. These two sets of standards do not readily fit together on a one-for-one basis. Or to put it another way, there is little congruence between the reason for submitting violation reports and conditions charged in the reports. Situations occur where one violation incident may be charged as the violation of several conditions. It would not only be desirable (for the sake of explicitness) to make these two parole revocation standards consistent with each other but it would also be desirable to reduce multiple charging for the same incident to a single charge as often as possible. The following discussion will attempt to show some of the inconsistencies between these two standards and some logical reductions from multiple conditions to a single condition that might be desirable.¹¹

Five major reporting rules and their ranking. Five main reasons for writing violation reports were abstracted from

¹⁰The pertinent sections of this manual have been revised (slightly) since the 1972 study period and placed in the Parole Revocation Procedures Manual (California Department of Corrections, 1975).

¹¹There may be some violation reports which involve more than one violation incident and thus make more than one violation charge appropriate. The extent and effect of such multiple incidents on the conditions charged is not analyzed at this time.

Section IV-12 of the Parole Agent Manual.¹² This section outlines various violation situations which must be reported to the parole board via violation reports. They are: (1) when incidents involving violent or aggressive behavior have occurred, (2) when drug and/or narcotic use is detected, (3) when the parolee is found after absconding (P.A.L.), (4) when the Alcohol-5B condition is violated and (5) when a jail sentence of 90 days or more¹³ and/or a superior-court commitment is received. Among these five reasons, only the Alcohol (5B) reason is directly tied to one and only one of the conditions of parole. All the other reasons for which violation reports must be written and submitted to the parole board (violence, drugs, absconding and a 90 day or more jail sentence) may be charged via any of several different conditions of parole and may be charged in terms of more than one condition of parole, thus leaving open the possibility of double-charging for one violation incident.

Since a violation report may be written for more than one reason, it was necessary for purposes of analysis to scale the five reasons in terms of importance so that each report would have one

¹²Some of the reasons (e.g., Special Cases, involvement in a fraudulent scheme) given in the Parole Agent Manual for submitting reports were not utilized since they could not easily be captured from the available data. It is felt, however, that the more frequently used reasons were the five analyzed.

¹³This criterion was reduced to a 30 day or more jail sentence after the 1971-72 study period.

"major" reason for its preparation. The reasons were ranked as follows: (1) violence, (2) drugs, (3) parolee-at-large apprehended, (4) alcohol-5B and (5) superior court commitment or ninety days or more jail sentence. Therefore, if the reason for a report was both a discovery of some violent behavior as well as absconding, the major reason for the report was counted as "violence". The ranking of the reasons was based on a combination of elements. First it was determined that, with the exception of the "long jail sentence and/or superior-court conviction" reasons (ranked last because of overlap with the other reasons), the reasons were relatively independent of each other. Second, the authors felt the violence reason would be seen by almost everyone as the most serious of the five reasons. Drugs was the next "most independent" of the other reasons and was ranked second. P.A.L.-case-found was ranked third, over alcohol reasons, since P.A.L. cases are suspended and must be reported back to the board for reinstatement, while alcohol reasons (depending on the visibility and seriousness of the violation) do not always get reported in a violation report. Also separate research indicated that by giving "long jail sentence and/or superior-court commitment" reasons the last priority, those reports having this reason reflected convictions of property type (burglary, theft) offenses. Based on this evidence, and in order to be most descriptive, this reason-for-the-report is termed "Serious property offense".

Results. Table 8 shows the distribution of each of the major

charge patterns amongst the five reasons for the report. The reason in almost 100 percent of the cases having each of the following charge patterns was "non-violent drug usage": Drugs (88.4 percent), Laws-Narcotics (91.7 percent), Laws-Narcotics and Drugs (95.7 percent), Laws-Property and Drugs (93.4 percent), or Laws-Misdemeanors and Drugs (85.3 percent). Each of these charge patterns has the "Drug" condition (or a related drug law violation such as Laws-Narcotics) in common. It appears that the "Drug" condition, coupled with various "Law" condition violations, is the primary condition of parole used to report drug-reasoned violations. Also, the reason in 82.4 percent of the reports charged with the "Laws-Property" pattern was in fact the non-violent, non-drug, non-P.A.L., non-Alcohol-5B, "serious property offense" reason. No other charge pattern revealed serious property offense as a major reason.

However, unlike the charging of "Drugs" for drug-reasoned reports and "Laws-Property" for property-offense-reasoned reports, two conditions appear to be necessary in violation reports concerning absconding parolees (P.A.L.'s) who are found. These two conditions are "Residence" and "Reports" which are sometimes coupled with various "Law" condition violations. Half or more of the cases charged with "Residence with or without Reports" (53.8 percent), "Laws-Property and Residence with or without Reports" (45.4 percent) and "Laws-Misdemeanors and Residence or Reports" (63.2 percent) were reports submitted because a parole

TABLE 8

Reasons for Submission of Violation Report by Violation Charge Patterns

Violation charge patterns	Number of cases	Percentage of total reasons for submission					
		Violence	Drugs	P.A.L.	Alcohol (5B)	Property	All other reasons
Total	9,502 ^a	19.4	39.6	11.2	8.5	15.8	5.5
<u>Non-aggressive laws charge</u>	2,278	15.3	24.1	2.0	0.0	47.6	11.0
Narcotics	563	7.5	91.7	0.0	0.0	0.3	0.3
Property	1,108	11.9	0.6	2.8	0.0	82.4	2.3
Misdemeanors	607	28.7	4.1	2.5	0.0	27.8	39.9
<u>Non-aggressive status charge</u>	2,654	17.3	44.0	16.9	17.9	0.1	3.8
Residence with or without reports	799	22.3	10.4	53.8	0.7	0.4	12.4
Alcohol (5B)	630	21.9	0.3	2.9	74.4	0.0	0.5
Drugs	1,225	11.6	88.4	0.0	0.0	0.0	0.0
<u>Non-aggressive laws and status charges</u>	2,306	8.8	44.4	21.8	14.0	8.7	2.3
Laws-Narcotics and drugs	276	4.3	95.7	0.0	0.0	0.0	0.0
Laws-Property and residence with or without reports	568	6.0	14.8	45.4	0.0	31.9	1.9
Laws-Property and 5B	109	11.9	7.3	11.9	68.9	0.0	0.0
Laws-Property and drugs	488	6.6	93.4	0.0	0.0	0.0	0.0
Laws-Misdemeanor and residence or reports	351	14.0	4.8	63.2	0.3	5.7	12.0
Laws-Misdemeanor and 5B	289	10.4	0.7	3.8	85.1	0.0	0.0
Laws-Misdemeanor and drugs	225	14.7	85.3	0.0	0.0	0.0	0.0
<u>Non-aggressive status charge combination</u>	648	10.3	89.5	0.0	0.0	0.0	0.2
Drugs and residence with or without reports	648	10.3	89.5	0.0	0.0	0.0	0.2
<u>Aggressive conduct charges</u>	622	99.8	0.0	0.0	0.0	0.0	0.2
Laws-aggressive	235	100.0	0.0	0.0	0.0	0.0	0.0
Personal conduct-assault	129	100.0	0.0	0.0	0.0	0.0	0.0
Weapons	258	99.6	0.0	0.0	0.0	0.0	0.4
All others	994	14.3	44.9	6.8	0.6	21.6	11.8

^a Excluded are 61 cases for whom this information was not recorded (9,563 - 61 = 9,502).

absconder was located. Thus, two different conditions of parole (Residence and/or Reports) are being used as sanctions against absconders.

The Alcohol-5B condition was the only condition of parole tied directly to a reason for submitting reports. As would be expected the "5B" charge alone and in combination with various "Law" condition charges had Alcohol-5B violations as a reason in 69 to 85 percent of the reports. No other charge pattern revealed 5B violations as a major reason for the report.

The "Laws-Aggressive", "Personal Conduct-Assault" and "Weapons" condition all had in common the theme of violent or aggressive behavior. As would be expected these three conditions were charged (99.6 to 100 percent of the time) in violence-reasoned reports. However, there were other charge patterns that showed "violence" as a possible reason. The "Laws-Property" alone (11.9 percent), "Laws-Misdemeanor" alone (28.7 percent), "Residence with or without Reports" (22.3 percent), "Alcohol-5B" alone (21.9 percent) and "Drugs" alone (11.6 percent) are all charge patterns whose reason was sometimes violence. Since the association analysis technique utilized in identifying the charge patterns allowed for the charge patterns to have conditions charged other than the conditions the pattern was defined (and therefore named) on, it is possible that these non-violence related charge patterns also had a violence charge like "Laws-Aggressive", "Personal Conduct-Assault", or "Weapons". Even if

this is the case, there are still three different conditions (Personal Conduct, Weapons, and Laws) by which violence gets reported.

In summary there is lacking a one-to-one correspondence between some of the rules governing which parole condition violations must be reported to the board and the conditions of parole. Incidents of absconding and incidents of violence can each be documented through charges of two or more different conditions while incidents of drug and alcohol usage and serious property offenses are charged through one and only one condition.

CHAPTER V

SUMMARY OF FINDINGS

1. Prior to recent (August, 1975) reductions, the California conditions of parole had increased in volume and in their specificity and detail. One criterion to apply in order to reduce these parole rules is to maintain only those officially reported and enforced through parole board orders to return to prison.
2. Nine of California's fifteen different conditions in effect during the study period were never or rarely ever charged in violation reports to the parole board despite the high probability that they are violated some time or other. When they were charged, they were rarely the primary (only) charge in the reports where the parole agent recommended a return to prison. They appeared to have been enforced at the parole agent's discretion and usually to build a case for a return to prison disposition by the parole board.
3. The remaining six rules were frequently charged as the only charge in the violation report. The "Law" condition was the single major condition of parole predominant in most violation reports, followed by the "Drug" and the "Residence" conditions. When there are two or more charges, the Law condition is almost always one of those charged.
4. The six main conditions of parole were enforced by parole board orders to return to prison. The rules most likely to be

enforced with a parole board order to return to prison but not often charged were the aggressive type conditions (Weapons, Personal Conduct-Assault, or Laws-Aggressive). The Law condition and the status type condition violations had about equal chances of resulting in a revocation, but when a Law condition was charged with a status condition the probability of a return disposition increased.

5. The conditions of parole were not consistent with the only other single major standard governing the parole revocation process - the rules for reporting violations to the parole board. When the rule under which a report is submitted is either absconding or the commission of some violent act, two or more different conditions can be charged thus allowing the possibility of double charging for a single violation incident.

CHAPTER VI

DISCUSSION

This study has shown that the conditions of parole could be reduced without reducing returns to prison ordered by the parole board; in this sense, the study shows that the conditions of parole can be rationalized. It has also shown that there is a lack of full correspondence between the rules which govern what parole violations the parole agents must report and the conditions of parole which determine what constitutes a parole violation. The conditions of parole could be further rationalized, in another sense, by making them correspond to the rules governing reporting. But rationalization is not to be confused with justification.

Justifying the overall purpose served by the conditions of parole would require that they be shown to be necessary for the accomplishment of some broader goal than returning parolees to prison for their violation. One such goal might be punishment; it may be that conditions of parole are needed in order to punish parolees for misbehavior by returning them to prison (in the absence of a new court conviction). In Morrissey v. Brewer (408 U.S. 471; 1972), the Supreme Court moved to an interpretation of parole revocation which made it a specialized criminal proceeding tailored to the interests of the parolee and the state. The Court specifically distinguished revocation from "criminal prosecution" by noting that parole comes after sentencing by the court and is separately administered (408 U.S. 480). However, the Court

repeatedly made the points well captured in the following words:

The first step in a revocation decision thus involves a wholly retrospective factual question: whether the parolee has in fact acted in violation of one or more conditions of his parole. Only if it determined that the parolee did violate the conditions does the second question arise: should the parolee be recommitted to prison or should other steps be taken to protect society and improve chances of rehabilitation? (408 U.S. 479-80)

The U. S. Court of Appeals (Third Circuit) held that a commitment to prison of a person in order to protect society from the danger the person presents does not lose its characteristic of criminal punishment because it "goes beyond simple retribution" (U. S. ex rel. Gerchman v. Maroney, 355 F.2d 309; 1966).

That imprisonment constitutes a criminal proceeding was made even clearer in United States v. Brown:

It would be archaic to limit the definition of "punishment" to "retribution." Punishment serves several purposes: retributive, rehabilitative, deterrent -- and preventive. One of the reasons society imprisons those convicted of crimes is to keep them from inflicting future harm, but that does not make imprisonment any the less punishment. (381 U.S. 458;1964)

Since the conditions of parole serve as the official sanctions for imprisonment through revocation and since imprisonment is a form of criminal punishment, the legal basis for the conditions of parole must lie within legal theories of punishment.

Punishment may be viewed as retribution; people who commit a criminal wrong may be (or must be) legally punished. The problem with this rationale in this context is that for close to two-thirds

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(64.4 percent) of the total violations leading to a return to prison order, the parolees had already been punished in the criminal justice system (typically by a local jail sentence) and over one third (34.1 percent) had not been found to be punishable (by virtue of the arrest charges being dropped or dismissed or by an acquittal). The remaining two percent (1.5 percent) had not been arrested by parole agents or others in the criminal justice system (Table 9). Either they had committed no crime, or the criminal justice functionaries (other than parole agents) did not have sufficient grounds for an arrest.

Punishment by imprisonment for an act by a parolee not found to constitute a crime by virtue of an acquittal has been legally challenged and in effect supported by the courts. Ex parte Payton (169 P2d 361, 1946) ruled that preliminary suspension orders based on the mere criminal filing of charges cannot stand once an acquittal has occurred. However, ex parte Anderson (237 P2d 720, 1951) and most recently ex parte Dunham (545 P2d 255, 1976) clarified the Payton decision so as not to exclude the Adult Authority from reconsidering the charges which resulted in a criminal acquittal in their own hearing. The court argued that parole boards were entitled to rehear the acquitted charges, since such findings of acquittal are by definition inconclusive and since the parole board hearing is an administrative process which is separate and unique (i.e., operates under different standards of proof) from a criminal prosecution. Parole violations which

TABLE 9
Returns to Prison by How Processed by
Regular Criminal Justice System

Criminal justice processing category	Percentage of total returned	Percentage of total board actions ordering return	Board action		
			Total	Returned	Other
Total	100.0	41.8	9,389 ^a	3,929	5,460
Local sentence	64.4	39.9	6,333	2,528	3,805
Not convicted ^b	34.1	54.4	2,463	1,341	1,122
Not arrested	1.5	10.1	593	60	533

^aExcluded are 174 cases for whom this information was not recorded (9,563 - 174 = 9,389).

^bIncludes arrests solely by parole agents which did not eventuate in a court conviction.

SOURCE: D. Star, J. E. Berecochea & D. Petrocchi, Returns to Prison Ordered: Policy in Change and Practice (1975).

involved such acquittals or the dropping or dismissal of criminal charges received the highest rate of board ordered returns (54.4 percent). On the other extreme, the parole board appears reluctant to punish parolees for violations not sufficient to merit an arrest as witnessed by the fact that they ordered imprisonment in only ten percent (10.1 percent) of these cases (Table 9).

If the underlying purpose for the conditions of parole is retributive punishment, it would appear that they serve this goal by legitimating additional punishment for some and the imposition of imprisonment by administrative action on others who would not otherwise be criminally punishable. These would seem to be departures from the ordinary standards for the retributive use of criminal sanctions. Departures from the norms of retribution cannot be logically defined by an appeal back to retribution.

Conditions of parole might also be founded on the basis that they are needed to return parolees who engage in misbehavior while on parole, or who appear likely to, in order to deter them from committing (still) another crime. But this specific deterrence version of the utilitarian rationale for punishment has not been empirically supported. Two limited studies of California parole indicate that parole violators who are returned to prison are no more or less likely to get into trouble after release than are those who are not returned (Bull, 1976; Miller, 1972).

The conditions of parole might be supported on the basis that they allow the return of parolees to prison in the absence of a new

court commitment in order to deter other parolees from committing new crimes (general deterrence). It has not been determined, however, that board-ordered returns have an impact on new court commitments among other parolees. Rather, Star (1973b), in a survey of twenty-two years of parole violation trends found no such patterns. New court commitment rates were found to remain relatively stable despite abrupt increases and decreases in the number of board-ordered returns. Thus, there is no empirical support for a justification by an appeal to the general deterrence form of the utilitarian theory of punishment.

It might be argued that the conditions of parole serve to provide the parole system with information about parolees so that those who come to constitute a danger to society may be identified and returned to prison, when no other means of effective control is available (prevention). The major empirical problem with this approach is that it posits predictive abilities which have not been verified and which scholars have found to be extremely poor in the criminal justice system (Von Hirsch, 1972). It also serves to make parolees subject to a separate and more restrictive system for adjudging dangerousness preparatory to preventive detention in the absence of any empirical support for singling out the parolee.

In sum, the evidence from this study clearly supports the need for the rationalization of the conditions of parole, but the available evidence provides no clear support for any of several possible goals served by the conditions of parole.

Lost in the past history of parole condition development appears to have been any underlying theoretical foundation or purpose for the use of conditions. (American Bar Association, 1973, p.4)

CHAPTER VII

CONCLUSION

Most of the fifteen different conditions in effect during 1971-72 parole were never or rarely ever charged in parole violation reports to the board and rarely ever the primary charge in a parole board order to return to prison. Although a statistical estimate of what the parole revocation rate would be without these conditions was not developed here, the rarity with which they are charged and result in a return to prison disposition strongly suggest that some nine of fifteen conditions could be eliminated without reducing returns. Furthermore, the conditions of parole did not fully correspond to another parole revocation standard, the rules governing the reporting of parole violations. Both of these findings clearly support the need for the rationalization of the conditions of parole. Justification of the conditions of parole in terms of some broader goal is not as clearly supported and a reexamination of the purpose served by the Conditions is called for.

APPENDIX

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STATE OF CALIFORNIA



Parole of

and conditions of his parole

**Parole and Community
Services Division**

SACRAMENTO, CALIFORNIA 95814

15

STATE OF CALIFORNIA—ADULT AUTHORITY

To: _____ No. _____

THE ADULT AUTHORITY, STATE OF CALIFORNIA, AT A MEETING HELD AT _____

_____ on _____, 19 _____

having reviewed and considered your case, believes that you can and will successfully complete your term outside of an institution and hereby grants a parole to you effective on _____, 19 _____. This parole is granted to, and is accepted by you, subject to the following conditions and with the agreement that the Adult Authority has the power, at any time, in case of violation of the Conditions of Parole, to cause your detention and/or return to a State Prison. Whenever any problems arise or you do not understand what is expected of you, talk to your Parole Agent. It is his responsibility to help you understand the conditions of your parole. These conditions of your parole can only be changed by the Adult Authority.

AGREEMENT OF PAROLE

I do hereby waive extradition to the State of California from any State or Territory of the United States, or from the District of Columbia, and also agree that I will not contest any effort to return me to the State of California.

Whenever it is determined by the Adult Authority, based upon competent medical or psychiatric advice, that I am incapable of functioning in an acceptable manner, I agree to return to any facility of the Department of Corrections for necessary treatment.

Should I violate any condition of this parole and the Adult Authority suspends, cancels and/or revokes my parole and orders my return to prison, I understand that my term, or terms, shall at that time be refixed at the maximum term pursuant to Section 3020 Penal Code and Adult Authority Resolution No. 171.

I have read, or have had read to me, the following conditions of my parole, and I fully understand them and I agree to abide by and strictly follow them, and I fully understand the penalties involved should I, in any manner, violate these Conditions of Parole.

ATTEST and WITNESS:

Correctional Counselor—Representative of Adult Authority

Signature of Parolee

Date

CONDITIONS OF PAROLE

1. **RELEASE:** Upon release from the institution you are to go directly to the program approved by the Parole and Community Services Division and shall report to the Parole Agent or other person designated by the Parole and Community Services Division.
2. **RESIDENCE:** Only with approval of your Parole Agent may you change your residence or leave the county of your residence.
3. **WORK:** It is necessary for you to maintain gainful employment. Any change of employment must be reported to, and approved by, your Parole Agent.
4. **REPORTS:** You are to submit a written monthly report of your activities, including any arrests, on forms supplied by the Parole and Community Services Division unless directed otherwise by your Parole Agent. This report is due at the Parole Office not later than the fifth day of the following month, and shall be true, correct, and complete in all respects.
5. **ALCOHOLIC BEVERAGES:** The unwise consumption of alcoholic beverages and liquors is a major factor in parole failures.
 - *A. You shall not consume alcoholic beverages or liquors to excess.
 - B. You shall not consume ANY alcoholic beverages or liquors.
6. **NARCOTICS AND DANGEROUS AND HYPNOTIC DRUGS:** You may not possess, use, or traffic in any narcotic drugs, as defined by Division 10 of the Health and Safety Code, or dangerous or hypnotic drugs, as defined by Section 4211 of the Business and Professions Code, in violation of the law. If you have ever been convicted of possession, sale, or use of narcotic drugs, or have ever used narcotic drugs, or become suspect of possessing, selling, or using narcotic drugs, you hereby agree to participate in anti-narcotic programs in accordance with instructions from your Parole Agent.
7. **WEAPONS:** You shall not own, possess, use, sell, nor have under your control any deadly weapons or firearm.
8. **ASSOCIATES:** You must avoid association with former inmates of penal institutions unless specifically approved by your Parole Agent; and you must avoid association with individuals of bad reputation.
9. **MOTOR VEHICLES:** Before operating any motor vehicle you must secure the WRITTEN permission of your Parole Agent, and you must possess a valid operator's license.
10. **COOPERATION:** You are to cooperate with the Parole and Community Services Division and your Parole Agent at all times.
11. **LAWS:** You are to obey all municipal, county, state, and federal laws, and ordinances.
*Strike out either A or B, leaving whichever clause is applicable.

(Continued on reverse side)

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12. **PERSONAL CONDUCT:** You are to conduct yourself as a good citizen at all times, and your behavior and attitude must justify the opportunity granted you by this parole.
13. **CIVIL RIGHTS:** A number of your Civil Rights have been suspended by law. You may not engage in business, sign certain contracts, or exercise certain other Civil Rights unless your Parole Agent recommends, and the Adult Authority grants the restoration of such Civil Rights to you. There are some Civil Rights affecting your everyday life which the Adult Authority has restored to you, **BUT** you may not exercise these without the approval of your Parole Agent. You should talk to your Parole Agent about your Civil Rights to be sure you do not violate this condition of your parole. The following are some of the Civil Rights which have been restored to you at this time:
- A. You may make such purchases of clothing, food, transportation, household furnishings, tools, and rent such habitation as are necessary to maintain yourself and keep your employment. You shall not make any purchases relative to the above on credit except with the written approval of your Parole Agent.
 - B. You are hereby restored all rights under any law, relating to employees, such as rights under Workmen's Compensation Laws, Unemployment Insurance Laws, Social Security Laws, etc. (Reference is here made to Adult Authority Resolution No. 199.)
14. **CASH ASSISTANCE:** In time of actual need, as determined by your Parole Agent, you may be loaned cash assistance for living expenses or employment; or you may be loaned such assistance in the form of meal and hotel tickets. You hereby agree to repay this assistance; and this agreement and obligation remain even though you should be returned to prison as a parole violator. Your refusal to repay, when able, may be considered an indication of unsatisfactory adjustment.
15. **SPECIAL CONDITIONS:** _____

END