



PAROLE ESSENTIALS: PRACTICAL GUIDES FOR PAROLE LEADERS

5

The Future of Parole as a Key Partner in Assuring Public Safety

**U.S. Department of Justice
National Institute of Corrections
320 First Street, NW
Washington, DC 20534**

Morris L. Thigpen
Director

Thomas J. Beauclair
Deputy Director

George M. Keiser
Chief, Community Corrections Division

Cathy Banks
Project Manager

National Institute of Corrections
www.nicic.gov

PAROLE ESSENTIALS: PRACTICAL GUIDES FOR PAROLE LEADERS

5

The Future of Parole as a Key Partner in Assuring Public Safety

JULY 2011
NIC Accession Number 024201

This document was prepared under cooperative agreement number 08C79GJY0 from the National Institute of Corrections, U.S. Department of Justice. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Foreword

Paroling authorities play a critical role within correctional systems nationwide. They make thousands of decisions a year about the timing of release from prison for a significant number of offenders each year. They set conditions of release and respond to violations of postrelease supervision for many thousands more. Recognizing this critical role, the National Institute of Corrections (NIC) is engaged in a major initiative to develop useful resources for parole board chairs, members, and their executive staff. In 2008, the initiative sponsored the development of the *Comprehensive Framework for Paroling Authorities in an Era of Evidence-Based Practices* (Campbell 2008). *Comprehensive Framework* provides an overview of how the role of parole is, and should be, changing to meet the challenges facing the corrections field as it looks forward to the second decade of the 21st century. NIC has also made training curricula, delivery, and technical assistance available as part of the initiative.

As an additional part of this initiative, NIC has commissioned the development of a series of five papers entitled *Parole Essentials: Practical Guides for Parole Leaders*. This series builds on the *Comprehensive Framework* and provides concrete guidance on how to implement the principles it outlines. The series is composed of an informative set of products focused on the unique challenges facing parole leaders; it will assist them in further honing their technical skills, clearly defining their roles and responsibilities, and supporting effective practice.

This document, *The Future of Parole as a Key Partner in Assuring Public Safety*, is the fifth and last of the series. It builds on the previous four papers, encouraging paroling authorities to be leaders of change. Paroling authorities are encouraged to use their unique role in the criminal justice system to move toward more effective recidivism reduction, wiser use of public resources, and a more collaborative approach to their work. Focusing on the key responsibilities of decisionmaking—for release, setting of conditions, and responding to violations—the paper challenges parole professionals to use both their individual discretion and their potential as effective teams to be leaders of change.

Morris L. Thigpen

Director

National Institute of Corrections

Preface

For many years, the National Institute of Corrections (NIC) has been developing diverse resources and supports for correctional leaders through training, technical assistance, and a wide range of literature and Web-based tools. In 2008, NIC commissioned a series of five papers on parole entitled *Parole Essentials: Practical Guides for Parole Leaders*, which address the current and very specific challenges facing those who chair or sit as members of paroling authorities, and their executive staff. *The Future of Parole as a Key Partner in Assuring Public Safety* is the fifth and last of the series.

Previous titles in the series include the following:

1. *Core Competencies: A Resource for Parole Board Chairs, Members, and Executive Staff* outlines the range of responsibilities typically carried by paroling authorities, emphasizing the need for leadership, policy development, and collaboration skills as well as a strong grounding in the substantive knowledge of a particular state's sentencing and corrections system. The paper deliberately distinguishes between—and makes a strong case for—skills supporting individual case decisionmaking, and those supporting effective policy development and management of parole as a key component of the larger criminal justice system.
2. *Evidence-Based Policy, Practice, and Decisionmaking: Implications for Paroling Authorities* summarizes the growing body of research that is guiding efforts to reduce recidivism and enable parole, along with its partners in the correctional system, to forge new policies and practices to enhance its effectiveness in promoting community safety. The paper provides an introduction to the research itself—its extent and strength—and suggests practical implications for development and use of good assessment tools and for strong, evidence-based practices.
3. *Paroling Authorities' Strategic Planning and Management for Results* provides concrete strategies and tools for paroling authority members, working as a team, to set a strategic direction for their work, engage critical partners in collaborative efforts, spur the development of important decisionmaking tools, and measure their performance.
4. *Special Challenges Facing Parole* summarizes current knowledge relating to a number of different challenging populations that paroling authorities typically encounter as they make decisions—women offenders, individuals with mental illness, those with a significant history of substance abuse, individuals convicted of sexual offenses, youthful offenders in the adult system, and the growing population of elderly offenders. The paper also summarizes current information and research about housing as a critical need in the successful transition of offenders from institutions to supervision in the community.

This document, *The Future of Parole as a Key Partner in Assuring Public Safety*, focuses on the basic decision-making functions of paroling authorities, casting them as key opportunities for paroling authorities to be part of—indeed, leaders of—a significant shift in direction that is beginning to reshape criminal justice and correctional practice nationally. Building on the information and thinking offered by the previous four papers in the series, this paper makes the case that, when properly shaped and executed, parole leaders’ decisionmaking duties can transform into reality the basic principles emerging from the research on evidence-based practices—the principles of targeting correctional interventions on the basis of risk, need, and responsivity. Although paroling authorities do not design and operate interventions—prison-based programs or, in most cases, community-based programs—they have an enormous effect on which offenders participate in which programs, when, and for how long. This paper provides suggestions and examples about how these key decisionmaking functions of parole can be shaped to target resources effectively according to the principles of risk, need, and responsivity. Such an accomplishment would lead efforts toward transforming correctional practice to be more effective in preventing crime and victimization, enhancing public safety, and using precious public resources more wisely.

Acknowledgments

This paper was authored by Peggy Burke, a Principal at the Center for Effective Public Policy, who would like to express sincere appreciation to the following individuals who agreed to serve as advisors to the development of this paper and all the papers in this series. Their support and insights have been invaluable.

Advisory Group Members

Pat Anderson, Executive Director, Wyoming Board of Parole

Patricia Biggs, Member, Kansas Parole Board

Robert Cherkos, Consultant

Alex Holsinger, Associate Professor of Criminal Justice, University of Missouri–Kansas City, Department of Criminal Justice and Criminology

Garland Hunt, Chairman, Georgia State Board of Pardons and Paroles

Michael Jacobson, Director, Vera Institute of Justice

Catherine McVey, Chairman, Pennsylvania Board of Probation and Parole

Cranston Mitchell, Parole Commissioner, United States Parole Commission

Beth Oxford, Director of Parole, Georgia State Board of Pardons and Paroles

Ed Rhine, Deputy Director of the Office of Policy and Offender Reentry, Ohio Department of Rehabilitation and Correction

Ralph Serin, Associate Professor, Carleton University, Department of Psychology

The Future of Parole as a Key Partner in Assuring Public Safety

New research is providing lessons about how the criminal justice system in the United States can reduce recidivism, prevent crime and victimization, and better use precious public resources. One of the fundamental principles of this new body of knowledge is that all components of the justice system must target new, more effective solutions to the right offenders. This paper will argue that paroling authorities can lead change efforts in this transformation, because they are uniquely positioned to target interventions to the appropriate offenders. By strengthening and focusing their decisionmaking regarding release, setting of conditions, and responding to violations, paroling authorities can help the system do what has proven effective and discontinue past practices that have proven ineffective. The paper will also make the case that strong, collaborative partnerships with and support from other key stakeholders—including chief executives, prison officials, and parole supervision agencies—are another essential ingredient to realize parole’s leadership role in the criminal justice system.

Introduction

The role of paroling authorities and their members is complex yet critical to the effective functioning of the criminal justice system. Earlier papers in this series, along with other resources developed by the National Institute of Corrections (NIC),¹ address those complexities in detail. These papers make the case that paroling authorities are well and uniquely positioned to assist the criminal justice system to target its resources toward risk reduction and recidivism reduction goals and to make significant impacts on community safety. This paper will focus on paroling authorities’ responsibilities for release decisionmaking, setting of conditions, and responding to violations. It will discuss how the responsibilities of paroling authorities—when well executed—serve an important role in deploying resources more effectively. It will further detail *how* paroling authorities can move in this direction—largely through evidence-based, policy-driven decisionmaking practices that focus their individual discretion into collaborative strategies for success. The paper will present and synthesize the most current thinking in the field about the nature and importance of decisionmaking tools, used in the context of clear policy. It will make the case that evidence-based, policy-driven decisionmaking practice, when properly designed and implemented can:

- Enhance public safety.
- Contribute to the prudent use of public resources.
- Offer an important opportunity for victims of crime to be heard and acknowledged respectfully.
- Preserve paroling authority discretion.
- Provide important transparency and credibility.
- Insulate paroling authorities in the inevitable cases where parolees do not remain law-abiding.

Historical Context

In the early part of the 20th century, each state in the union moved to create the parole function, based largely on the belief in a rehabilitative role for corrections. This movement cast parole boards as the evaluators of readiness for release—judging when rehabilitation had taken place, in the context of an “indeterminate” sentencing scheme. Changes in sentencing that began in the 1960s are largely thought to have moved the sentencing system to a more determinate model, “abolishing parole” based on three criticisms. The first criticism: rehabilitation was not possible

because “nothing worked” (Lipton, Martinson, and Wilks 1975). The second criticism was that parole boards had no standards for their decisions, which were therefore shaped largely by individual biases and arbitrary and capricious decisionmaking that violated notions of fundamental fairness. The third, more diffuse criticism was that parole boards were “soft on crime,” releasing offenders “early” before they had served enough time.

Despite these criticisms, and despite the myth that parole has been “abolished,” research conducted in 2002 found that 33 out of the 50 states had sentencing structures where most offenses were governed by indeterminate, rather than determinate, sentencing provisions. Those states were (Stemen, Rengifo, and Wilson 2005):

Alaska	Maryland	Oklahoma
Alabama	Massachusetts	Pennsylvania
Arkansas	Michigan	Rhode Island
Colorado	Missouri	South Carolina
Connecticut	Montana	South Dakota
Georgia	Nebraska	Tennessee
Hawaii	Nevada	Texas
Idaho	New Hampshire	Utah
Iowa	New Jersey	Vermont
Kentucky	New York	West Virginia
Louisiana	North Dakota	Wyoming

So, although more structure, certainty, and determinacy have been introduced into sentencing through presumptive sentences, sentencing guidelines, mandatory minimums, time-served requirements and the like—and the use of incarceration has skyrocketed—discretionary parole release remains a critical element of the sentencing and corrections system in the United States.

Paroling authorities responded to the criticisms of the rehabilitative model by focusing much more directly on punishment and retribution. By developing parole guidelines beginning in the 1970s, the field was able to address some of the criticism about a lack of standards for its decisions. And, in response to a growing interest in incapacitation, parole boards increased their use of risk-assessment tools, which allowed them to identify those offenders who should be denied parole and serve more time to extend the incapacitative effects of incarceration.

What is hard to dispute is that parole, despite its roots in the rehabilitative ideal and an indeterminate sentencing model, has been significantly affected by the undeniable shift to greater use

of incarceration. Between 1980 and 2008, the rate at which the United States used incarceration more than tripled, increasing the prison population from 319,598 to 1,518,559. (Bureau of Justice Statistics 2009). A recent study by the Pew Center on the States Public Safety Project observed that, when the population in local jails is also considered, more than 1 in 100 adults is now locked up in America (Pew Public Safety Project 2009). Further, data indicate that during the 1990s, not only did time served for all types of discretionary parole release increase, but also the average time served prior to discretionary parole release was longer than the average time served prior to mandatory parole release nationwide (Hughes, Wilson, and Beck 2001). Nationally, then, parole has evolved to accommodate a greater focus on punishment, incapacitation, and determinacy.

The Cusp of Change

Currents affecting criminal justice nationally are indicating another shift in direction. They include:

- The large numbers of individuals returning to the community from prison, which is raising significant interest in reshaping corrections to support the transition of offenders into law-abiding citizens.
- A growing body of research documenting practices that demonstrate the ability to reduce recidivism.
- The accelerating fiscal crisis in states and communities, which is causing the public to question the significant resources claimed by the heavy reliance on incarceration with little evidence of its contribution to public safety.

In essence, the system is continuing to move from a primary strategy of custody and control—with major goals focused on punishment, incapacitation, and deterrence—to one that includes deliberate efforts to change behavior. These efforts are focused more on changing an offender’s inclination to commit crimes in the future and, if successful, promise greater long-term impacts on community safety. This is not to say that custody and control—particularly, maintaining safe and secure correctional systems—are less important, rather that they are on a par with a new emphasis on risk reduction. The outward indications of these changes appear in the major focus on offender reentry and in public support for justice reinvestment—the effort to identify policy options that rely less heavily on incarceration, instead reinvesting those resources in policies to generate safer, stronger communities.

When one considers the key decisionmaking roles of paroling authorities—decisions about release, setting conditions of release, and appropriate responses to violations—the case is compelling that paroling authorities are, and will continue to be, critical to the nation’s system of justice (Rhine and Thompson forthcoming; Papparozi and DeMichele 2008; Papparozi and Guy 2009). Today, public scrutiny is focused closely on the importance of successful offender reentry as a criterion for judging the effectiveness of the criminal justice system. Paroling authorities’ decisionmaking responsibilities are critical to the task of supporting successful offender reentry and public safety.

A look at the history of parole in the United States shows that the major criticisms levied against parole—that “nothing worked,” that there were no standards for decisionmaking, and that parole was “soft on crime”—have all lost their credibility. First, cumulative research on effective correctional interventions shows that when well designed, implemented, targeted, and delivered at an appropriate dosage level, these interventions can reduce recidivism by up to 30 percent or more (Andrews and Bonta 2006, 2007). Second, with the development of sound decisionmaking tools—e.g., risk and needs assessments for a variety of populations, scales for severity of parole violations, and tools that provide explicit structure for discretion—the parole field has a strong and growing set of standards. Finally, the data—which indicate that those released on discretionary parole serve, on average, longer and increasing times in prison than those released on mandatory parole (Hughes, Wilson, and Beck 2001)—dispute the charge that parole has been “soft on crime.”

Two other growing movements in criminal justice—an understanding of the importance of collaboration with other stakeholders and a recognition that performance must be measured and tracked—also have strong footholds in the parole arena. Parole boards have established a solid tradition of collaborating with the victims of crime and their advocates. They are also increasingly active as participants in statewide collaborative partnerships focused on supporting successful reentry from prison to the community. NIC’s Transition from Prison to the Community (TPC) Initiative has established, or is establishing, collaborative efforts in 14 states where paroling authorities from across those states have come together as critical partners in designing and implementing evidence-based practices to support more successful reentry. In a growing number of states, such cabinet-level collaborative task forces are being established through executive order and legislation.² Another key initiative of NIC, the

development of *A Framework for Evidence-Based Decisionmaking in Local Criminal Justice System* (National Institute of Corrections 2010) further emphasizes how collaboration of stakeholders across traditional boundaries—at both the state and local levels—is becoming the hallmark of progressive justice system change.

In addition, encouraged by the efforts of NIC and others, paroling authorities are working to create performance measures to learn from their experiences and shape practices to be even more effective.

Parole at the Crossroads

The title of this section implies two meanings. First, parole is at a crossroads in the sense that it now has an opportunity to make significant contributions to enhancing public safety and ensuring more prudent use of public resources. The public has come to expect more than a single dimension to sentencing and correctional practices. There is a basic sense that those who violate the law and victimize others must be held accountable and be subject to fair and evenhanded punishment. At the same time, there is a recognition that, for the long-term protection of the community, sentencing and corrections should be using the lessons of research to shape practices that reduce offenders’ likelihood of committing crimes and victimizing their fellow citizens in the future. In light of the harsh fiscal realities of the day, both goals must be pursued through the wise use of public resources.

Second, paroling authorities typically exercise their decisionmaking responsibilities at critical “pressure points” or “crossroads” of the criminal justice process. Their decisions have immense potential to make a difference in terms of public safety and wise use of resources (Rhine and Thompson, forthcoming; Papparozi and DeMichele 2008; Papparozi and Guy 2009). Improving the process of preparing for and making decisions regarding the timing of release, the conditions of release, and the appropriate response when releasees fail to comply with those conditions will have significant benefits. It can help offenders who are so motivated to become contributing members of society. By crafting interventions that take into account the severity of the offense or violation, the risk posed by the offender, and the criminogenic and protective factors that lead the offender toward or away from crime, parole boards can help to protect the general public as well as demonstrate efficient and effective use of resources.

Parole commissioners and panels have the capacity and the opportunity to:

- Offer an incentive to motivate higher risk individuals to participate successfully in interventions to reduce their risk while incarcerated and prepare them for potential parole and release to the community.
- Release an offender from prison at a time when he or she has been held accountable, has met the requirements for proportionate punishment, and represents minimal risk of reoffending (either because he or she was assessed as low risk at admission or because the offender has participated in programming that has effectively lowered his or her risk to the public).
- Influence the movement of those individuals who are reliably assessed as presenting a low risk to public safety out of institutions and into the community where they can receive interventions in a setting where those interventions are less costly and more effective. This would free costly institutional bed space for offenders who require secure custody in order to protect the public.
- Set realistic release conditions that avoid issues unrelated to an individual offender's risk and needs.
- Set conditions that target interventions and resources toward higher risk offenders and that are focused on those factors that are driving the risk (criminogenic needs).
- Use resources wisely when parole conditions are breached by responding to the severity of the behavior, the assessed risk of the offender, and any situational risks to reduce the risk of future violations and reoffenses, but avoid mandating return to custody for those who can continue to be safely managed in the community.
- Refrain from allocating resources in ways that have proven ineffective—e.g., mandating treatment and longer custody beyond the requirements of proportionate punishment—for individuals at low-risk to reoffend.

These are precisely the opportunities that many paroling authorities around the nation have before them. Reductions in paroling authority discretion in some states have limited parole's influence in some of these areas. However, in many states, parole boards retain significant control over the timing and conditions of release from prison and responses to parole violations.

Capturing the potential offered at these critical points in the system is a challenging task but one that offers great promise. Significant changes in current practices, skills, and priorities are required. The potential of increasing successful transition and reentry into the community through a better, more targeted use of limited correctional resources is a compelling rationale for change.

Resources To Support Parole's New Role

For parole to take advantage of the opportunities identified above, many critical ingredients are necessary. The availability of good assessment and other decisionmaking tools, addressed in more detail in subsequent sections, is key. So, too, is the availability of effective correctional and community programs, and the existence and growth of collaborative partnerships with those whose responsibility it is to develop, fund, and operate effective correctional programs.

The concentration of decisionmaking authority among a relatively small number of individuals—members of paroling authorities—can be seen as a significant asset. To focus efforts on these critical decision points requires garnering the attention, support, commitment, and honing the skills of fewer than 350 individuals nationwide (Paparozzi and Caplan 2009). Appointing responsibilities lie clearly with appointing authorities in the 50 states—largely governors and, in a few cases, including directors of corrections, parole chairs themselves, and some judicial officials. In total, fewer than 60 individuals nationwide have a formal role in appointing the members of state paroling authorities (Paparozzi and Caplan 2009). Only one professional membership organization exists solely to support and enhance the professional abilities of members of paroling authorities—the Association of Paroling Authorities International (APAI). In essence, the locus of responsibility for these decisions is clear, focused, and in the hands of a small cadre of individuals.

It is true that this small group of individuals experiences frequent and planned turnover because of limited and staggered terms. However, with good, evidence-based, policy-driven practices in place, the field will be better able to assure continuity of good practices even as individual decisionmakers move in and out of their positions. To capture the potential offered at these critical decision points, and to make significant progress, requires supporting these individuals as they build their abilities as teams of decisionmakers and policymakers to take advantage of:

- The knowledge emerging from the research.
- A growing understanding of and support in the broader correctional field for these principles and growing efforts to develop and operate effective correctional interventions.
- Support from elected officials and other stakeholders for practices that target resources to enhance community safety.

The ongoing efforts of NIC—in the training, technical assistance, and resource development arenas—will continue to support the parole field. In addition, a newly established National Parole Resource Center (NPRC), which involves APAL as a key partner, has been funded by the Bureau of Justice Assistance (BJA) and is jointly managed by BJA and NIC. NPRC offers another continuing source of support to the parole field as it goes forward to further refine its policies and practices.

Targets of Excellence in Paroling Authority Decisionmaking

The landscape of criminal justice, corrections, and parole is changing dramatically as the second decade of the 21st century begins. It is more and more evident that past practices of custody, containment, and unstructured decisionmaking have not prevented high rates of recidivism and return to prison. Although more than 600,000 individuals are released from prison to the community each year, the return-to-prison rate—more than 50 percent after 3 years—has remained high (Hughes and Wilson 2003).

Release Decisionmaking Opportunities

Criminal justice practitioners are engaged in a major restructuring of their decisionmaking approach regarding release, the setting of conditions, and responding to violations of parole conditions. They are moving toward using empirically based assessment tools, developing and delivering risk-reduction programs that comport with the research on evidence-based practices, and making efforts to target interventions and resources according to the risks and criminogenic needs of offenders. Similarly, they are undertaking deliberate efforts to focus fewer resources of all kinds—custody, supervision, and treatment—on those groups of offenders identified as being at low risk to reoffend. In addition, they are beginning to develop performance measurement methods for themselves—articulating the specific outcomes that reflect their progress

and measuring those across time. These measures include—for paroled offenders—rates of rearrest, reconviction, and return to prison for both new convictions and criminal and technical violations of parole. They may also include rates of the following: successful completion of parole, participation in interventions targeted at criminogenic needs, successful completion of alcohol and drug screening, employment, and stable housing.

In this environment, paroling authorities can make an increasingly important contribution in implementing their release decisionmaking duties. At a critical point in the process—as reentry planning begins early in a period of incarceration—paroling authorities, using good assessment tools, can:

- Understand an offender’s risk and criminogenic needs.³
- Plan the timing of parole consideration to enhance planning and communication with offenders and with institutional staff.
- Work with institutional staff to reinforce among offenders eligible for parole the importance of participating in interventions specifically targeted to their risk and needs.
- Identify programming essential to a potentially favorable consideration for parole.
- Create incentives for appropriate offenders to engage in risk-reduction programming that addresses their assessed criminogenic needs.
- Find an area of common interest with the agencies that manage prisons and postrelease supervision for the development of sound, evidence-based programs appropriate to the risk and needs of the population in a given state.

With closer collaboration between paroling authorities and institutional corrections, the exercise of discretionary release decisionmaking can, in addition to promoting better outcomes for individual offenders, contribute significantly to rational planning for the efficient and effective use of systemwide resources.

Decisions About the Timing of Release and What Happens in Preparation for Release

Although “release decisionmaking” is common terminology in referring to the work of paroling authorities, it is more accurate to describe this function as making decisions about the “timing of

release” and about what preparations are made prior to release. Absent a life sentence without the possibility of parole, a death sentence, or the death of an offender in custody, all offenders will eventually be released from prison. The question is—when, under what conditions, and what will have been accomplished with that offender in preparation for release?

One significant development for paroling authorities in this area is the increasing frequency of what has been called a “case management approach” to working with offenders in correctional institutions and under community supervision. As risk and needs assessments become more common, and as correctional institutions implement evidence-based practices with their treatment efforts, it is increasingly common for prisoners to be involved in developing and implementing their case management plan. NIC’s TPC model refers to such plans as “transition accountability plans” although jurisdictions have also adopted other terminology. The common thread, however, is that, from the time of their admission to prison, offenders are assessed for risks and needs, correctional professionals develop evolving case plans that document progress and identify gaps in reducing those risks and meeting those needs, and collaborative case management teams use these plans to support successful transition and reentry. These are potentially critical sources of information for, as well as beneficiaries of, parole decisionmaking. For example, a good case plan will identify program participation as a critical requirement in addressing criminogenic needs, and paroling authorities will see it as a basic prerequisite for favorable parole consideration.

Another potentially important dimension of this aspect of parole decisionmaking is the procedural “timing” of parole consideration. Paroling authorities can further leverage the impact of their release decisionmaking by considering how their own procedures, and the timing of parole consideration, can affect the substantive outcomes of their work. For most offenders who may someday be eligible for parole, eligibility comes at a particular point in time—after some percentage of a sentence has been served or after some mandatory minimum has expired. Offenders cannot be released before that date, and can be released at any time after that date, with the granting of parole by the paroling authority. Over the years, and across states, different approaches to the timing of parole consideration have been used. The pressures of growing prison populations have encouraged states to ensure that parole consideration occurs just before or just after an eligibility date, so that if the decision is made to parole an

offender, release can take place as quickly as possible. Some states have taken to scheduling parole considerations months prior to eligibility to allow for planning and so as not to delay release. Paroling authorities, however, now operate in a “reentry context” where the conventional wisdom is that planning for reentry should begin at admission to prison—or even before sentencing. By scheduling parole consideration early in the period of incarceration, paroling authorities can participate more strategically in the management of individual cases and the system as a whole. Armed with good assessments, the paroling authority can focus early on medium- and high-risk offenders, setting expectations for what programs they should complete to address their risk to reoffend. Setting and clearly communicating these expectations allows the offender, institutional case managers, and program staff to understand the incentive offered by favorable parole consideration.⁴ This can also allow more time for moving offenders to appropriate housing for participation in those programs the paroling authority considers essential for a particular individual.

Data also suggest that early scheduling of consideration for parole may, itself, serve as an incentive for offenders to “cooperate” in preparations that could lead to parole. In Wyoming, where 40 percent of parole-eligible inmates waive parole consideration, a study of those inmates indicated that the less time remaining on an inmate’s sentence, the more likely the inmate was to waive a parole hearing in favor of finishing his or her sentence in prison (Best 2009).

Yet a third important way to think about “time” is the question that most paroling authority members repeatedly ask themselves: “Has this offender served enough time for this particular crime?” On one level, the answer to that question has little to do with the offender’s risk to reoffend or whether he or she has been rehabilitated and more to do with how much harm he or she has done—or intended to do—through his or her criminal behavior. Indeed, this is one of the reasons that paroling authorities have been proactive in the victims’ rights movement. They typically have procedures in place to notify victims of events in the parole process—hearings, consideration, and release—and to assure opportunities for victim input either in person or in writing regarding the impact of the crime on victims. This aspect of consideration of “time” recognizes that criminal acts upset the balance of law and order, and for the balance to be brought back, retribution or punishment is imperative. Those guilty of crime “deserve” a certain degree of accountability. Philosophers and scholars call

this a “nonutilitarian” goal for the work of corrections, meaning that there is no specific future “use” or “good” that will come of the punishment, except to right the scales.

Basic principles in exacting punishment include proportionality and evenhandedness. Proportionality requires that a person receive a punishment proportionate to the harm wrought or intended by the specific crime committed. Thus, a person who steals millions of dollars certainly deserves more punishment than one who shoplifts, and a person who causes serious bodily harm to another certainly deserves more punishment than one who commits a simple assault resulting in no injury. Fundamental fairness, also described as evenhandedness, demands that similar punishment be exacted from similarly situated offenders. Thus, two people who commit substantially the same crime, but who are considered by different parole decisionmakers, or at different times by the same parole decisionmaker, should be punished with roughly the same severity. In some states, the court-imposed sentence defines the “appropriate punishment,” with a minimum appropriate punishment defined by the date of eligibility for parole and the maximum appropriate punishment defined by the expiration of the sentence. In these instances, the question of punishment and desert is decided, largely, outside the purview of parole.

In some states, however, the range of potential time to be served is so broad for some sentenced offenders that paroling authorities find themselves further defining the appropriate limits of punishment as one aspect of their decisionmaking process. In this situation, evidence-based, policy-driven parole decisionmaking will involve parole boards developing their own framework, defining the range or average time that might be expected to be served for crimes of varying severity and in light of other key factors such as risk. It will not be based on the same statistical evidence as would a risk assessment tool—which researches the success and failure rates of groups of offenders with similar characteristics—to develop valid assessment and prediction tools. It should be evidence based, however, in that it would look at past practice as a starting point and then track practice into the future, gathering data to determine whether similarly situated offenders are serving similar amounts of time, with the goal of moving toward such evenhandedness. Also, this aspect of parole decisionmaking should consider impact on the victim as a primary factor in determining what would be “proportionate” punishment.

Opportunities for Change in Setting Parole Conditions

In 2008, more than 735,000 individuals were released from state and federal prisons in the United States. Of that number, among those released from state prisons following sentences of more than a year, three-quarters were conditional releasees (Sabol, West, and Cooper 2009), most of whom had their conditions set by a state paroling authority. The setting of conditions has traditionally been somewhat routinized, with many paroling authorities imposing a set of “standard” conditions on every parolee. These standard conditions typically require offenders to report to a parole officer, refrain from unlawful activity, seek and maintain employment, pay fines and fees as assessed, refrain from alcohol and drug use, and the like. Boards have also developed “specialized” conditions that they impose in individual cases. In some instances, these special conditions may be carefully developed to respond to the unique needs and risks of subgroups—such as sex offenders. In essence, paroling authorities have traditionally used conditions as tools to help monitor offender behavior and, to some degree, to refer parolees to treatment programs. In some instances, imposing many conditions—some of which may not be relevant to the offender (e.g., routine prohibition of entry into establishments that serve alcohol, in the absence of any use or abuse of alcohol in an offender’s history)—can create barriers to compliance that can heighten the risk of parole failure. Viewed from another perspective, setting conditions in a tailored, strategic fashion—building on the principles of evidence-based practice—offers enormous potential to enhance offender success.

Below is language drawn from work of the Colorado Commission on Criminal and Juvenile Justice. As part of a broad set of recommendations to improve parole practice, the Commission’s Task Force on Post Incarceration Supervision developed a number of policy guides. The following describes their recommended guidelines for setting conditions—and serves as an example of using conditions specifically to target resources to risks and needs better.

In addition to the standard conditions of release, some offenders may need additional “special conditions” based on their individual risk and need and/or statutory mandates. Special conditions should address the issues for the individual offender identified by the LSI-R and/or specific issues identified in the progress

assessment summary. Great care should be taken to ensure that any special condition is consistent with the criminogenic need area identified by the LSI-R or specific criminogenic need area identified in the progress assessment summary. If there is a need for further evaluation or assessment of a particular criminogenic need area, it is recommended that the Board request an assessment of that area or issue in the community upon release and direct the offender to comply with recommendation(s) that are developed by the parole officer as a result of the assessment.⁵

This guidance from the commission in Colorado illustrates a growing understanding of the importance of targeting conditions to address criminogenic needs—whether identified by the Level of Service Inventory—Revised (LSI–R), as they are in Colorado, or by other tools used in other states such as the Level of Service/Case Management Inventory (LSCMI),⁶ the Correctional Offender Management Profiling for Alternative Sanction (COMPAS),⁷ or other more specialized assessments.

Decisions Regarding Responses to Violations

In recent years, interest has been growing regarding the role that paroling authorities play as they respond to violations of supervision. In some states, violation responses return more offenders to prison for technical violations than for new crimes. On careful consideration of this practice area, condition setting raises significant questions about supervision strategies as well as decisionmaking. As alluded to earlier, parole supervision in the latter decades of the 20th century and into the early years of the new century focused on monitoring and compliance, seeing a major role of supervision to be the return of noncompliant offenders to the parole authority for consideration when violations occurred. More emphasis is now being placed on parole supervision as a way not only to intervene with noncompliant behavior but to employ positive strategies to change offender behavior—reducing the likelihood of future victimization (Solomon et al. 2008). Paroling authorities are working with supervision agencies to define clearly how best their decision-making authority can support successful completion of parole, as well as to intervene in ways that deploy evidence-based practices in response to violations.

Fortunately, a substantial amount of literature and guidance are available for paroling authorities in this area because of work in

this field supported by NIC and undertaken by individual states. *Parole Violations Revisited* (Burke 2003b), *When Offenders Break the Rules* (Burke 2007), and *13 Strategies for Supervision* (Solomon et al. 2008), are only part of the growing literature that documents parole experience and provides examples of the use of assessment tools and policy frameworks to guide responses to violations to reduce the likelihood of future violations, protect community safety, and use resources more wisely. Both California and Ohio have recently implemented decisionmaking instruments to encourage proportionality and consistency in response to violations. In both of these jurisdictions, researchers are in the process of examining the effectiveness of these tools and their implications for other states.⁸

Specific Steps Paroling Authorities Can Take To Enhance Their Ability To Provide “Targeting”

Use good, empirically based, actuarial tools to assess risks and criminogenic needs. Whatever disagreement there might be about other aspects of parole practice, few would argue with the assertion that it is important for paroling authorities to understand as clearly as possible the level of risk to reoffend among the population whose release they consider.⁹ Custody classification procedures are almost universal within prisons, geared to determine the appropriate custody and security level at which offenders should be housed—largely based on their risk of violence and misbehavior in the institution and the risk of escape. However, for a parole decisionmaker, understanding custody and security issues is necessary but not sufficient to informing decisions about the timing and conditions of release—and what programming might be important prior to release. Use of such statistical tools goes back to the 1930s and is based on techniques used in many disciplines.

It is extremely important that the assessment tools used by a paroling authority address both dynamic risk factors and criminogenic needs. Dynamic risk factors are those that can change over time—and provide some ability to gauge progress in reducing risk. Criminogenic needs identify those characteristics of an offender that drive the risk to reoffend, and help guide parole and corrections in identifying those factors that should be addressed through effective programming. Earlier generations of “static” risk assessments were important advances at the time. However, when the goal is reduction of risk—not simply

management through extending incarceration—it is important to be able to track changes in risk and to identify those factors that, if addressed, can reduce risk.

But, before examining how one uses these assessments, it is important for paroling authorities to understand their importance and be prepared to support efforts to put such tools in place. Although the existing and routine use of such tools is growing, many paroling authorities do not currently use or have access to such tools. It is important for paroling authorities to work with their justice partners to identify strategies to identify and implement sound tools. There are two basic pathways to putting such tools in place. The first involves development of assessment tools by a jurisdiction, either through existing research capabilities within a particular agency or by enlisting the expertise of a partner agency. The second involves the purchase or adaptation of tools developed elsewhere, with subsequent piloting and validation upon the jurisdiction's own population. This is not a simple or easy process, but it is essential if a paroling authority is to have valid and reliable tools to establish a foundation to move toward effective practice.

Develop partnerships with institutional corrections and community supervision (and others) to ensure a seamless transition process. The American system of government incorporates the essential principle of checks and balances in many of its aspects. There are three branches of government, and the process of establishing guilt or innocence for a crime involves an adversarial process between prosecution and defense before an impartial court. Acknowledging the importance of these checks and balances, it is still imperative that all parts of the system collaborate around system improvement. Paroling authorities should work to:

- Develop genuine working agreements with institutional corrections that manage offender populations toward achieving the goal of housing offenders in locations that permit access to the right interventions in the right time-frame to reduce risk and allow for transition at the earliest time commensurate with desert and risk.
- Develop genuine working relationships with supervision agencies to assure aftercare with appropriate interventions for medium- and high-risk offenders in the community.
- Enhance the role of decisionmaking tools in forging these collaborations, as these tools enhance credibility and a shared understanding of the critical issues at stake.

Recall that targeting is also about what you choose NOT to do. Much of this discussion revolves around understanding and addressing the criminogenic needs of medium- to high-risk offenders—and how parole's decisionmaking can do this more directly and effectively. Another critical aspect of targeting, of course, is the corollary that paroling authorities will not pursue some activities, and some individuals will not receive risk-reduction programming. The essence of targeting includes not only that the right offenders will receive the right treatment/intervention programs, but also that other offenders at low risk to reoffend will not receive interventions designed to reduce risk. For one thing, such a strategy can actually result in making low-risk offenders worse—increasing their likelihood to reoffend (Andrews and Bonta 2007). For another, using resources in this way contradicts the wise use of public resources. If, among a group of offenders assessed at low-risk, a large majority will reliably make a successful transition to the community without further interventions, what justification is there for using scarce resources to conduct risk-reduction programming with them? This argument is even more persuasive when those resources can be programmed and directed to higher risk offenders who will benefit from risk reduction programs. Similarly, given the high cost of secure confinement space, once an offender has satisfied the requirement for proportional punishment and been assessed at low risk, an effective targeting strategy should consider that offender for release to the community.

Policy-Driven Parole Decisionmaking—Individual and Team Excellence

The United States Supreme Court (in *Greenholtz v. Inmates of Nebraska Penal Complex*)¹⁰ has clearly established that in those states—and for those types of cases—where parole release is established by state law as a grace or privilege, the decision to release is a discretionary one, within the limits set by the sentencing statutes and the particular sentence imposed on an individual offender. The decision to release on parole is determined only by the discretion of the duly authorized paroling authority—determined by votes—through established procedures of its appointed members. Sentencing statutes and parole statutes will typically guide the paroling authority members as to the types of factors they should consider in deciding whether or not to grant parole, but they do not prescribe specific standards or outcomes. Members of state paroling authorities are typically appointed by the governor, although in some states the chief

justice or other state leaders are also involved. The membership of a paroling authority will typically include individuals appointed from different political parties, sometimes with requirements that particular professions be represented, and usually serving staggered, time-limited appointments.

All of these cited characteristics tend to emphasize and support the discretion and independence of individual members of a state paroling authority.

As the institution of parole enters the second decade of the 21st century, however, there is a growing need to develop the shared strengths and abilities of a paroling authority as a team. The team's members make individual decisions, of course, but as a team they, *together*, create a framework that gives their decisions strategic direction and assures good practice. NIC's current efforts to enhance both individual parole board member competencies and entire parole board competencies as a decisionmaking team are reflected in its development of a new training curriculum: "Orientation for Parole Board Members: Integrating Evidence-Based Principles Into Parole Board Practice." This curriculum¹¹—and others planned for delivery in the next 2 years—clearly addresses skill development on both dimensions, highlighting the distinct roles of parole board members, chairs, and executives, both as individuals and as members of a team, in the entire paroling process.

It is increasingly important for paroling authorities, in this context, to develop good assessment and decisionmaking tools, decisionmaking norms, and a common understanding of the implications of new knowledge from the research. Given the impact a paroling authority's decisions can have on all aspects of the system, it is also becoming critical for a paroling authority to build on and share the strengths of its diverse membership, create stability of practice that can weather turnover in membership, and build more transparency and accountability in its decisionmaking. Not only does this enhance the confidence of fellow system stakeholders, it also communicates clearly to offenders and victims the values and standards that a paroling authority aspires to and can be judged on. When a paroled offender commits a heinous crime, this transparency can also document the care, consideration, and rationale for a decision that was reasoned and supportable—but led to a tragic failure.

Experience and research offer two promising directions for paroling authorities to address these needs. The first direction is toward the development and use of decisionmaking tools, such

as risk and needs assessment tools and objective scales to rate the severity of offender behavior. Elements of those scales include sentenced offenses, misconduct in prison, violations and noncompliance while under supervision, and aggravating and mitigating factors related to specific decisions.

The second direction is toward the use of policy frameworks—developed by paroling authorities themselves—that guide the decision process of paroling authority members. This second area is perhaps the more innovative of the two, and mirrors developments in other professional fields where the volume of decisions to be made; the complexity of those decisions; and their potential impact on human lives, welfare, and costs are significant. Paroling authority members believe, accurately, that the decisions they make require careful individual judgment, that each decision is unique, and that their discretion is critical. The same can be said of many other disciplines today, including the practice of medicine, aviation, construction engineering, and financial investing (Gawande 2009). Recent research reveals that, in all of these professions, innovations are underway that seek to capture the routine aspects of the work in something like a checklist to guide the decisionmaker through the complex, but accepted, stages of the process. This frees the individual decisionmaker from a fear of error on a routine aspect of the task, and allows a focus on the unique challenges of a specific situation so that the decisionmaker can assure an accurate and excellent performance. Atul Gawande (2009) uses an example from aviation to highlight how that field has come to use such decisionmaking frameworks (see "Managing Complexity" sidebar).

The author goes on to explain how the test pilots proceeded—not by requiring massive training for all pilots on the specifics of Model 299—the test pilot who was in the accident had extensive training and experience. Instead, they came up with a pilot's checklist—simple, brief, and to the point. Pilots came to know that, in following the checklist, all the routine factors were taken care of, and that they could focus their attention and judgment on unexpected conditions and on the unique factors of the situation at hand. Similar frameworks have come to be used—with great success—in medicine and in construction engineering. In fact, the implementation of such tools in the medical field has given rise to an interest in evidence-based medicine—and has many lessons for the criminal justice field that have been outlined elsewhere in this series of papers for the parole audience (Carter 2010).

MANAGING COMPLEXITY

On October 30, 1935, at Wright Air Field in Dayton, Ohio, the U.S. Army Air Corps held a flight competition for airplane manufacturers vying to build the military's next generation long-range bomber. It wasn't supposed to be much of a competition. In early evaluations, the Model 299 had trounced the designs of Martin and Douglas. Boeing's plane could carry five times as many bombs as the army had requested; it could fly faster than previous bombers and almost twice as far. A small crowd of army brass watched as the Model 299 test plane taxied onto the runway. The plane roared down the tarmac, lifted off smoothly and climbed sharply to 300 feet. Then it stalled, turned on one wing, and crashed in a fiery explosion. Two of the five crew members died, including the pilot. The crash had been due to "pilot error" a report said. Substantially more complex than previous aircraft, the new plane required the pilot to attend to the four engines, each with its own oil-fuel mix, the retractable landing gear, the wing flaps, electric trim tabs that needed adjustment to maintain stability at different airspeeds, and constant-speed propellers whose pitch had to be regulated with hydraulic controls, among other features. While doing all this, Hill had forgotten to release a new locking mechanism on the elevator and rudder controls. The Boeing model was deemed, as a newspaper put it, "too much airplane for one man to fly." The army corps declared Douglas's smaller design the winner. Boeing nearly went bankrupt. Still the army purchased a few aircraft from Boeing as test planes and some insiders remained convinced that the aircraft was flyable. So a group of test pilots got together and considered what to do.

Source: A. Gawande, 2009. *The Checklist Manifesto: How to Get Things Right* (New York: Metropolitan Books, Henry Holt and Company, 2009).

Given the complexity, volume of cases, and the stakes involved, parole decisionmaking is a field that is ripe for expanded use of policy frameworks. These do not replace the discretion of individual decisionmakers, but provide them with a method to focus their discretion and judgment on those aspects of cases that call for it. That paroling authority members come from a variety of professional backgrounds—often from outside parole or criminal justice—and that membership turns over on a regular, staggered basis—makes it even more critical that there be some sort of framework to document the parameters of decisionmaking. The parole field has a history on which to build in this regard. The ability to make structured decisions—to articulate specifically how risk and needs will be assessed, how severity of the underlying offense will be considered, what aggravating and mitigating circumstances will be considered, and the usual range of outcomes given these combinations of factors—is an important strength of paroling authorities. It will be an important asset as paroling authority members seek to

use their decisionmaking responsibilities to target resources effectively.

A Handbook for New Parole Board Members (Burke 2003a) summarizes the literature on such policy frameworks. Current examples include the work being conducted by the Colorado Board of Parole in developing its legislatively mandated "decision guide," a summary of which is attached to this document as appendix A. The Colorado General Assembly, in enacting the Parole Guidelines statute (Colorado Revised Statutes § 17-22.5-404) included the following language in the statute about the impetus behind and factors contributing to the development of the guide:

- The risk of reoffense shall be a central consideration by the parole board in making decisions related to the timing and conditions of release on parole or revocation from parole.
- Research demonstrates that structured assessment tools can predict the risk of reoffense more effectively than professional judgment alone. These studies show that seasoned professionals who rely exclusively on their experience and professional judgment predict recidivism rates no better than chance. The use of actuarial tools, however, has been demonstrated to improve prediction rates. The best predictive outcomes are derived from a combination of empirically based actuarial tools combined with clinical judgment.
- Although the parole board is made up of individuals, using structured decisionmaking unites the parole board members with a common philosophy and set of goals and purposes while retaining the authority of individual parole board members to make decisions that they believe are appropriate given the particular situation.
- Structured decisionmaking by the parole board also provides for greater accountability, standards for evaluating results, and transparency of decisionmaking that can be better communicated to victims, offenders, other criminal justice professionals, and the community.
- An offender's likelihood of success can be increased by aligning the intensity and type of parole supervision, conditions of release, and services with assessed risk and need level.¹²

This language from the Colorado legislature is one indication of the kind of support that paroling authorities are likely to find as they pursue efforts to focus their decisionmaking to implement

an important principle emerging from the research—the principle of targeting by risk, need, and responsivity. Another example of a framework that was developed to aid in structuring the parole decision has recently been developed by researchers in Canada in collaboration with the National Parole Board (and is attached to this document as appendix B (Serin, Gobeil, and Sutton 2009). That framework is an empirically informed decision guide that requires grounding parole decisionmaking in the use of information gathered from a valid risk assessment estimate and reviewing factors reflected in legal and policy requirements. Research on the effectiveness of the framework has proved that it has improved accuracy and accountability in the decisionmaking process, and training on the use of the framework is now compulsory for new Canadian parole board members. This model is currently being considered for testing in the United States through NIC’s sponsorship.

Conclusion

The criminal justice system, particularly in the area of corrections, is experiencing a time of great change and progress. A growing body of research is providing guidance toward practices that are more effective in reducing recidivism. Public interest and

support for enhancing the successful transition of offenders from prison to the community is at an all-time high. Furthermore, our fragmented criminal justice system is making genuine efforts to collaborate across traditional boundaries to accomplish the common goals of community safety and wise use of public resources. The Second Chance Act of 2007¹³ and national support for a justice reinvestment strategy are encouraging policies to reinvest resources from the support of costly, ineffective incarceration toward more cost-efficient and effective community safety policies.

To produce the improvements in recidivism reduction and wise use of public tax dollars that the public expects, the criminal justice system in this country must base its practices on sound research, work collaboratively across traditional boundaries, and use policy-driven decisionmaking practices. Paroling authorities, by virtue of their unique responsibilities in the system, have the potential to contribute significantly to this change. If they are willing to hone their individual skills, work collaboratively as a team to shape their own policy-driven decisionmaking practices, and come to the table with their criminal justice system partners, they will be able to meet this challenge, strengthening our system of criminal justice into the future.

Endnotes

1. Other papers in this series, NIC-sponsored documents on evidence-based decisionmaking, and notices about training opportunities are available from the NIC website, www.nicic.gov.

2. See, for example, Rhode Island Executive Order 4-02; Oregon ORS 181.620 (Senate Bill 267); Michigan Executive Order 2008-18; Virginia Executive Order 22 (2006).

3. Criminogenic needs are characteristics or attributes that are directly related to an offender's criminal behavior. Examples include antisocial/procriminal attitudes, values, or beliefs; procriminal peers; family factors; temperament and personality factors; and low levels of vocational and educational achievement.

4. Statements of expectations should not indicate that parole "will be" or "shall be" granted if an offender completes a specific program or activity. Rather, expectations should be phrased in terms of the paroling authority "taking into positive consideration among other factors," or other qualified language, to avoid creating a "liberty interest" that would create the need for a hearing process with full due process protections.

5. The Post-Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice submitted recommendations to the full Commission in December 2009. These recommendations (including the cited language on the setting of conditions) were subsequently incorporated into Colorado's Parole Guidelines statute (Colorado Revised Statutes § 17-22.5-404) in 2010.

6. For more information about the Level of Service/Case Management Inventory, visit www.assessments.com/catalog/LS_CMI.htm.

7. For more information about the Correctional Offender Management Profiling for Alternative Sanction (COMPAS) Risk and Needs Assessment Instruments, visit www.northpointeinc.com.

8. For more information about the efforts in Ohio and California, see David Fialkoff, "Standardizing Parole Violation Sanctions," *NIJ*

Journal 263 (June 2009):18–22, www.ojp.usdoj.gov/nij/journals/263/parole-violation.htm.

9. Even with the most advanced risk assessment tools, the risk levels that are described are associated with groups of offenders. So, one can say that an individual is at a "high" risk to reoffend because he/she has the characteristics of those in a group of offenders of whom a high percentage, say 75 percent, have offended in the past. (The actual rate will differ depending on the risk assessment tool and the particular population on whom it has been developed, validated, and used.) So, even some offenders who are identified as members of a "high" risk group may not reoffend in the future—they may turn out to be among that 25 percent of the high-risk group that did not reoffend. Similarly, an offender may be assessed at "low" risk because he/she has the characteristics of a group that in the past has had a low percentage—say 30 percent of offenders—recidivate. However, he/she may turn out to be among that 30 percent of the low-risk group that does recidivate. When paroling authorities make hundreds of decisions in the course of a month or a year, these tools can be very helpful in enhancing their ability—over a large number of cases—to have a useful guide in understanding the risk of the offenders they see.

10. *Greenholtz v. Inmates of Nebraska Penal Complex*, 442 U.S. 1 (1979).

11. This curriculum was delivered in July 2010, and will be followed in 2011 by "Orientation for Parole Board Chairs." "Orientation for Parole Board Executives" is under curriculum design as this document goes to press.

12. Colo. Rev. Stat. § 17-22.5-404 (2010).

13. Second Chance Act of 2007, Public Law 110–199, 110th Cong., 2d Sess, 122 Stat.657 (2008). For more information about the Second Chance Act and resulting programs and initiatives, see www.nationalreentryresourcecenter.org/about/second-chance-act, accessed August 18, 2010.

References

- Andrews, D.A., and J. Bonta. 2006. *The Psychology of Criminal Conduct*, 4th ed. Newark, NY: Anderson Publishing Company.
- Andrews, D.A., and J. Bonta. 2007. *Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation (2007-06)*. Ottawa: Public Safety Canada.
- Best, B. 2009. "Identifying Inmates Who Choose Incarceration Over Parole." Honors thesis, University of Wyoming.
- Bureau of Justice Statistics. 2009. *Key Facts at a Glance: Correctional Populations*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, <http://bjs.ojp.usdoj.gov/content/glance/tables/corr2tab.cfm>, accessed August 18, 2010.
- Burke, P. (ed.). 2003a. *A Handbook for New Parole Board Members: Part of a Resource Kit for New Parole Board Members*. California, MO: Association of Paroling Authorities International.
- Burke, P. 2003b. *Parole Violations Revisited*. Washington, DC: U.S. Department of Justice, National Institute of Corrections.
- Burke, P. 2007. *When Offenders Break the Rules: Smart Responses to Parole and Probation Violations*. Washington, DC: Pew Research Center.
- Campbell, N. 2008. *Comprehensive Framework for Paroling Authorities in an Era of Evidence-Based Practices*. Washington, DC: U.S. Department of Justice, National Institute of Corrections.
- Carter, M. 2010. *Evidence-Based Policy, Practice, and Decision-making: Implications for Paroling Authorities*. Washington, DC: U.S. Department of Justice, National Institute of Corrections.
- Colorado Revised Statutes § 17-22.5-404.
- Fialkoff, D. 2009. "Standardizing Parole Violations." *NIJ Journal* 263 (June): 18–22, www.ojp.usdoj.gov/nij/journals/263/parole-violation.htm.
- Gawande, A. 2009. *The Checklist Manifesto: How to Get Things Right*. New York: Metropolitan Books, Henry Holt and Company.
- Greenholtz v. Inmates of Nebraska Penal Complex*, 442 U.S. 1 (1979).
- Hughes, T., and D.J. Wilson. 2003. *Reentry Trends in the United States: Inmates Returning to the Community After Serving Time in Prison*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1138>, accessed May 19, 2010.
- Hughes, T., D. Wilson, and A. Beck. 2001. *Trends in State Parole*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, <http://bjs.ojp.usdoj.gov/content/pub/pdf/tsp00.pdf>, accessed May 22, 2010.
- Lipton, D., R. Martinson, and J. Wilks. 1975. *The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies*. New York: Praeger Publishers.
- National Institute of Corrections. 2010. *A Framework for Evidence-Based Practices in Local Criminal Justice Systems*, 3d ed. Washington, DC: U.S. Department of Justice, National Institute of Corrections, www.cepp.com/documents/EBDM%20Framework.pdf.
- Paparozi, M., and J. Caplan. 2009. "A Profile of Paroling Authorities in America: The Strange Bedfellows of Politics and Professionalism." *The Prison Journal* 89(4):401–424.
- Paparozi, M., and DeMichele, M.T. 2008. "Probation and Parole: Overworked, Misunderstood, and Under-Appreciated: But Why?" *Howard Journal of Criminal Justice* 47(3)(July): 275–296.
- Paparozi, M., and R. Guy. 2009. "The Giant That Never Woke: Parole Authorities as the Lynchpin to Evidence-Based Practices and Prisoner Reentry." *Journal of Contemporary Criminal Justice* 25(4):397–411.

Pew Public Safety Project. 2009. *One in One Hundred: Behind Bars in America, 2008*. Pew Center on the States, Public Safety Project http://www.pewcenteronthestates.org/uploadedFiles/8015PCTS_Prison08_FINAL_2-1-1_FORWEB.pdf (accessed October 7, 2010).

Rhine, E., and A. Thompson, forthcoming. "The Reentry Movement in Corrections: Resiliency, Fragility, and Prospects." *Criminal Law Bulletin*.

Sabol, W., H. West, and M. Cooper. 2009. *Prisoners in 2008*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Serin, R.C., R. Gobeil, and J. Sutton 2009. User Manual for Parole Decision-Making Framework. Unpublished report: National Parole Board of Canada.

Solomon, A., Osborne, J., Winterfield, L., Elderbroom, B., Burke, P., Stroker, R., Rhine, E., and Burrell W. 2008. *Putting Public Safety First: 13 Strategies for Successful Supervision and Reentry*. Policy Brief. Washington, DC: Urban Institute.

Stemen, D., A. Rengifo, and J. Wilson. 2005. *Of Fragmentation and Ferment: The Impact of State Sentencing Policies on Incarceration Rates, 1975–2002*. New York: The Vera Institute.

Appendix A

Parole Board Administrative Guidelines Instrument, Colorado Statutes § 17-22.5-404: Granting Discretionary Parole

Following is a summary of the key elements of the Parole Board Administrative Guidelines Instrument, contained in and mandated by Colorado Revised Statutes § 17-22.5-404.

The statute determines the factors the parole board must consider in deciding whether to release an offender to discretionary parole. The goal of developing this administrative release guideline instrument is to provide a framework for the Colorado parole board to evaluate and weigh the statutorily mandated factors, including victim and community impact, in their decisionmaking and offer advisory decision recommendations. These guidelines are advisory, and parole board members retain the authority to make the release decision that s/he believes is most appropriate in any particular case. This structured decisionmaking guide was designed:

- To enhance public safety.
- To reflect evidence-based practice.
- To include existing data elements and practices employed by members of the State Parole Board, the Division of Parole, and the Department of Corrections.
- To focus on considerations of offender risks and criminogenic needs.
- To include, as an essential element, considerations of reentry readiness;
- To provide greater consistency in parole decisionmaking.
- To further the process of systematically collecting data on parole decisions.

The guide contains several sequential steps and components, including:

- Determining risk level (using the LSI-R [Level of Service Inventory—Revised] and a locally developed dynamic risk assessment instrument (CARAS [Colorado Actuarial Risk Assessment Scale]).
- Evaluating criminogenic needs (including the LSI-R domains) of education/employment, financial, family/marital issues, accommodation, leisure/recreation, companions, alcohol/drug problems, emotional/personal, and attitude/orientation).
- Evaluating readiness and performance to assess protective factors (as determined by the LSI-R Rater score; on issues including engagement in education and employment, peer interactions, quality of residence, attitude toward crime, and substance abuse issues. Offender progress is also measured in areas including work, academic/vocational programming, medical issues substance abuse, anger, pre-release issues and conduct.

After evaluating all of these factors, an inmate is categorized as being of “high,” “average,” or “low” readiness for reentry.

- HIGH readiness is defined as an inmate who has fully participated in and/or successfully completed recommended programs available to him/her (or is likely to participate in and successfully complete recommended programs in the community), has demonstrated an acceptable level of institutional behavior, has had few major conduct violations, and has a strong parole plan.
- AVERAGE readiness is defined as an inmate who has fully participated in and/or successfully completed some of the recommended core programs available to him/her (or is likely to participate in and successfully complete recommended programs in the community), has demonstrated an acceptable level of institutional behavior, has had few major conduct violations, and has an adequate parole plan.
- LOW readiness is defined as an inmate who has refused, not fully participated in, or unsuccessfully completed recommended programs available to him/her (and is not likely to participate in or successfully complete recommended programs in the community), has not demonstrated an acceptable level of institutional behavior, has a pattern of major conduct violations, and does not have an adequate parole plan.

When making a parole release decision, the guidelines suggest that offenders categorized as “very low” risk be released to discretionary parole at the first (or any subsequent) parole hearing unless certain factors are present (e.g., offender harassed victim during incarceration or was convicted of certain discipline violations). Discretionary parole is not suggested for offenders deemed to be at “very high” risk unless there are factors such as advanced age, medical disability, or successful completion of an intensive treatment program that would significantly reduce the risk of reoffense; or the parole board has confidence that risk can be reasonably controlled with intensive supervision.

For those inmates assessed as either medium or high risk, the advisory decision options are outlined in a matrix that weighs the offender’s risk and readiness in determining suitability for release. Recommendations to release are made only if a suitable parole plan can be developed with conditions and transition services to address risk adequately. When a decision is made not to release, the parole board should indicate to the inmate areas that would address the issues or concerns of the parole board. If the parole board recommends that a program be completed, the prison case manager should assist the inmate in enrolling or being prioritized for enrollment in that program prior to the next scheduled parole hearing, to the greatest extent possible. The parole board may also determine whether the inmate should be referred to community corrections or a residential treatment program.

The Board has established a list of standard conditions applicable to all offenders released to supervision. In addition to the standard conditions of release, some offenders may need additional “special conditions” based on their individual risk and need and/or statutory mandates. Special conditions should address the issues for the individual offender identified by the LSI-R and/or specific issues identified in the progress assessment summary. Great care should be taken to ensure that any special condition is consistent with the criminogenic need area identified by the LSI-R or specific criminogenic need area identified in the progress assessment summary. If there is a need for further evaluation or assessment of a particular criminogenic need area, it is recommended that the Board request an assessment of that area or issue in the community upon release and direct the offender to comply with recommendation(s) that are developed by the parole officer as a result of the assessment.

The parole board action is being revised to reflect these guidelines, to provide required data, and to capture adequately the parole board’s decisionmaking rationale. If the parole board departs from the advisory decision recommendation, it is requested that the rationale for that be documented on the action form.

Appendix B

Structured Decision Framework Process (Canada)

The framework described below is a structured professional judgment model that has been validated in Canada through a series of studies.

The framework does not provide an actual decision; rather it is an empirically informed decision guide consistent with legal and policy requirements. Research has demonstrated that using the framework increases both accuracy and accountability. Based on such findings, and its empirical derivation, the framework is a mandatory training standard for newly appointed parole board members in Canada. There is an accompanying user manual with case studies and a worksheet to facilitate its use on a daily basis. The framework requires grounding the decision in a valid risk assessment estimate and a consideration of policy requirements. The following key domains, based on file review and parole hearings, are rated as:

- Aggravating: The domain is a major concern for this individual and will negatively influence his or her behavior.
- No Impact: Relative to other inmates, the individual is no worse or better on this domain.
- Mitigating: This domain is clearly a positive (protective) aspect of this individual, relative to other inmates.

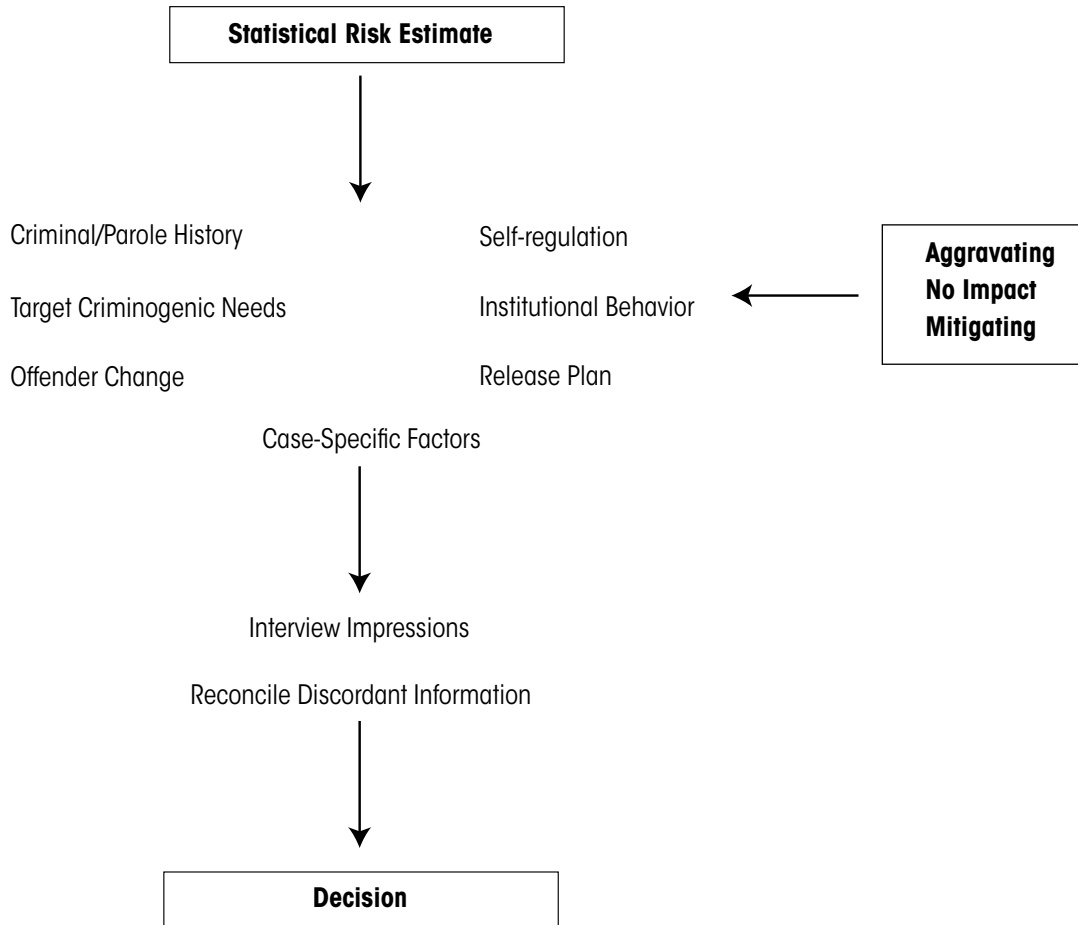
Domains are derived from risk assessment literature and parole practice and include:

- Criminal history.
- Self-regulation (substance abuse, impulsivity).
- Targeting of criminogenic needs.
- Institutional adjustment.
- Offender change through correctional programming.
- Release plan.
- Case-specific factors (unique factors that apply to the individual offender).

Beginning with a statistical risk estimate and then analyzing the case according to these domains provides paroling authorities with a strategy to use group-based data (risk estimates) for individual cases. In this manner, the paroling authority can better articulate why offenders with similar risk scores might warrant different parole decisions or different parole conditions. Finally, this process provides an outline for decisionmakers when writing a rationale for their decisions.

A flowchart of the decision process is presented on the next page.

Decision Process



Source: R.C. Serin, R. Gobeil, and J. Sutton, User Manual for Parole Decision-Making Framework (Unpublished report: National Parole Board of Canada, 2009).

U.S. Department of Justice
National Institute of Corrections

Washington, DC 20534

Official Business

Penalty for Private Use \$300

Address Service Requested

PRESORTED STANDARD
POSTAGE & FEES PAID
U.S. Department of Justice
Permit No. G-231

www.nicic.gov

