

THE CLOSED WORLD OF PAROLE HEARINGS

A System Without Review or Oversight

In contrast to the Board of Pardons and Parole's declaration that "[t]he parole process is carried out in an effective, fair, safe, and efficient fashion," the very nature of the system ensures that the parole process is carried out in an secretive, arbitrary, and inconsistent manner with no oversight or accountability to the justice system or its charges.

Background:

- On March 5, 1992, Jim Richards died from a single gunshot wound to the head.
- Becky Richards, then a twenty-five-year-old mother of two, found her husband dead after returning home from errands and immediately called 911.
- For the next six months, Mr. Richards' death was ruled a suicide. It was not until evidence surfaced regarding Ms. Richards' economic crimes and an extra-marital affair that the death was investigated as a murder.



Ms. Richards' Prosecution:

- While there was strong evidence of guilt related to many of the economic counts, there was only circumstantial evidence related to the deliberate homicide charge.
- Despite her attempts to sever the single deliberate homicide charge from the 59 economic counts, she was tried for all charges in a consolidated proceeding.
- The jury found Ms. Richards guilty of 49 economic counts and deliberate homicide.
- She was thereafter sentenced to life plus a suspended sixty-year sentence.

Ms. Richards' Time in Prison:

- Ms. Richards has served nearly twenty-three years as a model prisoner.
- Based on her motivation, cooperation, and willingness to help others, management and staff of the Montana Women's Prison ("MWP") support Ms. Richards' parole:
 - The MWP Parole Report dated April 10, 2012 states that "***MWP supports release consideration*** as it would allow her to use her education and put it to good work and become a contributing member of the community."
 - Ms. Richard's MWP Therapist stated that Ms. Richards "has ***excelled*** while incarcerated and has ***become a positive leader*** within the prison setting."
 - In a letter of recommendation, Jo Acton, Warden of MWP, commented that Becky "has ***never been a disciplinary issue***, appears to adapt to change well, is able to follow direction, accept constructive criticism, and ***demonstrates that she wants to better herself and prepare for return*** to the community."
 - Similarly, James Gamble, the Warden of Warm Springs (which previously included the Women's prison Facility), stated that Becky "has always been in a leadership role based on ***maturity, skills and kindness***," and that "[t]his is a woman who ***[does] not belong in prison...***"

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Attempts at Parole:

- Notwithstanding the support of MWP management and staff, ***the Parole Board has shown no inclination to grant Ms. Richards parole***, now or in the future.
- In its 2012 denial, the Board ***muddled the distinction*** between the economic crimes and the deliberate homicide charge just as had the trial court.
- While Ms. Richards has accepted the jury's finding of guilt as to her husband's death, ***the Parole Board seems offended that she continues to maintain her innocence.***
 - In its Parole Report, the Board states that Ms. Richards "still denies involvement in the death of her husband" and "still takes no responsibility for the crime," ***implying that such an admission is a prerequisite to parole.***
 - During which Ms. Richards was asked to admit her guilt. When Ms. Richards responded that "yes, I'm guilty...[a] jury of my peers found me guilty and I have accepted responsibility and have done my time," Board member Teresa O'Connor responded that that was not what she had asked and inquired whether Ms. Richards would admit to the shooting. ***When Ms. Richards maintained her innocence, Ms. O'Connor appeared exasperated, shaking her head and sighing.***
- During much of Ms. Richards' incarceration, Mr. Richards mother, Anita, used her positions with Montana Sentencing Commission and the Department of Corrections Crime Victims Advisory Council to advocate against Ms. Richards' possible parole.

Problems with Existing Parole Setup:

- By its own admission, the Parole Board ***"acts somewhat like a Judge*** when making parole decisions and ***generally does so without review.***" (Montana Board of Pardons and Parole Overview, <http://bopp.mt.gov/overview.mcpix>)
- Under M.C.A. § 46-23-218, the Parole Board is given ***unfettered discretion*** to "adopt any rules that it considers proper or necessary with respect to the eligibility of prisoners for parole, the conduct of parole hearings," "the conduct of revocation proceedings," and "conditions to be imposed upon parolees."
- Because parole hearings are conducted informally, ***the presiding Board member has discretion as to what testimony is allowed***, and there is ***no requirement that the proceedings be recorded*** for future review. (ARM 20.25.401)
- Despite the Board's obligation to provide "reason(s) for the decision" when it denies parole, (ARM 20.25.401(9)), ***its reasoning is often superficial and provides no direction as to if and how an inmate can better her chances*** at parole.
- Although an inmate can petition for an administrative review of a Board decision, the request is vetted and approved by the Board itself, providing ***no true review mechanism and no accountability to anyone beyond the Board.*** (ARM 20.25.402)
- Even when an inmate demonstrates that the Board's decision "was based on erroneous or false information," the Board itself reviews the decision—***there is no independent, outside review.*** (ARM 20-25-501)
- Because the Board is ***required to review very little*** (ARM 20.25.401(1)) and ***given the authority to consider anything it finds relevant*** (ARM 20.25.505(2)(p)), Board members are free let their personal feelings, biases, and prejudices control their decision and are ***not constrained by an objective or reviewable set of guidelines.***