

BOARD OF PARDONS AND PAROLE



BRIAN SCHWEITZER, GOVERNOR

FERN JOHNSON,
EXECUTIVE
DIRECTOR

STATE OF MONTANA

(406) 846-1404
FAX (406) 846-3512
bopp@state.mt.us

1002 HOLLENBECK ROAD
DEER LODGE, MONTANA 59722

June 19, 2013

Dear Law and Justice Committee Member:

Congratulations on your appointment to the Law and Justice Interim Committee. As you know, this Interim Committee is charged with oversight of the Board of Pardons and Parole. First, I would like to take this time to introduce you to our agency. The Parole Board is a quasi-judicial, seven member citizen board, who are appointed by the Governor for staggered four year terms. Our Board members are assisted in their duties by a staff of ten. The Parole Board was created by legislative action in 1955 but there has been some form of parole within Montana since 1889. The Board is part of the Executive Branch of State government, and although administratively attached to the Department of Correction, the Board is autonomous and performs decision and policy-making functions independent of the DOC.

During the last legislative session, Senate Joint Resolution No.3 was approved, authorizing a study of the Parole Board by the Law and Justice Interim Committee. The Board and staff welcome this study and encourage you to request any information and/or reports you feel will be necessary to conduct the audit. We believe you will find the Board of Pardons and Parole plays a vital part in the criminal justice system. The primary objective of the Board is community safety by careful review of each eligible inmate and granting of a parole when, in the Board's opinion, there is a reasonable probability that the inmate can be released without detriment to the inmate or the community. The law mandates the Board may order a parole only for the best interest of society, and not as an award of clemency or reduction or a pardon, and when the Board believes that the prisoner is able to fulfill the obligations of a law abiding citizen.

The Board conducts parole hearings at the fifteen different correctional locations throughout Montana and the Board members, along with staff, would like to extend an invitation to you to attend any one or more of the hearings at your convenience. We further encourage you to visit our Deer Lodge office so that you can see the operations of the Board, the careful attention to detail required in each case, and how the safety of the community and the rehabilitation of the offender is foremost in their decision making. You can attend for a couple of hours or spend an entire day observing hearings. We welcome questions and concerns at any time. Please feel free to contact us at any time. We look forward to working with you.

Sincerely,

Handwritten signature of Fern Johnson in cursive.

Fern Johnson, Executive Director

Slaughter, Christine (BOPP)

From: Anez, Bob
Sent: Wednesday, April 03, 2013 4:12 PM
To: 'Terry Murphy'
Subject: FW: Parole board Study

Sen. Murphy,

Below are the responses to your questions, developed through a significant amount of work done by the BOPP staff. Much of the effort required going through individual paper files to ensure the information was correct. Thanks for your patience.

Please keep in mind that the requests asked for numbers based on the inmate population on any given day – in this case, the staff used March 25, 2013.



Bob Anez
Communications Director
Montana Department of Corrections
(406) 444-0409

From: Schindler, Pam
Sent: Thursday, March 07, 2013 12:30 PM
To: Anez, Bob
Cc: 'Terry Murphy'
Subject: Parole board Study

Mr. Anez, Chairman Murphy has some questions for you regarding the parole board study he is proposing:

1. Number of non-violent, program compliant inmates who are parole eligible and have completed all requirements for parole but have not been granted a parole.
2. The number of inmates who are parole eligible, are program complete and have been turned down on first visit to the parole board.
 - a. On a 2nd visit
 - b. On a 3rd visit
 - c. More visits
3. The number of inmates who have been granted parole but have not been released due to requirements in parole plan that inmate has not been able to meet. (Those could be housing, job, and other conditions

that the inmate is required to have in place prior to being allowed to leave the prison. These conditions often come from the parole board.)

196

4. Number of inmates that the parole board sees per day during regularly scheduled hearings.
21/ per day (in calendar year 2012)

Thank you and if you could reply to Chairman Murphy at the above email that would be fine.

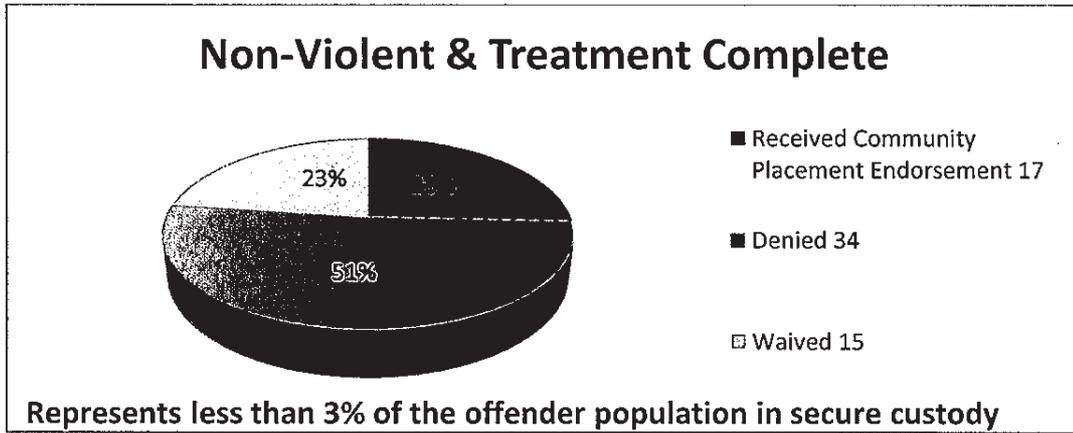
Pam

Pam Schindler
Senate Judiciary Committee Secretary
Room 303A
444-4891

Respectfully submitted by the Montana Board of Pardons and Parole in response to inquiries by Senator Terry Murphy

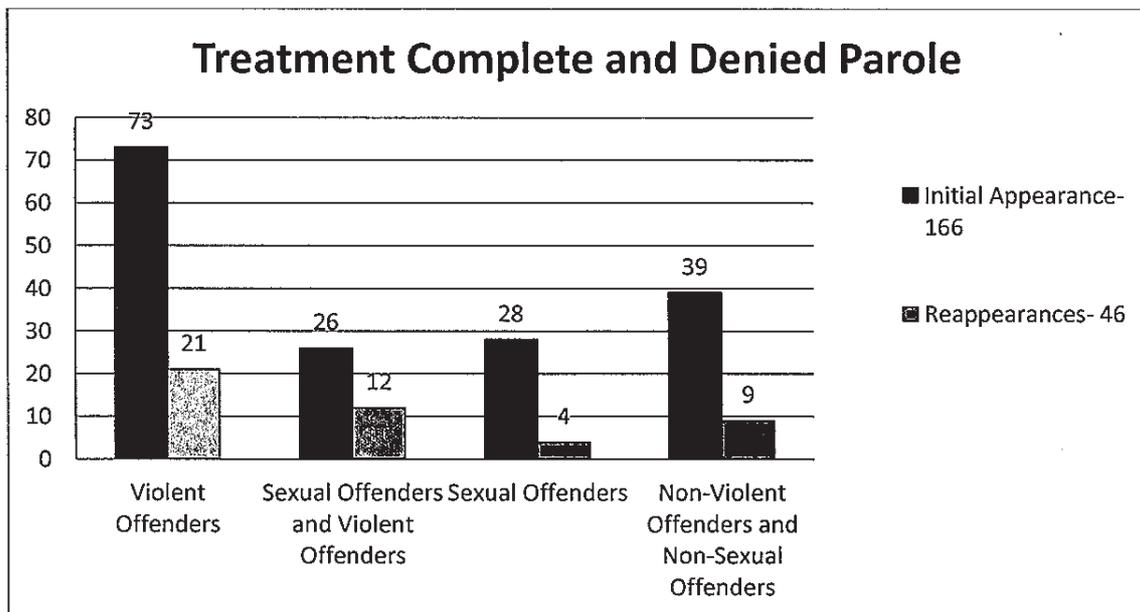
1. Number of non-violent, program compliant inmates who are parole eligible and have completed all requirements for parole but have not been granted a parole.

66 TOTAL NON-VIOLENT OFFENDERS HAVE REACHED PAROLE ELIGIBILITY, ARE TREATMENT COMPLETE, HAD CLEAR CONDUCT AT TIME OF BOARD DISPOSITION BUT HAVE BEEN DENIED PAROLE - 17 RECEIVED ENDORSEMENTS FOR COMMUNITY PLACEMENTS & 15 OFFENDERS VOLUNTARILY WAIVED THEIR HEARING



2. The number of inmates who are parole eligible, are program complete and have been turned down on first visit to the parole board.
 - a. On a 2nd visit
 - b. On a 3rd visit
 - c. More visits

INFORMATION ON HEARINGS SUBSEQUENT TO INITIAL HEARINGS ARE RECORDED IN ONLY ONE CATEGORY (REAPPEARANCES) - **166** TOTAL OFFENDERS WERE TREATMENT COMPLETE AT THE TIME OF THEIR INITIAL HEARING AND DENIED PAROLE; **46** OFFENDERS WERE TREATMENT COMPLETE AND DENIED PAROLE AT A SUBSEQUENT HEARING

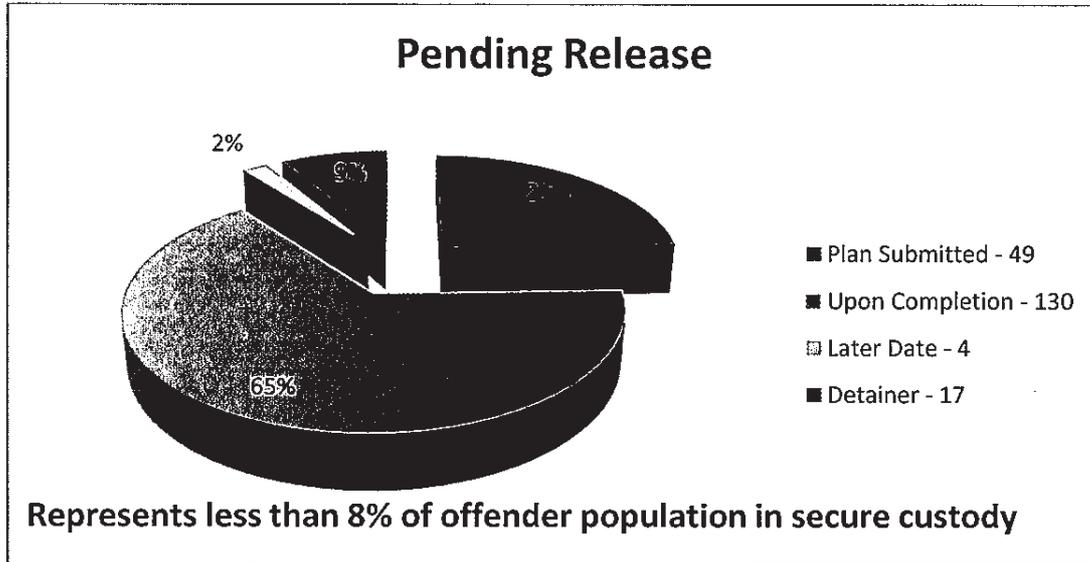


Factors in parole consideration include but are not limited to: the circumstances of the offense; the prisoner's previous social history and criminal record, the prisoner's conduct, employment, and attitude in prison; the reports of any physical, psychological, and mental evaluations that have been made; completion of recommended treatment, and written or oral statements from criminal justice authorities or any other interested person or the interested person's legal representative, including written or oral statements from a victim regarding the effects of the crime on the victim. Please refer to attached list of statutorily defined violent and sexual offenses.

Figures based on inmate population of 2475 on March 25, 2013

3. The number of inmates who have been granted parole but have not been released due to requirements in parole plan that inmate has not been able to meet. (Those could be housing, job, and other conditions that the inmate is required to have in place prior to being allowed to leave the prison. These conditions often come from the parole board.)

200 OFFENDERS ARE CURRENTLY INCARCERATED AND HAVE BEEN GRANTED PAROLE.



OF THE 49 OFFENDERS GRANTED PAROLE TO THE PLAN SUBMITTED TO THE BOARD, 18 HAVE NOT YET SUBMITTED A PLAN, 25 PLANS ARE BEING INVESTIGATED, AND 6 OFFENDERS' PLANS HAVE BEEN DELAYED DUE TO MISCONDUCT; OF THE 130 OFFENDERS GRANTED PAROLE UPON COMPLETION, 101 OFFENDERS ARE AWAITING COMMUNITY PROGRAMS SUCH AS PRE-RELEASE, 29 ARE REQUIRED TO COMPLETE TREATMENT INCARCERATED PRIOR TO RELEASE

4. Number of inmates that the parole board sees per day during regularly scheduled hearings.

ON AVERAGE, THE BOARD CONDUCTS 21 HEARINGS PER BUSINESS DAY

	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Total	Avg
Alternatives Pre-Release	6	2	4	4	6	9	6	5	2	3	4	3	54	5
Bozeman Pre-Release	1	1	1	0	0	0	0	0	2	1	0	0	6	1
Butte Pre-Release	3	3	4	5	4	6	6	2	4	2	3	8	50	4
CCC - Shelby	13	10	9	16	12	17	18	11	14	23	10	9	162	14
DCCF - Glendive	0	12	0	11	0	7	0	18	0	8	0	11	67	6
Great Falls Regional	11	4	9	4	6	5	3	8	9	7	2	8	76	6
Great Falls Pre-Release	5	3	6	2	2	1	4	1	1	5	6	9	45	4
Helena Pre-Release	4	2	2	1	1	0	2	0	3	2	0	0	17	1
Missoula Pre-Release	1	1	2	3	1	1	1	1	3	0	0	0	14	1
MSH	1	1	0	1	0	1	1	1	0	3	2	1	12	1
MSP	54	47	36	33	41	44	49	44	49	50	53	38	538	45
MWP	12	8	7	14	12	5	10	7	9	8	6	6	104	9
Out of State	0	2	1	0	0	1	1	2	2	2	0	0	11	1
Passages Pre-Release	3	0	2	0	2	0	2	1	1	1	0	0	12	1
Start	8	9	10	8	11	10	6	12	9	11	14	7	115	10
Total per month	122	105	93	102	98	107	109	113	108	126	100	100	1283	107

**The Board averages 107 hearings per month at 15 locations.

Hearings are typically conducted on 5 days per month which equates to an average of 21 hearings per day.

**Responses to Sen. Murphy's questions regarding BOPP cases
April 3, 2013**

1. Number of non-violent, program compliant inmates who are parole eligible and have completed all requirements for parole but have not been granted a parole.
66 inmates (2.6% of the total inmate population of 2,475 as of March 25, 2013)
NOTE: 15 of these offenders have not been granted parole because they voluntarily waived their board hearing, thereby indicating they did not want to be considered yet for parole. "Program compliant" includes having clear conduct at the time of board action.

2. The number of inmates who are parole eligible, are program complete and have been turned down on first visit to the parole board.
 - a. On a 2nd visit
 - b. On a 3rd visit
 - c. More visits
 166 – 1st visit (127, or 76.5%, are sexual and/or violent offenders)
 - a. 28 – 2nd visit
 - b. 14 – 3rd visit
 - c. 4 – 4+ visits*NOTE: Factors in parole consideration include but are not limited to: the circumstances of the offense; the prisoner's previous social history and criminal record, the prisoner's conduct, employment, and attitude in prison; the reports of any physical, psychological, and mental evaluations that have been made; completion of recommended treatment, and written or oral statements from criminal justice authorities or any other interested person or the interested person's legal representative, including written or oral statements from a victim regarding the effects of the crime on the victim.*

3. The number of inmates who have been granted parole but have not been released due to requirements in parole plan that inmate has not been able to meet. (Those could be housing, job, and other conditions that the inmate is required to have in place prior to being allowed to leave the prison. These conditions often come from the parole board.)
58 inmates (2.3% of the total inmate population)
NOTE: 25 inmates currently have their parole plans being investigated for acceptance by probation & parole. An additional six offenders had their plans delayed due to misconduct in prison.

4. Number of inmates that the parole board sees per day during regularly scheduled hearings.
21 per hearing day in CY2012 (see chart below)

	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Total	Avg
Alternatives Pre-Release	6	2	4	4	6	9	6	5	2	3	4	3	54	5
Bozeman Pre-Release	1	1	1	0	0	0	0	0	2	1	0	0	6	1
Butte Pre-Release	3	3	4	5	4	6	6	2	4	2	3	8	50	4
CCC - Shelby	13	10	9	16	12	17	18	11	14	23	10	9	162	14
DCCF - Glendive	0	12	0	11	0	7	0	18	0	8	0	11	67	6
Great Falls Regional	11	4	9	4	6	5	3	8	9	7	2	8	76	6
Great Falls Pre-Release	5	3	6	2	2	1	4	1	1	5	6	9	45	4
Helena Pre-Release	4	2	2	1	1	0	2	0	3	2	0	0	17	1
Missoula Pre-Release	1	1	2	3	1	1	1	1	3	0	0	0	14	1
MSH	1	1	0	1	0	1	1	1	0	3	2	1	12	1
MSP	54	47	36	33	41	44	49	44	49	50	53	38	538	45
MWP	12	8	7	14	12	5	10	7	9	8	6	6	104	9
Out of State	0	2	1	0	0	1	1	2	2	2	0	0	11	1
Passages Pre-Release	3	0	2	0	2	0	2	1	1	1	0	0	12	1
Start	8	9	10	8	11	10	6	12	9	11	14	7	115	10
Total per month	122	105	93	102	98	107	109	113	108	126	100	100	1283	107

****The Board averages 107 hearings per month at 15 locations.**

Hearings are typically conducted on 5 days per month which equates to an average of 21 hearings per day.

Johnson, Fern Osler

From: Bohyer, Dave
Sent: Thursday, May 16, 2013 3:22 PM
To: Johnson, Fern Osler
Subject: FW: Reasons for SJ 3 Study

Fern – Sen. Murphy's provided comments to the Legislative Council in an email, which I am forwarding. (See below.) Dave

Dave Bohyer, Director

*Office of Research and Policy Analysis
PO BOX 201706
Room 111-C, State Capitol
Helena, MT 59620-1706
406-444-3592
<dbohyer@mt.gov>*

From: Terry Murphy [<mailto:murphter5@yahoo.com>]
Sent: Monday, May 13, 2013 10:20 AM
To: Bohyer, Dave
Subject: Reasons for SJ 3 Study

The last Law and Justice Interim Committee, while doing its study on Restorative Justice, heard a lot of testimony indicating serious problems with the Board of Pardons and Parole. It seems as though the problems may be systemic in nature, possibly needing to be addressed legislatively. The purpose of the study will be to thoroughly look at the history of BOPP, changes made through the years, the reasons for such changes, and how it operates now. Then the committee will decide if legislation needs to be presented to the 2015 session. If so, the committee will prepare proposed legislation.

I have personally attended Parole hearings for several inmates, and spent time talking with both family members of inmates, as well as an extended conversation with the Chairman of the Parole Board. I am convinced it is very important to do this study in depth. Thank you.

Terry Murphy SD 39
Chairman of Senate Judiciary Committee

"Where do they come from, and where do they go?"
Female Offenders



Department of Corrections Sentence

I sentence you to the Department of Corrections. They will decide the best placement for you.

I sentence you to Prison for a term of 20 years, with 10 suspended. (parole eligible in 5 years.)



I sentence you to 5 years, all suspended. You will be under the supervision of DOC Probation and Parole.

I sentence you to a 5 year deferred sentence. You will be under the supervision of DOC Probation and Parole.

Montana Women's Prison Intake

Placement in Montana Women's Prison or Out of State Transfer

Deferred or Suspended Sentence

Discharge, with Balance Suspended

Parole Board

Don't... return at set time. e.g., return in 2 years or after completion of treatment, etc.

Approved, usually with conditions, e.g. successful completion of probation or treatment.

Alcohol and Drug Treatment (ADT)

Watch East

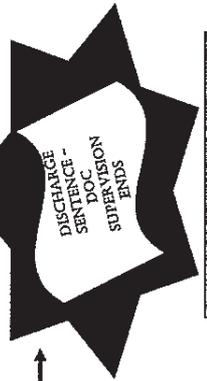
Elkhorn

Treatment - Drug or Alcohol

Pre-release Centers Including: Billings Missoula Great Falls Butte

Conditional Release

Probation and Parole including: Intensive Supervision Enhanced Supervision Interstate Compact



At any point in a community corrections placement, an offender can be sent to ASRC for not following the terms of the placement. From ASRC they can go back to their original placement, or to an alternative placement, depending on the severity of the violation.

Assessment Sanction Revocation Center (ASRC) - Billings, Montana

Star denotes that offender must receive community screening committee approval

Department of Corrections Sentence
Prison Sentence
Deferred or Suspended Sentence

PAROLE IS NOT PROBATION OR CONDITIONAL RELEASE

"PAROLE IS NOT CONDITIONAL RELEASE"
"CONDITIONAL RELEASE IS NOT PAROLE"

PAROLE is a flexible system of punishment and checks and balances administered by the Board of Pardons and Parole. **Citizen Board members** carefully review an offender nearing the end of the first phase of *incarceration* set by the District Court Judge. The Board extends time in prison for offenders who present a risk, demands all prisoners demonstrate they are no longer a danger, set specific conditions that must be met before serious release consideration, sets requirements for supervision if parole is granted, and returns offenders to custody who violate parole conditions. The Department of Corrections (Probation and Parole Officers) supervises offenders released on parole

Conditional Release is the release to the community of an inmate under the auspices of the Department of Corrections and subject to their rules. **This release is not parole release.** These inmates will no longer remain eligible for parole consideration during their release. Should a Conditional Release inmate violate the conditions of his/her release and be designated to the MSP/MWP, they would then become eligible for parole when prison records advises the minimum time has been served on their sentence

"PAROLE IS NOT PROBATION"
"PROBATION IS NOT PAROLE"

PAROLE is a flexible system of punishment and checks and balances administered by the Board of Pardons and Parole. **Citizen Board members** carefully review an offender nearing the end of the first phase of *incarceration* set by the District Court Judge. The Board extends time in prison for offenders who present a risk, demands all prisoners demonstrate they are no longer a danger, set specific conditions that must be met before serious release consideration, sets requirements for supervision if parole is granted, and returns offenders to custody who violate parole conditions. The Department of Corrections (Probation and Parole Officers) supervises offenders released on parole

PROBATION (deferred or suspended sentences) is a system of community supervision administered by the Court Judges. Probation supervision is generally imposed by the Court as an *alternative to prison/jail* or imposed to follow a period of incarceration. In the second circumstance, release from incarceration to probation is automatic once the prison portion of the sentence has been completed (discharged). Only the Court can revoke a period of probation. The Department of Corrections (Probation and Parole Officers) supervises offenders granted Probation.

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in [46-18-201](#) that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

- (a) prohibition of the offender's holding public office;
- (b) prohibition of the offender's owning or carrying a dangerous weapon;
- (c) restrictions on the offender's freedom of association;
- (d) restrictions on the offender's freedom of movement;
- (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;
- (f) a requirement that the offender surrender any registry identification card issued under [50-46-303](#);
- (g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card issued under [50-46-303](#), the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card.

History: En. 95-2206 by Sec. 1, Ch. 196, L. 1967; rep. and re-en. by Sec. 31, Ch. 513, L. 1973; amd. Sec. 36, Ch. 184, L. 1977; amd. Sec. 1, Ch. 436, L. 1977; amd. Sec. 1, Ch. 580, L. 1977; amd. Sec. 12, Ch. 584, L. 1977; R.C.M. 1947, 95-2206 (3); amd. Sec. 22, Ch. 116, L. 1979; amd. Sec. 10, Ch. 583, L. 1981; amd. Sec. 2, Ch. 392, L. 1987; amd. Sec. 44, Ch. 262, L. 1993; amd. Sec. 11, Ch. 125, L. 1995; amd. Sec. 17, Ch. 350, L. 1995; amd. Sec. 6, Ch. 550, L. 1995; amd. Sec. 4, Ch. 52, L. 1999; amd. Sec. 5, Ch. 147, L. 1999; amd. Sec. 2, Ch. 22, Sp. L. August 2002; amd. Sec. 14, Ch. 483, L. 2007; amd. Sec. 29, Ch. 419, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-18-207. Sexual offender treatment. (1) Upon sentencing a person convicted of a sexual offense, as defined in [46-23-502](#), the court shall designate the offender as a level 1, 2, or 3 offender pursuant to [46-23-509](#).

(2) (a) Except as provided in subsection (2)(b), the court shall order an offender convicted of a sexual offense, as defined in [46-23-502](#), except an offense under [45-5-301](#) through [45-5-303](#), and sentenced to imprisonment in a state prison to:

(i) enroll in and successfully complete the educational phase of the prison's sexual offender treatment program;

(ii) if the person has been or will be designated as a level 3 offender pursuant to [46-23-509](#), enroll in and successfully complete the cognitive and behavioral phase of the prison's sexual offender treatment program; and

(iii) if the person is sentenced pursuant to [45-5-503\(4\)](#), [45-5-507\(5\)](#), [45-5-601\(3\)](#), [45-5-602\(3\)](#), [45-5-603\(2\)\(c\)](#), or [45-5-625\(4\)](#) and is released on parole, remain in an outpatient sex offender treatment program for the remainder of the person's life.

(b) A person who has been sentenced to life imprisonment without possibility of release may not participate in treatment provided pursuant to this section.

(3) A person who has been ordered to enroll in and successfully complete a phase of a state prison's sexual offender treatment program is not eligible for parole unless that phase of the program has been successfully completed as certified by a sexual offender evaluator to the board of pardons and parole.

(4) (a) Except for an offender sentenced pursuant to [45-5-503\(4\)](#), [45-5-507\(5\)](#), [45-5-601\(3\)](#), [45-5-602\(3\)](#), [45-5-603\(2\)\(c\)](#), or [45-5-625\(4\)](#), during an offender's term of commitment to the department of corrections or a state prison, the department may place the person in a residential sexual offender treatment program approved by the department under [53-1-203](#).

(b) If the person successfully completes a residential sexual offender treatment program approved by the department of corrections, the remainder of the term must be served on probation unless the department petitions the sentencing court to amend the original sentencing judgment.

(5) If, following a conviction for a sexual offense as defined in [46-23-502](#), any portion of a person's sentence is suspended, during the suspended portion of the sentence the person:

(a) shall abide by the standard conditions of probation established by the department of corrections;

(b) shall pay the costs of imprisonment, probation, and any sexual offender treatment if the person is financially able to pay those costs;

(c) may have no contact with the victim or the victim's immediate family unless approved by the victim or the victim's parent or guardian, the person's therapists, and the person's probation officer;

(d) shall comply with all requirements and conditions of sexual offender treatment as directed by the person's sex offender therapist;

(e) may not enter an establishment where alcoholic beverages are sold for consumption on the premises or where gambling takes place;

(f) may not consume alcoholic beverages;

(g) shall enter and remain in an aftercare program as directed by the person's probation officer;

(h) shall submit to random or routine drug and alcohol testing;

(i) may not possess pornographic material or access pornography through the internet; and

(j) at the discretion of the probation and parole officer, may be subject to electronic monitoring or continuous satellite monitoring.

(6) The sentencing of a sexual offender is subject to 46-18-202(2) and 46-18-219.

(7) The sentencing court may, upon petition by the department of corrections, modify a sentence of a sexual offender to impose any part of a sentence that was previously suspended.

History: En. Sec. 27, Ch. 483, L. 2007; amd. Sec. 1, Ch. 39, L. 2009.

Provided by Montana Legislative Services

FILED

June 12 2013

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 13-0115

FILED

JUN 12 2013

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

JOHN KESSEL,

Petitioner,

v.

ORDER

MONTANA DEPARTMENT OF CORRECTIONS
and MONTANA
BOARD OF PARDONS AND PAROLE,

Respondents.

Appearing without counsel, Petitioner John Kessel (Kessel) seeks a writ of certiorari pursuant to § 27-25-101, MCA. The Department of Corrections (DOC) filed a response.

Kessel was convicted upon a guilty plea and sentenced to 30 years with 10 years suspended for sexual assault. The Second Judicial District Court declared Kessel "ineligible for parole or release upon supervision until he completes Phase I and II of the sex offender treatment program at Montana State Prison." (MSP) He was classified as a Tier II sex offender.

Kessel maintains that he began sex offender treatment nine months before he was sentenced and could have completed SOP I and II outside of prison at his own expense. Kessel interprets the judgment as requiring him to complete Phases I and II of the SOP program before his parole eligibility on December 29, 2012.

Kessel was transferred from the Cascade County Regional Prison to MSP on April 3, 2008, to participate in SOP. The Warden soon became aware that an MSP employee was related to Kessel's victim. Prison staff attempted to ensure Kessel's separation from the victim's relative. Prison staff concluded, however, that the nature of the employee's job duties made it impossible to address adequately the separation needs. These safety and

security concerns prompted the Warden to determine that Kessel should be transferred to an out-of-state prison that offered sex offender treatment. Kessel was transported to the Mike Durfee Prison in Springfield, South Dakota, on May 6, 2009.

After his transfer to the Mike Durfee Prison in South Dakota, Kessel maintains that staff indicated they were not required to provide him any treatment. Kessel wrote to the Respondent Board of Pardons and Parole (Board) in April of 2012, to seek information about parole. In a letter dated April 24, 2012, the Board informed Kessel that he would be scheduled for a parole hearing in October of 2012, and that a verifiable residence and employment was required. (Attachment "A" to petition.)

Kessel failed to mention in his letter to the Board that he was court-ordered to complete SOP II and II. The Board similarly failed to address the treatment requirement. Kessel reasons that the Board's failure to ensure his completion of sex offender treatment before his parole eligibility date imposed requirements upon him that were not included in the judgment. Hence, he argues the Board exceeded its jurisdiction.

Kessel requests this Court to appoint counsel to represent him, to require the Board to file a return to the writ, and to hold a hearing to determine whether the Board has exceeded its jurisdiction. Kessel maintains that he should be released on parole immediately and be allowed to complete SOP I and II at his own expense.

The affidavit of Linda Moodry (Moodry), the public/victim information officer (who also serves as the Western States Interstate Compact coordinator for MSP) is included with the petition. Prior to December of 2012, Moodry claims that neither Kessel nor anyone on his behalf contacted her office or other prison staff concerning any barriers to sex offender treatment. Moodry contacted Kessel by telephone on December 3, 2012, to discuss his placement and treatment. Moodry advised Kessel that the security concern that had prompted his transfer no longer existed and that he could return to MSP for SOP treatment. Moodry indicates that Kessel refused a transfer back to MSP, or to enter treatment in South

Dakota, without written assurances that the treatment would be acceptable to the Board.¹

Moodry contacted the Executive Director of the Board to determine whether the Board would seek an amended order to allow Kessel to complete treatment in South Dakota. The District Court signed an order on January 19, 2013, to remove the requirement in Kessel's judgment that he must complete SOP treatment at MSP. The court ordered Kessel "ineligible for parole or release upon supervision until he completes Phases I and II of the Sex Offender Program in a *secured prison setting*." The Board provided this information to Kessel.

A petitioner for a writ of certiorari must establish that "a lower tribunal, board or officer exercising judicial functions has exceeded the jurisdiction of the tribunal, board or officer and there is no appeal or, in the judgment of the court, any plain, speedy and adequate remedy." The Board performs quasi-judicial functions.

In the original judgment and order of commitment and the amended order—both facially valid orders—Kessel's parole eligibility was specifically conditioned upon completion of sex offender treatment. In the original judgment, the District Court recognized that Kessel may complete sex offender treatment within four to five years, but the victimized child has to endure the impact of Kessel's predation for the rest of her life. The court stated its intention clearly: "The Defendant took away the innocence of this child and as such, this Court is taking away the liberty of the Defendant."

In *McDermott v. McDonald*, 2001 MT 89, ¶18, 305 Mont. 166, 24 P.3d 200, this Court concluded that parole constitutes a discretionary grant of freedom from incarceration "as a matter of grace, rather than a right." *McDermott*, ¶¶ 24, 18. "Once lawfully sentenced . . . a prisoner is not entitled to release prior to the completion of his full sentence. *McDermott*, ¶ 17.

It appears that Kessel has interpreted the judgment and commitment incorrectly.

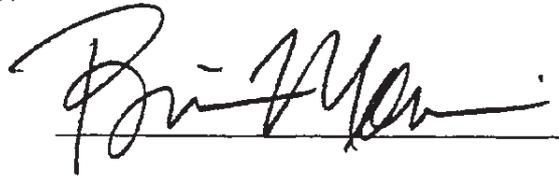
¹ Kessel maintains he chose to return to MSP.

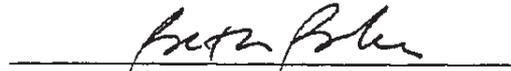
Kessel forfeited the freedom and responsibility to make decisions when he was convicted and sentenced. These decisions include matters such as where and how he might complete sex offender treatment. Kessel has failed to establish that the Board exceeded its authority here.

IT IS ORDERED that the Petition for a Writ of Certiorari is DENIED.

The Clerk is directed to provide a copy hereof to counsel of record and to John Kessel.

DATED this 11 day of June, 2013.











Justices

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-24-212. Information concerning confinement. Upon request of a victim of a felony offense, the department of corrections or the board of pardons and parole, as applicable, shall:

(1) promptly inform the victim of the following information concerning a prisoner committing the offense:

- (a) the custody level;
- (b) the projected discharge or parole eligibility date;
- (c) the actual date of the prisoner's discharge from confinement or parole, if reasonably ascertainable;

(d) the time and place of a parole hearing concerning the prisoner and of the victim's right to submit a statement to the board of pardons and parole or the hearing panel conducting a parole hearing under 46-23-202; and

(e) the community in which the prisoner will reside after parole;

(2) provide reasonable advance notice to the victim before release of the defendant on furlough or to a work-release program, halfway house, or other community-based program or correctional facility; and

(3) promptly inform the victim of the occurrence of any of the following events concerning the prisoner:

- (a) an escape from a correctional or mental health facility or community program;
- (b) a recapture;
- (c) a decision of the board of pardons and parole;
- (d) a decision of the governor to commute the sentence or to grant executive clemency;
- (e) a release from confinement and any conditions attached to the release; and
- (f) the prisoner's death.

History: En. Sec. 36, Ch. 125, L. 1995; amd. Sec. 203, Ch. 42, L. 1997; amd. Sec. 12, Ch. 189, L. 1997; amd. Sec. 11, Ch. 559, L. 2003.

Provided by Montana Legislative Services

Regardless of the sentence a victim should let the county attorney know if you want to be notified of an offender's movement within the criminal justice system. If the person who committed the crime against you or your family is sent to prison, advise the county attorney that you wish to be notified according to your rights and request the forms that the following provide notification:

Prison Records
400 Conley Lake Road
Deer Lodge, MT 59722

Montana Women's Prison
701 South 27th
Billings, MT 59101

Board of Pardons and Parole
1002 Hollenbeck Road
Deer Lodge, MT 59722

If you submit in writing the reasons to have your correspondence kept confidential, this request can be honored. You can request notification of initial parole dates and appearances, release, movement of the inmate within the system, or any additional parole consideration while the inmate is serving the sentence for the crime of which you were a victim. You may request to appear before the Board to present oral testimony or you may submit written, audio or video testimony.

▶ PAROLE SUPERVISION

When an offender is eligible for parole, it does not mean he/she will be released. As stated earlier, the Board considers a multitude of individual characteristics and circumstances in order to make that decision. These include, but are not limited to: criminal history, prior supervision, nature of the offense, institutional conduct, treatment accomplishments, and victim/citizenry input as well as the adequacy of the inmate's parole plan.

The Board can deny parole and place the inmate on annual, biennial, or extended review. The Board can deny parole and set a date for reappearance. The members can also deny parole and send the inmate to a treatment program in the prison or other appropriate program, or deny early release altogether.

If an inmate is granted parole, he/she is generally not free to leave that day. A paperwork process will follow the Board's decision and a parole date will not be set until all criteria is complete. The supervising community agent will investigate and approve or deny the proposed plan. The parolee will be required to report regularly to a parole officer, is subject to numerous standard conditions, and may be subject to several

special conditions such as alcohol or bars; urinalysis testing; ongoing treatment; chemical dependency; sex offender aftercare; or mental health counseling.

In certain circumstances, the Board can impose conditions suggested by the victim such as: no contact with victim or family, travel restrictions, and/or restitution. The Board can also mandate the Intensive Supervision or Enhanced Supervision Programs. If a parolee becomes a risk or violates parole conditions, the Board can recommit the offender and assure continued incapacitation through detention. If you have problems with a parolee, you have every right to contact the parole office or police nearest you and request assistance.

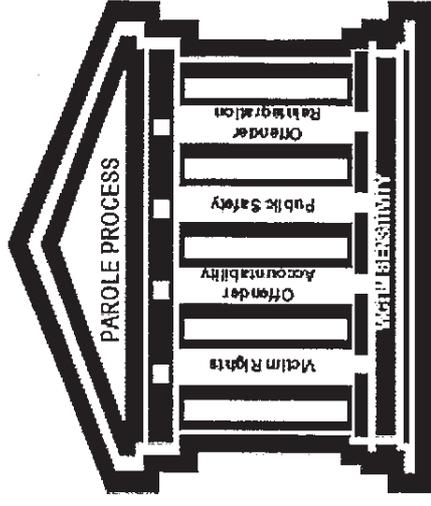
Standard Parole Conditions (paraphrased): Shall not change place of residence without PO's approval; shall not leave assigned district without PO's written permission; shall maintain employment or a program approved by BOPP or PO, must inform employer of parole status, and must obtain PO's permission prior to any change of employment; shall report to PO as scheduled; shall not own, possess, or be in control of any firearms or deadly weapons, including black powder as defined by law; shall not possess any chemical agents such as O.C. spray; shall obtain PO's permission before making any financial transactions; shall submit to search by PO at any time without a warrant; shall comply with all laws and ordinances, conduct yourself as a good citizen, and report any arrests or contacts with law enforcement to your PO; shall not possess or use illegal drugs or drug paraphernalia and shall not possess or use any drugs unless prescribed by a licensed physician; no alcohol; submit to alcohol and drug testing; no gambling; pay supervision fees; pay victim restitution.

▶ OTHER IMPORTANT RESOURCES

- BOPP Website ~ www.bopp.mt.gov
- DOC Website ~ www.cor.mt.gov
- DOJ Sex/Violent Offender Registry ~ www.doj.mt.gov
- VINE (Victim Information and Notification Everyday) ~ 1-800-456-3076 or www.vinelink.com
- CON (Correctional Offender Network) ~ www.cor.mt.gov
– click on CON icon
- DOC Victim Information ~ 1-888-223-6332 or 406-444-7461
- MSP Victim Information ~ 406-846-1320 ext 2201
- MWP Victim Information ~ 406-247-5102

We hope this pamphlet is beneficial to you. We find that most victims feel better once the process is explained and they can provide their input. The information provided in this pamphlet is only a guide and is not intended to provide legal advice or impart specific requirements to victims or the Board. If you have further questions, you should contact the County Attorney, your private attorney, or the Board.

STATE OF MONTANA BOARD OF PARDONS AND PAROLE



"Building a foundation on victim sensitivity"

VICTIM RIGHTS INFORMATION

PAROLE HEARING NOTIFICATION AND PAROLE SUPERVISION FACTS

MIKE MCKEE, CHAIRMAN
JULIE THOMAS, VICTIM SERVICES
COORDINATOR
Board of Pardons and Parole
1002 Hollenbeck Road
Deer Lodge, MT 59722
(406) 846-1404

▶ PAROLE PROCESS

Parole is the release of an inmate into the community prior to the completion of sentence subject to the orders of the Board of Pardons and Parole and the supervision of the Department of Corrections. The Parole Board is an independent agency and exercises its quasi-judicial and policy-making functions without the approval or control of the Department of Corrections. The Board acts somewhat like a Judge when making parole decisions and generally does so without review. The primary concern of the Board is the protection of the public. It is also important to note the Board members are not state employees, but are appointed by the Governor and confirmed by the Senate. They do not receive a salary but are paid a per-diem and reimbursed for expenses.

The purpose of parole is multifaceted. Most offenders, even those serving life sentences, may have a lawful date for parole eligibility. Parole is a proven method for the re-entry of incarcerated offenders into society. The need to earn parole motivates offenders to address problems that contributed to their criminal behavior and accept responsibility for their actions.

The mission of the correctional and sentencing policy of the State of Montana is to: a) punish each offender commensurate with the nature and degree of harm caused by the offender and to hold an offender accountable; b) protect the public, reduce crime, and increase the public sense of safety by incarcerating violent offenders and serious repeat offenders; c) provide restitution, reparation, and restoration to the victim(s) of the offense; and d) encourage and provide opportunities for the offender's self-improvement, rehabilitation, and reintegration of offenders back into the community.

▶ PAROLE ELIGIBILITY

Offenders who commit their crimes after 1-31-1997 must serve 25% of their sentence to become eligible for parole unless otherwise ordered by the Court and will be required to serve 100% of their sentence to discharge. These dates are calculated by Prison Records in accordance with State law and the sentence imposed by the Court.

▶ GOOD TIME LAWS

◆ State law mandates offenders who committed a crime prior to April 13, 1995, must be considered for parole with these guidelines in mind: a non-dangerous offender is eligible

for parole after serving their sentence less good time earned in prison. The offender's eligibility is further reduced by credited time served in jail prior to sentencing. A dangerous offender must serve ½ of their term with the same credits for good time and jail time. Good time also reduces discharge dates.

◆ Offenders who committed crimes between April 13, 1995, and January 31, 1997, must serve 25% of the sentence to be eligible for parole. Good time and dangerous/non-dangerous designations have been removed; however, inmates will continue to receive 30 days per month good time for discharge purposes.

▶ PAROLE IS A PRIVILEGE NOT A RIGHT

The Parole Board is required to contemplate certain factors when an inmate is considered for parole:

- The circumstances of the offense;
- The offender's previous social history and criminal record;
- The offender's conduct, employment, and attitude in prison;
- The reports of any physical and mental examinations that have been made
- Written or oral statements from any interested person or the interested person's legal representative, including written or oral statements from a victim.

All offenders will be interviewed by the Board at their initial hearing. Offenders may voluntarily waive a parole hearing by notifying the Board in writing. After their initial appearance, an offender denied parole may be set for a progress or case review. The offender will not be allowed to appear at this hearing. The Board generally does not release from review violent offenders, sex offenders, or offenders who have had opposition at previous hearings. At the time of the hearing, the Board may receive written statements from interested persons. The Board permits a victim to present a statement concerning the effects of the crime on the victim, the circumstances surrounding the crime, the manner in which the crime was perpetrated, and the victim's opinion regarding whether the prisoner should be paroled. The Board may also include the imposition of restitution as a condition of parole. The Board keeps testimony confidential if requested and articulated in writing.

▶ VICTIM RIGHTS

State law (46-24-201, MCA) requires law enforcement personnel to ensure that a victim of a crime receive information about their rights, including the stages in the criminal justice process of significance to a crime victim and the manner in which information about such stages may be obtained. 46-24-212, MCA, provides other victim right information. Upon request of a victim of a felony offense, the Department of Corrections or the Board of Pardons and Parole, as applicable, shall:

- Promptly inform the victim of the following information concerning a prisoner committing the offense: custody level; projected discharge and parole eligibility dates; actual date of the prisoner's discharge from confinement or parole if reasonably ascertainable; time and place of a parole hearing concerning the prisoner and of the victim's right to submit a statement to the board of pardons and parole under 46-23-202, MCA; and the community in which the prisoner will reside after parole release.
- Provide reasonable advance notice to the victim before release of the offender on furlough or to a work-release program, half-way house, or other community-based program or correctional facility.
- Promptly inform the victim of the occurrence of any of the following events concerning the prisoner: escape from a correctional or mental health facility or community program recapture; decision of the Board of Pardons and Parole decision of the Governor to commute the sentence or grant executive clemency; release from confinement and any conditions attached to the release; and the prisoner's death.

State law does not require that the Board of Pardons and Parole inform anyone of an inmate's parole eligibility dates appearances, or release, **unless specifically requested in writing** to do so by the victim or family. However, the Board does inform all interested parties of upcoming parole hearings when requested and every effort is made to inform the sentencing Judge, county attorney, sheriff, chief of police, and parole office.

▶ VICTIM OBLIGATION

The obligation to inform a victim is contingent upon the victim informing the appropriate agency in writing of the name, address, and phone number of the persons to whom the information should be provided and of any changes in name, address, or telephone number.

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-24-201. Services to victims of crime. (1) Law enforcement personnel shall ensure that a victim of a crime receives emergency social and medical services as soon as possible and that the victim is given written notice, in the form supplied by the attorney general, of the following:

- (a) the availability of crime victim compensation;
- (b) access by the victim and the defendant to information about the case, including the right to receive documents under [46-24-106](#);
- (c) the role of the victim in the criminal justice process, including what the victim can expect from the system, as well as what the system expects from the victim, and including the right to be accompanied during interviews as provided in [46-24-106](#); and
- (d) stages in the criminal justice process of significance to a crime victim and the manner in which information about the stages may be obtained.

(2) In addition to the information supplied under subsection (1), law enforcement personnel shall provide the victim with written information on community-based victim treatment programs, including medical, housing, counseling, and emergency services available in the community.

(3) As soon as possible, law enforcement personnel shall give to the victim the following information:

- (a) the name, office address, and telephone number of a law enforcement officer assigned to investigate the case; and
- (b) the prosecuting attorney's name, office address, and telephone number.

History: En. Sec. 2, Ch. 554, L. 1985; amd. Sec. 31, Ch. 125, L. 1995; amd. Sec. 2, Ch. 424, L. 2007.

Provided by Montana Legislative Services

FILE REVIEW PROCESS

HISTORY of FILE REVIEWS

Prior to the 1998 Montana Supreme Court's Opinion in Worden v. Montana Board of Pardons and Parole (BOPP), the Board's opinion was that testimony provided to the Board of Pardons by third parties, including crime victims, members of the community, and professionals reporting psychological and other information regarding Inmates, "is critical to a parole board's ability to render fair and informed decisions. Without protection, fear of inmate reprisals would prevent many of these individuals from providing information to parole boards. Consequently, the privacy interests of those providing information to parole boards outweighs the inmates' right to know." The Board did not allow review of the file.

In 1999, 46-23-108, MCA (see below), was repealed due to a Montana Supreme Court Decision – Worden v. Montana Board of Pardons and Parole. The Montana Supreme Court determined the following in Worden "Section 46-23-108, MCA, denies citizens, including Inmates, their right to inspect presentence reports, pre-parole reports ("**parole packet**"), supervision histories, and other social records without balancing the right to know against the demands of individual privacy. Therefore, we hold that § 46-23-108, MCA, is unconstitutional."

46-23-108. Records and reports -- confidentiality. *The department shall keep a record of the board's acts and decisions available to the public. However, all social records, including the presentence report, the pre-parole report, and the supervision history obtained in the discharge of official duty by the department, are confidential and may not be disclosed directly or indirectly to anyone other than the members of the board or a judge. The board or a court may, in its discretion, when the best interests or welfare of a particular defendant or prisoner makes such action desirable or helpful, permit the inspection of the social record or any parts thereof by the prisoner or his attorney.*

While the Supreme Court agreed that encouraging the flow of information to the Board of Pardons and Parole is an important policy, they did not agree that anyone who provides information to the Board necessarily has a privacy interest that outweighs the Inmates' right to know. The Supreme Court concluded **that each document in an Inmate's file must be examined** to determine whether all or part of it is subject to the privacy exception of the right to know and that the rights of the Inmates under the Montana constitution may be limited by legitimate, penological interests as well. Following this decision the Board's rules and State law was amended to comply with Worden (see ARM 20.25.103 and 46-23-110, MCA)

CURRENT FILE REVIEW PROCESS

The BOPP currently maintains a parole file for every offender incarcerated in the state. Since January 2012 we have documented 198 file review/copy requests. This total does not include requests for specific copy(s) of a document(s) from the parole file. That is approximately (10) requests per month on average. Unfortunately, the requests are not received equally consistent or proportionate to each facility each month. Some months we may receive (15) requests from Montana State Prison and (5) from Crossroads Correctional Center/Shelby and other months

we may receive (6) total throughout the entire state. The file reviews are scheduled according to the next scheduled hearing date and staff availability at each facility. Board staff needs to schedule the file reviews each month, make sure the offender is available and on the list at each facility and document the review process. The BOPP does not have a current database/program to schedule upcoming file reviews throughout the year therefore; a paper and manual file system is utilized. The Board has the option of charging a reasonable fee for copying the file or making copies from the file. To accommodate a file review, Board staff must examine every document in the file to determine if there is a need to protect an individual privacy interest or if a safety interest exists. If information is deemed confidential or it is determined a person's privacy interest or a safety interest outweighs the public's right to know, the information must be removed or redacted. **MCA 46-18-113** expressly provides that the PSI is not available to the *public* and Department of Corrections (DOC) legal department has advised the BOPP that this document should not be released to offenders during a file review.

Most of the information in the field file has already been provided to the offender at some point during their involvement in the judicial process. The file is started once an individual is convicted in court and is referred to the DOC for placement or for preparation of a Pre-Sentence Investigation (PSI). DOC staff compile all relevant information/documents pertaining to the offender in the file and after an offender is sent to prison, the file is forwarded to the BOPP office.

The file includes the following sections:

- Sign up/Supervision
- Court Documents
- Monthly Reports/Travel Permits/Payments Received
- Treatment
- Victim Info/Correspondence
- BOPP Documents

Neither the Board members or Board staff have the authority to amend any documents that were not generated from BOPP office although the staff may deal with misfiled paperwork or erroneous information on Board documents. In most cases, offenders are requesting to review what is called the "**parole packet**". This is the information prepared for the Board Members every month on each offender appearing before the Board for some sort of consideration. The parole packet is usually fully completed approximately (10) days prior to the hearing/review.

The parole packet generally includes the following information:

- Parole report completed by facility staff-each page reviewed and signed by the offender;
- psych report if requested by the BOPP;
- SOP report if requested by BOPP;
- letters of support or opposition;
- risk assessment completed by parole staff;
- BOPP staff recommendation based on all documents received;
- movement sheet from OMIS;

- basic information sheet (crime, term, parole eligibility date, discharge date and prior BOPP decisions) from our BOPP database and
- documents submitted by the offender.

Offenders review and sign the parole report to ensure all information is true and correct to the best of their knowledge. The parole packet and hearing, if one is required, are primarily what the Board relies upon to render a decision.

STAFF RESPONSIBILITIES

As noted previously, the staff must examine every document in the Board file. An average size file takes Board staff approximately (2) hours to review. Some offenders have 2-3 files which would obviously take staff significantly longer. When files are reviewed by offenders the staff must be present at the facility to oversee the file review. File reviews may range from a few minutes to a several hours. **Per MCA 46-23-110**, the Board may limit the time and place the records may be inspected or copied and charge a reasonable fee for copying or inspecting records. The file review is scheduled at each facility during parole hearings. As you are aware, the BOPP has (5) Parole Analysts and (1) Director to cover every parole hearing throughout the entire state. We generally have (1) Analyst each month at CCC/Shelby, Great Falls Regional Prison, Montana Women's Prison, Dawson County Correctional Center, Lewistown Nursing Home, Montana Developmental Center, and each of the (5) Pre-Release Centers. We usually have (2) Analysts at START and MSH. Since Montana State Prison's caseload is the BOPP's largest every month and when the Board's monthly business meeting is conducted, typically (4) or (5) Analysts attend MSP hearings. The Analyst(s) are tasked to organize and regulate the parole hearing process at each facility.

The Analysts responsibilities at hearings include but are not limited to the following:

- making sure offenders are present as scheduled;
- escorting offender to and from the hearing;
- escorting witnesses to and from the hearing and making sure all scheduled to attend are present; explains the hearing process &/or outcome to witnesses if any questions;
- Board introductions;
- providing file to the Board and locating paperwork in the file as needed by the Board;
- write out disposition rendered by Board and make sure it gets signed by the Board;
- ensure Board dispositions comply with BOPP ARM and MCA;
- explain disposition to offender after the hearing and distribute the copies of the disposition;
- keep track of minutes and all attendance
- coordinate video &/or telephone testimony when applicable;
- record appropriate hearings;
- assure due process documents are signed when appropriate and
- oversee the offender's file review(s) as the file is compromised if left unattended.

SUMMARY

Historically the BOPP received an average of (2) file review requests each month. The number of Offender/Attorney file review requests has increased nearly 400% over the past 20 months and has become an unforeseen and overwhelming task for a limited staff. The Board not only receive requests from individuals wanting to review their file information prior to appearing before the Board, but also receive requests from an array of individuals in all stages of their incarceration. Requests are received from offenders in prison along with offenders in START, offenders who have not yet seen the Board, offenders that have a "no parole" sentence, offenders currently in a community-based program such as Pre-Release, Watch, Nexus, etc. , offenders that have seen the Board and have been denied parole or have been granted a parole.

The Board is not opposed to file reviews or file copies; however the BOPP is simply struggling to accommodate the flood of requests in a timely manner. It should be noted that if an offender requests a copy of a specific document from the file that can be released, the request is typically accommodated quickly. As discussed with your legislative staff, the Board welcomes any observations and suggestions from the committee regarding a more efficient file review process. The most appropriate resolution seems to warrant an additional Parole Analyst and an additional support staff to develop and maintain an automated tracking system and assume these tremendously important and time consuming responsibilities. These new positions could also assume the added duties regarding the Re-Entry Initiative as major responsibilities. We thank you for your time and attention to this very important matter.

Respectfully,

BOARD OF PARDONS AND PAROLE

Julie Thomas, Senior Parole Analyst



[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-23-110. Records -- dissemination. (1) The department and the board shall keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in [2-6-102](#) and this section.

(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

(3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board staff member shall review the file requested and determine whether any document in the file is subject to a personal privacy or safety interest that clearly exceeds the merits of public disclosure.

(4) The board may assert the privacy or safety interest and may withhold a document if the board determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the document's contents would compromise the safety, order, or security of a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed.

(5) The board may not withhold from public scrutiny under subsections (2) through (4) any more information than is required to protect an individual privacy interest or a safety interest.

(6) The board may charge a reasonable fee for copying and inspecting records.

(7) The board may limit the time and place that the records may be inspected or copied.

History: En. Sec. 5, Ch. 450, L. 1999.

Provided by Montana Legislative Services



[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

44-5-311. Nondisclosure of information about victim. (1) If a victim of an offense requests confidentiality, a criminal justice agency may not disseminate, except to another criminal justice agency, the address, telephone number, or place of employment of the victim or a member of the victim's family unless disclosure is of the location of the crime scene, is required by law, is necessary for law enforcement purposes, or is authorized by a district court upon a showing of good cause.

(2) The court may not compel a victim or a member of the victim's family who testifies in a criminal justice proceeding to disclose on the record in open court a residence address or place of employment unless the court determines that disclosure of the information is necessary.

(3) A criminal justice agency may not disseminate to the public any information directly or indirectly identifying the victim of an offense committed under [45-5-502](#), [45-5-503](#), [45-5-504](#), or [45-5-507](#) unless disclosure is of the location of the crime scene, is required by law, is necessary for law enforcement purposes, or is authorized by a district court upon a showing of good cause.

History: En. Sec. 3, Ch. 125, L. 1995.

Provided by Montana Legislative Services



Montana Board of Pardons & Parole

[About Us](#) [Hearings & Decisions](#) [Victim Information](#) [Final Dispositions](#) [History & Statistics](#) [Links](#)

Home » [Administrative Rules](#) » [Administrative Rule 20.25.103](#)

Administrative Rule 20.25.103

DISSEMINATION OF INFORMATION

- (1) As a public agency, all board records including any audio/video recordings are public. All board records are subject to disclosure except in cases in which the individual right of privacy clearly exceeds the merits of public disclosure, and in cases in which statute makes the record confidential.
- (2) An individual will have a right of privacy if the person has a reasonable expectation of privacy in the material and society is willing to recognize that expectation as reasonable.
- (3) The courts have ruled that the rights society recognizes as reasonable include but are not limited to:
 - (a) information that, if released, would create a risk of physical harm to a person;
 - (b) information that, if released, would create a safety or security risk to a correctional facility;
 - (c) personal medical information; and
 - (d) personal personnel information.
- (4) When someone requests board records, the board's executive director or designee will conduct an analysis of the requested material and determine whether, in the executive director's opinion, any information contains an individual privacy interest that clearly exceeds the merits of public disclosure.
- (5) The executive director or the board may assert a claim of individual privacy on behalf of an individual if the board executive director believes requested information contains a reasonable privacy interest that exceeds the merits of public disclosure. The board executive director will attempt to notify the individual to advise the individual of the request for information and ascertain if the individual agrees with or objects to the release of information. If notification is not possible, the board executive director will independently weigh the privacy interest against the public's right to know and determine if the board should release the information.
- (6) The board may not withhold from public scrutiny any more information than is required to protect an individual privacy interest.
- (7) Whenever a crime victim asserts an individual privacy interest, the board may not disseminate to the public the name, address, telephone number, or place of employment of the victim of a member of the victim's family unless otherwise required by law.
- (8) The executive director or the board may not disseminate to the public any information directly or indirectly identifying the victim of the following sex crimes: 45-5-502 (Sexual Assault), 45-5-503 (Sexual Intercourse Without Consent), 45-5-504 (Indecent Exposure), or 45-5-507 (Incest), MCA.
- (9) The executive director or the board will disseminate research findings to all appropriate parties. The executive director or designee must approve all dissemination of research data. All research dissemination must consider the potential effect of the security and operation of correctional facilities, the public, and the operational integrity of the board. Privacy interests of offenders and other parties for cases under study will be ensured when research projects are considered.
- (10) When releasing board records the executive director or the board will consult with board legal counsel when necessary.

(11) An offender may request to view his/her individual parole file by making a request in writing. Board staff will provide the offender an opportunity to inspect the file except for information deemed confidential. An offender may not request to view his/her file more frequently than annually unless extenuating circumstances exist. If the offender making the request has previously viewed his/her file, only the information added since the previous review will be provided unless the offender presents circumstances that justify a complete review.

(12) The board may charge 10 cents per page for each page the board produces. (History: 46-23-218, MCA; IMP, 2-6-102, 44-5-311, 46-18-243, 46-23-218, MCA; NEW, 2010 MAR p. 2816, Eff. 12/10/10; AMD, 2012 MAR p. 1619, Eff. 8/10/12.)

PRIVACY & SECURITY

ACCESSIBILITY

MONTANA.GOV
OFFICIAL STATE WEBSITE

CURRENT INSTITUTIONAL ADJUSTMENT

Self Help Programs (on waiting list for, attending or completed during this incarceration): _____

Education Courses: _____

Work Record: _____

Severe or Major Rule Infraction(s): _____

Pending Severe or Major Rule Infractions: Yes No

The Board's administrative rules require 120 days of clear conduct to appear from secure facilities and 90 days clear conduct from community placements

CRIMINAL HISTORY

AGE AT FIRST ARREST: _____

Current Offense:

Date	Crime	Sentence
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Brief Description of Circumstances:

Prior Felony Convictions:

Date	Location	Crime	Sentence
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

CRIMINAL HISTORY (CONTINUED)

Parole Violations: (Parole Board):

Total Number: _____

Date	Location	Violations	Disposition
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Probation Violations: (Court)

Total Number: _____

Date	Location	Violations	Disposition
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Conditional Release Violations: (DOC)

Total Number: _____

Date	Location	Violations	Disposition
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Pending - Charges - Supervision Violations – Outstanding Warrants/ Detainers:

Date	Location	Crime	Disposition
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

PAROLE CRITERIA

Since parole is granted as a matter of grace, the Board may offer such grace under and subject to such conditions as it considers most conducive to accomplish the desired purpose. The following is the criteria the Board considers when granting or denying a parole application:

1. **In the Board's opinion**, is there reasonable probability that the applicant is presently able and willing to fulfill the obligations of a law-abiding citizen. The conclusions are based on the following:
 - a. Institutional conduct
 - b. Institutional custody level
 - c. Housing unit evaluation
 - d. Adequacy of parole plan
 - e. Work evaluations
 - f. Attitude and motivation to successfully complete a parole

2. **In the Board's opinion**, is there a reasonable probability that release at this time would not be a detriment to the applicant or community. The conclusions are based on the following:
 - a. Nature/severity of offense(s)
 - b. Previous criminal history

PAROLE CRITERIA (CONTINUED)

- c. Pattern of similar offenses
 - d. Previous escape(s) from custody
 - e. Multiple offenses
 - f. History under parole/probation supervision
 - g. Repeat sex offenses
 - h. Criminal justice authorities, victim/citizenry input
3. **In the Board's opinion**, is there a need for education, job training, treatment, or continued treatment to enhance success on parole and further insure that the applicant is willing and able to fulfill the obligations of a law-abiding citizen. Relevant needs include:
- a. G.E.D.
 - b. Basic education
 - c. Job or vocational training
 - d. Sex offender treatment
 - e. Mental health treatment
 - f. Anger management
 - g. Chemical dependency treatment
 - h. Pre-release program
4. Any other factors the Board determines to be relevant.

You are scheduled for parole consideration by the Montana Board of Pardons and Parole on _____, 20____. I have read and understand the paroling criteria. I have been advised and fully understand that I am subject to "official detention" until the Board determines that: all Board imposed conditions, changes, and/or special conditions have been satisfied; my parole plan has been investigated and approved by Probation and Parole authorities and I have been given reporting instructions; the Board Chairman issues a parole certificate authorizing my release from confinement; and I have signed the Department of Corrections "Conditions of Parole" document. I also understand that If I wish to have witnesses and/or a representative present at the time of my hearing, I must provide at least 10 working days notice to the Board of Pardons and Parole. The information presented in this application is true and correct to the best of my knowledge. **By my signature I authorize the release of medical/treatment records to the Board of Pardons and Parole.**

Applicant's Signature

I AM NOT INTERESTED IN PAROLE RELEASE, DO NOT WISH TO APPEAR OR PRESENT TESTIMONY, AND RECOGNIZE THE BOARD WILL CONDUCT A HEARING AND RENDER A DECISION WITHOUT MY PARTICIPATION.

Inmate Signature

Witness Signature

Date

I:\Docs\Forms\Parole Application 11-2012

State of Montana – Board of Pardons & Parole
1002 Hollenbeck Road
Deer Lodge, Montana 59722
(406) 846-1404

PRE-PAROLE APPLICATION

RE: PAROLE BOARD WITNESSES

*Family members, who want to attend Parole Board hearings, MUST contact the Parole Board, no later than 10 working days prior to the hearings. **NO EXCEPTIONS***

In order to assure family members or any other witnesses you wish to attend, it is **YOUR RESPONSIBILITY** to notify them of this rule. Witness (es) must provide their birthdate and social security number in order to enter the prison. The Parole Board's contact information is above for easy reference.

Your failure to notify them could result in denial of entrance to the prison and their inability to attend the hearing.

If you have any questions, please talk to the Parole Board Analyst or case manager.

Thank you.

Unit

**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE**

WAIVER OF APPEARANCE

I, _____, AO _____, DO NOT WISH TO
(PRINT NAME)
APPEAR AND HEREBY WAIVE MY _____,
(MONTH) (YEAR)
APPEARANCE. I WILL GIVE THIRTY (30) DAYS WRITTEN NOTICE TO THE BOARD
WHEN I FEEL I AM READY TO APPEAR.

I WOULD LIKE TO REAPPEAR BEFORE THE _____,
(MONTH) (YEAR)
BOARD.

REASON FOR WAIVING: _____

INMATE SIGNATURE

WITNESS SIGNATURE

DATE

CC: BOPP (white)
Records (pink)
Inmate (yellow)
IPPO's (gold)

CJW:forms\waiver.397

STATE OF MONTANA

BOARD OF PARDONS AND PAROLE

Law and Justice Interim Committee
63rd Montana Legislature
PO Box 201706
Helena, Montana 59620-1706

RE: SJ 3 Study of the operations of BOPP

Members and Committee Staff:

In light of the upcoming study of the operations of the Montana Board of Pardons and Parole, the Board and staff felt it would be helpful to the process to provide the committee with a brief overview of the Board's position, philosophy and role as Montana's releasing authority. In this report, important information has been outlined that is crucial to thoroughly understanding the earned release parole process and the vital role it plays as an ally to the citizens, victims and offenders in a large criminal justice system.

PAROLE: A FLEXIBLE SYSTEM OF REHABILITATION AND PUNISHMENT

Parole pertains to **how** punishment is administered, not **how much** punishment is administered. A parole system mandates **earned** release; a system without parole means **automatic** release. The courts and legislature set the minimum and maximum amount of prison time to be served. The current sentencing structure is a flexible system for holding offenders accountable and protecting the public. The role of the parole board can be best summarized as written by the Association of Paroling Authorities International in a study completed in 2000. "There is still support for community supervision as a way to transition individuals from prison into society. It seems that it is the decision making process that is in question. The prosecutors, by the nature of their work, deal in plea bargaining with defense attorneys in a closed environment. The court's interest is directed toward the determination of guilt along with being involved in the probation side of the system. Institutional corrections is interested in programs for offenders within their facilities, however their major concern rests with the everyday secure operation of the institutional system. Who then should be reviewing the inmate's transition plan, studying the individual's complete life history, considering victim's concerns, moving the inmate toward their return to society, based on the seriousness of the crime, risk to the community and assurance of compliance to behavioral rules and regulations as set out by the releasing authority? This has been the work of parole boards for over 100 years."

An offender, unless deemed otherwise by the law (offense date) or a court ordered parole restriction, is required to serve 25% of the sentence entirely in some form of custody. By setting a sentence considering parole eligibility established by law, the Judge can ensure a period of incarceration that he or she feels is appropriate for the punishment of the offender and the safety of the community.

OVERVIEW

The Legislature is the body that created the current parole fundamental ideology by passing the laws that define the Board's criteria for parole and clemency. The Legislature is also the body that created the laws that outlines the current structure of the Board.

The Montana State Board of Pardons and Parole is composed of seven citizen members and (10) staff members.

Director, Senior Parole Analyst, (4) Parole Analysts and (4) Admin Support. Primary Office is in Deer Lodge and satellite offices in Billings and Great Falls.

The Board is responsible for all matters concerning parole, medical parole, parole revocation and executive clemency.

Each citizen member is appointed by the Governor for staggered four year terms subject to confirmation by the State Senate.

The Governor appoints the chair in accordance with State law and the vice-chair is elected in an executive session by the members.

OBJECTIVES OF THE BOARD

- The primary objective of the Board is to affect the release from confinement of appropriate eligible offenders before the completion of the full term of commitment while still fully protecting society. A hearing panel may only grant a release when, in the panel's opinion, there is a reasonable probability it can release the offender without detriment to the offender or the community.
- To allow victims to present a statement concerning the effects of the crime on the victim or family including, but not limited to, their opinion on release of an offender.
- To make every feasible effort to bring about the rehabilitation of those inmates incarcerated or released and demands all prisoners demonstrate they are no longer a danger to society before seriously considering release.
- The board will conduct business fairly and consistently and the board's hearing panels will base decisions on public safety concerns, successful offender reentry, and sensible use of state resources.
- When a hearing panel grants a release the offender is subject to the conditions imposed by the panel and the supervision authorized by governing statutes, rules and policies of the department.
- To impose conditions that required to be completed prior to release on parole.
- To set specific and individual conditions for inmates once on parole that must be signed and acknowledged prior to release.
- To protect society by not releasing inmates and requiring more time of a sentence served in prison for more violent and dangerous offenders.
- To recommend to the governor pardons and commutation of sentences for those offenders meeting specific criteria.

BOARD AUTONOMY

The Montana Legislature allocated the Board of Pardons and Parole to the Department of Corrections for administrative purposes and hires its own personnel, and sets its own policy independent of the Department of Corrections and without approval or control of the Department of Corrections.

- The distribution of power within a correctional system must be distributed in a manner that will reduce the potential for misuse of power, a flexible system of punishment and checks and balances.
- A citizen Board with members who have no vested interests can review offenders based on community safety and are not unduly influenced by the pressures of system management.
- When corrections personnel do their job as they should, they become deeply involved in the lives of the inmates under their jurisdiction. Consequently, the tendency is to be influenced, either positively or negatively, by factors the inmates present; factors such as institutional behavior and current progress. Board members focus on many factors in addition to institutional adjustment, especially factors with predictive significance such as criminal history, nature and severity of the offense, and prior community adjustment.
- In effect, the Board becomes a body that, among other responsibilities, is required to review the "products" of correctional programs.

PAROLE ELIGIBILITY

There is a significant amount of time and effort exerted by corrections professionals and Board Staff in order to prepare and make available the required information needed for inmate hearings and reviews each month. The Board averages approximately 150 cases on a consistent, monthly basis. Normally, offenders appearing before the Board will be afforded the opportunity to attend a pre-parole school. The parole process will be explained and notice of the date and time of the hearings will be given to parole applicants. Board staff will assist offenders with the completion of a parole application. The Board also provides, as a service to those inmates entering the Montana prison system, a re-entry program. This program centers on having Board staff at the initial classification of an inmate whenever possible. The Board staff, when possible, personally advises the new inmate of the types of prison programs and treatment accomplishments that will enhance that individual inmate's possibility of parole when the eligibility date is reached. Every effort is made to provide the offender with a copy of the Board of Pardons and Parole Orientation Manual.

The preliminary preparation for hearings each month includes but is not limited to the following process:

- MSP Records Department calculates parole eligibility dates for each offender entering the prison and gives the Board a list of offenders to be seen each month (this is referred to as the "initial list");
- Board Staff serves notice of Parole Revocation and Parole Rescission Hearings;
- Board Staff facilitates Pre-Parole School for inmates scheduled to appear before the Board. At this time, Parole Applications and waivers are processed;
- Board Staff reviews each eligible offender's court order and notifies the offender if the Judge's sentencing order deems them ineligible until completion of specific requirements
- Once the court ordered requirements mandating ineligibility are fulfilled, the offender is responsible to notify Board Staff to be placed on the next available parole hearing list
- Board Staff notifies victims, law enforcement, judicial officials and other citizens who have requested to be notified;
- The initial list is combined with the reappearance list and is forwarded to correctional case managers in order to compile Parole Reports for the Board concerning the conduct and character of offenders on their caseload. Each offender reviews and signs their Parole Report;
- Board Staff requests psychological evaluations and sex offender reports on applicable offenders from contracted specialists;
- Board Staff reviews offender files and all other pertinent information, such as the circumstance of the offense committed, previous social history and criminal record, the offender's institutional progress, treatment and proposed plan for release in order to formulate a recommendation report. This report is given to the Board along with a risk assessment which has been completed by Board Staff.
- Board staff compiles a list of witnesses (both in support and opposition) requesting to attend the hearing and makes the necessary arrangements for their attendance.
- Board staff sets up video conferencing and teleconferencing for individuals to present testimony if they are unable to attend the hearings in person.

What does the Board consider in deciding whether to parole an inmate?

In the board's opinion, Parole is a privilege that offenders must earn. Offenders must demonstrate that they have a reasonable chance of conducting themselves in a law-abiding manner and are not a public safety risk before the Board will order early release on parole. In the Board's opinion, the offenders eligible for parole and remain incarcerated have not met this obligation or are pending release subject to the Community Corrections Divisions' approval or completion of corrections programs and/or clear conduct.

Within the (2) months prior to a prisoner's official parole eligibility date or as soon after that date as possible, the department shall make the prisoner available for a hearing before a hearing panel.

The hearing panel shall consider all available and pertinent information regarding the prisoner, including:

- (1) the circumstances of the offense;
- (2) the prisoner's previous social history and criminal record;
- (3) the prisoner's conduct, employment, and attitude in prison;
- (4) the reports of any physical, psychological, and mental evaluations that have been made; &
- (5) written or oral statements from criminal justice authorities or any other interested person or the interested person's legal representative, including written or oral statements from a victim regarding the effects of the crime on the victim. A victim's statement may also include but is not limited to the circumstances surrounding the crime, the manner in which the crime was committed, and the victim's opinion as to whether the prisoner should be paroled. The victim's statement may be kept confidential.

The Board has identified certain factors as significant when considering an offender for parole. They will determine if, in their opinion:

- 1. The inmate can be released without being a detriment to him/herself or community.**
- 2. The best interests of society are furthered.**
- 3. The inmate is able and willing to fulfill the obligations of a law-abiding citizen.**

HISTORY

1. Education, training, occupational skills, and employment history.
2. Past use of narcotics or habitual excessive use of alcohol.
3. Circumstances of the offense for which the inmate is serving a sentence.
4. Criminal records, including nature of crimes, recentness, and frequency.
5. Behavior and attitude while previously supervised on probation or parole.

PRISON RECORD

1. Attitude toward law and authority.
2. Institutional conduct, including disciplinary reports.
3. Work evaluations and work history.
4. Utilization of treatment opportunities.
5. Utilization of vocational and educational opportunities.
6. Maturity, stability, and behaviors consistent with the general population.
7. Noticeable attitude changes since incarceration.
8. Mental or physical makeup, for instance, physical and emotional status.
9. Risk Assessment Tool

FORWARD VIEW

1. Family status, including whether the offender's relatives or other close associates in the community display an interest.
2. Residence, neighborhood, or community of planned residence.
3. Adequacy of parole plans.
4. Availability of community resources and their value to the inmate.

What are the kinds of conditions that can be imposed on a parolee?

The Probation and Parole Bureau has numerous standard conditions; in addition, the Board may add special conditions. The Board may impose any condition that is reasonably related to the crime, the protection of the public, and the rehabilitation of the offender. Examples of special conditions the Board may impose are as follows:

- Parole when the Board determines you have successfully completed (a specified requirement such as Boot Camp, PRC, community-based program(s), treatment &/or clear conduct)
- Regular Chemical Dependency Counseling
- Regular Mental Health Counseling
- Regular Sex Offender Counseling
- Breath and/or body fluid testing for intoxicants/illegal drugs
- You shall not possess or use intoxicants, nor will you enter any place where intoxicants are the chief item of sale.
- You shall not drink intoxicants.
- Restricted from maintaining a checking or credit card account.
- Comply with court ordered conditions.
- Restricted from gambling or entering any casinos
- Prohibited from participating in a medical marijuana program
- Restricted from operating a motor vehicle

How does parole differ from probation and conditional release?

- **Probation** is the suspension or deferral of a prison or Department commitment by the District Court. The District Court retains jurisdiction and the offender is placed under community supervision subject to the conditions imposed by the court. Probation officers in the community supervise these offenders and the District Court is responsible for revocation after a due process hearing.
- **Conditional Release** is a program implemented by the Department of Corrections and the DOC retains jurisdiction. As an alternative to commitment to a prison, under 46-18-201, MCA, a District Judge may commit an offender to the DOC for up to five years with a recommendation for placement in an appropriate correctional facility or program including supervision in the community by a probation and parole officer. DOC is responsible for revocation after a due process hearing
- **Parole** is the release of a prisoner confined in a state prison or the state hospital or any person who is sentenced to the state prison and confined in a prerelease center into the community prior to the completion of a sentence subject to the orders of the Board and the supervision of the Department. The BOPP is responsible for revocation after a due process hearing

How and why does a parole get revoked?

When a parolee has allegedly violated a condition of his release, the Department of Corrections may issue a warrant for the parolee's arrest. In most cases a parole officer will try to address supervision violations with intermediate sanctions in order to keep a parolee in the community. When intermediate sanctions fail &/or the violation(s) render the parolee a detriment to himself or society, the following is the parole revocation procedure:

- **ON-SITE HEARING:** In most circumstances, an arrested parolee is afforded a preliminary hearing within a reasonable time at or near the place of the alleged violation. The parolee's supervising officer and a hearing officer conduct this hearing. The independent hearing officer need not be a judicial officer. The purpose of the hearing is to determine whether there is probable cause to believe the parolee violated one or more parole conditions or whether the offender should be held in custody pending the Board's decision on revocation. If probable cause is found, the Board will schedule a formal revocation hearing at the next regularly scheduled Board meeting following the offender's return to Montana State Prison. The parolee may waive the right to an on-site hearing but by doing so, the offender admits to the violations as outlined in the report of violation.
- **FINAL HEARING:** A parolee may request a continuance of a formal revocation hearing for substantial reason. The parolee may be represented by council and have witnesses with testimony relating only to the charges of violation. The purpose of the full hearing is to make final decision on whether there is a violation of parole conditions and whether the violation warrants a return to custody and for how long. If a parolee admits to the violation, the parolee can waive the right to a hearing before the Board. The Board will make a final decision based on the record. Following the decision, a written copy of the decision is given to the parolee in a timely manner. Any parolee who commits a crime while on parole or conditional release and who is convicted and sentenced, serves the sentence consecutively with the remainder of the original term unless the court otherwise orders.

What is executive clemency?

"Clemency" means kindness, mercy, or leniency that may be exercised by the governor toward a convicted person. There are four major kinds of Executive Clemency that can be recommended to the Governor following a public hearing:

- **Pardon** - a declaration of record that an individual is to be relieved of all legal consequences of a prior conviction.
- **Commutation** - involves the mitigation of a criminal punishment through the substitution of a lesser sentence for a greater one.
- **Remission of Fines and Forfeitures** - reduction
- **Respite** - relief or delay in an execution

The Board of Pardons and Parole, as an essential part of the criminal justice process, serves all Montana Citizens by administering a parole system that is balanced with public safety, offender accountability and rehabilitation, as well as, protecting the interests of victims and communities, with the goal of successfully reintegrating merited offenders back into society through a reentry process. All employees and members of the Board of Pardons and Parole are committed to securing the effective application of and improvements to the clemency and release system, as well as the laws upon which they are based. The parole process is carried out in an effective, fair, safe, and efficient fashion.

The Montana Board of Pardons and Parole envisions a parole and pardon system that promotes fair and consistent decisions based on public safety, victim concerns, successful inmate re-entry and sensible use of state resource. The Board's perspective on abolishing parole can be best summed up in the following quote from "Why the Emperor Has No Clothes": *Abolishing parole is irresponsible with the public's safety, with the public's dollar and perhaps most damaging, with the public's trust. Numerous states have gone the parole abolition route. Their crime rates have not dropped; fear of crime has not abated. On the contrary, crime continues to rise, costs skyrocket, victims are deprived of their chance to say their piece about the release of offenders, and the public becomes even more disillusioned with our system. Parole provides constant review of the criminal in prison; continual re-evaluation of the risk that the criminal presents to society; leverage before they are released to assure good behavior in the community; careful supervision of criminals after they are released; and the potential to re-imprison those who appear to be a threat to the community.*

The constitution supports a system of checks and balances with distribution of power and authority. The citizens of Montana have the right to have their interests represented in the release decisions of convicted offenders without the main focus being on the pressures of system management, concerns of prison population, and management of institutions. An independent, citizen Board structured by law and appointed by the Governor safeguards this right by assurance of safe release decisions set by parole criteria as defined by statute.

Please contact our office if you need additional information or have any questions.

Respectfully submitted,

BOARD OF PARDONS AND PAROLE

Montana's Official State Website

- [Services](#)
- [Agencies](#)
- [Search](#)

Montana Board of Pardons & Parole

[About Us](#) [Hearings & Decisions](#) [Victim Information](#) [Final Dispositions](#) [History & Statistics](#) [Links](#)

[Home](#) » [History & Statistics](#) » [History of the BOPP](#)

History

Creation of the Board of Pardons and Parole (1889)

The origins of the Board of Pardons and Parole can be traced to the 1889 Montana Constitution. Article VII, Section 9, of the constitution authorized the Governor to grant pardons, remit fines and forfeitures, and commute punishments subject to the approval of a Board of Pardons. The constitution directed the Legislature to provide for the appointment, composition, powers, and duties of the Board. In 1891, the Legislature determined that the Board of Pardons would be composed of three elected state officials: the Secretary of State, Attorney General, and State Auditor (L. 1891, pp. 191-195). The duties assigned to the Board were limited to advising the Governor when he chose to exercise his constitutional power to grant an absolute or conditional pardon, remit a fine or forfeiture, or commute a punishment. If the Governor wished to take such action, the Board scheduled a hearing, solicited testimony during the hearing from parties supporting or opposing the Governor's action, and then recommended to the Governor whether a pardon should be granted, a fine or forfeiture remitted, or a punishment commuted. The 1891 Board had no parole responsibilities.

Parole by the Board of Prison Commissioners (1907)

Sixteen years later, the Legislature provided for the parole of prisoners (Ch. 95, L. 1907). The 1907 legislation authorized the State Board of Prison Commissioners, consisting of the Governor, Secretary of State, and Attorney General, to parole an inmate of the Montana State Prison (MSP) subject to the following restrictions:

An inmate could not be paroled if the inmate previously had been convicted of a felony other than the one for which the inmate currently was imprisoned.

An inmate serving a time sentence could not be paroled until the inmate had served at least one-half of the inmate's full term, "not reckoning his good time", except that an inmate serving a time sentence could be paroled after serving 122 years.

An inmate serving a life sentence could not be paroled until the inmate had served 25 years "less the diminution which would have been allowed for good conduct had the inmate's sentence been for 25 years." Additionally, the parole had to receive unanimous approval from the Board.

The law further provided that the parolee remained under the legal custody of the State Board of Prison Commissioners and could be returned to prison "either for breach of the conditions of (the) parole or otherwise." A parolee was required to report in writing to the Board at least every three months.

Parole and Executive Clemency Functions Merged (1955)

For the next 48 years, a dual board system existed. The Board of Pardons reviewed Executive Clemency matters, while the State Board of Prison Commissioners handled paroles. In 1955, however, the functions of the two boards were combined and assigned to a reconstituted Board of Pardons and Parole (Ch. 153, L. 1955). The Board consisted of three members appointed by the Governor with the advice and consent of the Senate. Members served staggered six-year terms.

In addition to administering the laws governing parole and Executive Clemency, the Board was charged with supervising probations and suspended sentences. The 1955 legislation authorized the Board to appoint a State Director of Probation and Parole. The director, in turn, was authorized to appoint an assistant director and other necessary employees. All officers and employees served at the Board's pleasure.

The 1955 legislation, in addition to reconstituting the Board and defining its functions, revised the provisions concerning parole eligibility. The law required the Board to release on parole any inmate, except a person under a death sentence, when in the Board's opinion, "there (was) reasonable probability that the prisoner (could) be released without detriment to him/herself or to the community", subject to the following restrictions:

No inmate serving a time sentence could be paroled until the inmate had served at least one-quarter of the inmate's full term, less good time; however, any inmate serving a time sentence may be paroled after serving 122 years.

No inmate serving a life sentence could be paroled until the inmate had served 25 years, less good time.

No changes were made to the 1955 law for the next 16 years. Then, in the 1970's, 80's, and 90's, a series of revisions were enacted.

Montana's Official State Website

- [Services](#)
- [Agencies](#)
- [Search](#)

Montana Board of Pardons & Parole

[About Us](#) [Hearings & Decisions](#) [Victim Information](#) [Final Dispositions](#) [History & Statistics](#) [Links](#)

[Home](#) » **Overview**

Overview

On behalf of the Board members and Board staff as well as the people of the State of Montana, I welcome you to the Board of Pardons and Parole website. The site is designed to provide valuable, easy-to-use information and to respond to questions about the Board and the critical work it does.

Parole and Executive Clemency are *privileges, not rights*, earned by prisoners or individuals convicted of crimes. The Board's primary responsibility in making decisions is *public safety*. The law states the board *may* release any person committed to prison when the Board believes the person is able and willing to fulfill the obligations of a law-abiding citizen and when the Board believes the prisoner can be released without detriment to the prisoner or to the community.

During the past five years, the Board has released 2,760 offenders to parole supervision. In that same time, 1007 paroled offenders have successfully completed their sentences in the community. The Board has historically approved parole for nearly six out of every 10 offenders that have appeared before them requesting release.

The Board, as part of the criminal justice system, is doing its part by following the appropriate laws, releasing deserving offenders to community placements, and keeping undeserving or dangerous prisoners incarcerated. The Board also promptly returns to custody offenders not willing to abide by the conditions of their release. If you have any questions or concerns, please feel free to write, email, or phone our office.

Fern Osler Johnson

Executive Director

Current Parole Board Members

Name	Occupation	Appointed	Expires
Pete Lawrenson	Business Management	5/1/2013	1/1/2017
Coleen Magera	Attorney	5/1/2003	1/1/2017
Mary Kay Puckett	Consultant	5/1/2013	1/1/2017
Darryl Dupuis	Retired	1/1/2010	1/1/2014
Margaret Bowman	Businesswoman	1/1/2010	1/1/2014
John Rex	CD Program Manager	1/1/2011	1/1/2015
Mike McKee - Chair	Consultant	1/1/2011	1/1/2015

All members must have training in American Indian culture and problems.

Members serve until such time as they are replaced or reappointed.

Board Members Re-Appointed and Appointed

Mr. Pete Lawrenson was appointed to the Board of Pardons and Parole by Governor Bullock, effective May 1, 2013. Mr. Lawrence is the Chief of Security and Safety at Montana Rail Link in Missoula.

Governor Bullock also appointed attorney, Coleen Magera to the Board of Pardons and Parole. Ms. Magera is a former County Attorney and replaces Ms. Teresa McCann-O'Connor. Ms. Mager fulfills the attorney requirement of quasi-judicial boards.

Additionally, Governor Bullock appointed Mary Kay Puckett to a four year term to the Board, effective May 1, 2013. Ms. Puckett is a Health Care Consultant with Mountain West Benefits.

Staff

Name	Position	Years of Experience
Fern Osler Johnson	Executive Director	20
Julie Thomas	Senior Parole Board Analyst	21

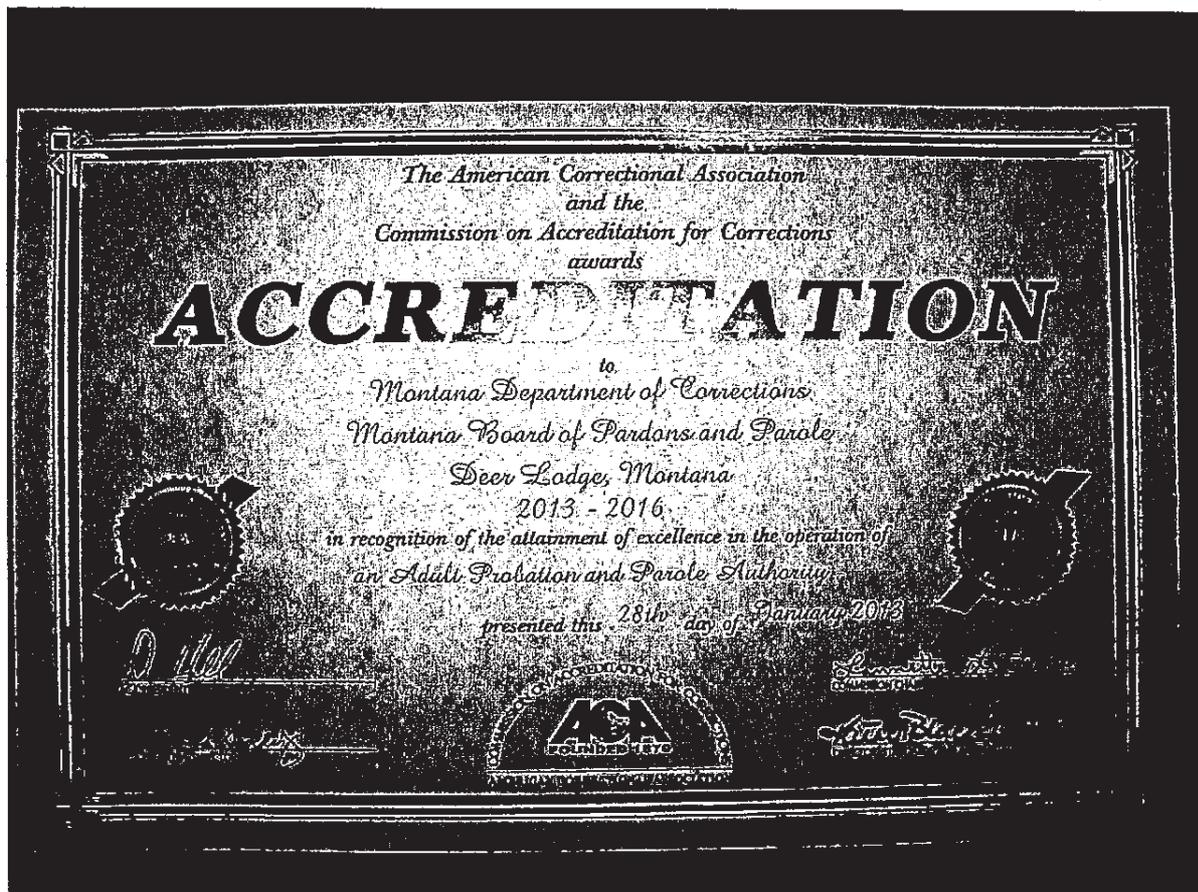
Christine Slaughter	Parole Board Analyst	6
Timothy Allred	Parole Board Analyst	7
Michael Webster	Parole Board Analyst	18
Meaghan Shone	Parole Board Analyst	9
Cathy Leaver	Administrative Specialist	27
Lisa Wirth	Administrative Assistant	10
Michelle Oliver	Filing Secretary	13
Dotsie Shaffer	Receptionist	10

The Montana Board of Pardons and Parole accredited by the American Correctional Association

The Montana Board was first accredited by the ACA on January 22, 2001. At that time, there were only three other Parole Boards with this distinction in the nation. The original certificate encompassed three years, at which time the Board was required to renew it's request for continued accreditation. The Montana Board was re-accredited in January 2004, January 2007, January 2010, and January 2013.

We are proud to say the Montana Board of Pardons and Parole has been re-accredited for the years 2013-2016. The process of having your peers evaluate what you are doing within the field and then having them find your work is outstanding by definition of the Accreditation Standards is rewarding. The Board wishes to thank all staff for their hard work in making this happen. Ultimately, it is the citizens of the State of Montana that benefit by knowing the Parole process in Montana is working well. The new report on accreditation is available below.

In presenting the award, Lannette Linthicum, Chairperson of the Commission on Accreditation for Corrections, and Christopher Epps, President of the American Correctional Association, complimented the facility on their professional level of operation and their success in completing the accreditation process. A copy of the letter, as well as the full report, is attached below.



[Montana Board of Pardons and Parole Accreditation Letter and Report 2013](#)

Parole

Parole is the release of an inmate into the community prior to the completion of sentence, subject to the orders of the Board of Pardons and Parole and the supervision of the Department of Corrections. The Parole Board is an independent agency and exercises its quasi-judicial and policy-making functions without the approval or control of the Department of Corrections. The Board acts somewhat like a Judge when making parole decisions and generally does so without review. The primary concern of the Board is the protection of the public. It is also important to note the Board members are not state employees, but are appointed by the Governor and confirmed by the Senate. They do not receive a salary but are reimbursed for expenses.

The purpose of parole is wide-ranging. Most offenders, even those serving life sentences, will have a lawful date for parole eligibility. There must be a way to reintegrate those offenders back into society. Parole is a proven method for the re-entry of incarcerated offenders into society. The need to earn parole motivates offenders to address problems that contributed to their criminal behavior. Parole is the public's last line of defense against the early release of unsuitable serious offenders. The Board of Pardons and Parole takes into account a multitude of factors when each inmate is considered for parole, in an effort to assess and manage risk.

The mission of the correctional policy of the State of Montana is to: a) punish each offender commensurate with the nature and degree of harm caused by the offender; b) protect the public by incarcerating violent offenders and serious repeat offenders; c) provide restitution, reparation, and restoration to the victims' of the offense; and d) encourage and provide opportunities for the offender's self-improvement.

Executive Clemency

The Board is also responsible for Executive Clemency for the State of Montana. This includes both pardon and commutation of sentence. The Board has provided the application on this website for interested parties to print, sign and send in for consideration of clemency. (You must have Adobe Acrobat to obtain form)

[Executive Clemency Application](#)

Applications must be in writing, signed by the applicant, and filed with the Executive Director of the Board of Pardons and Parole. Applications may be filed **only** by the person convicted of the crime, by the inmate's attorney acting on the person's behalf and with consent, or by a court-appointed next friend, guardian, or conservator acting on the applicant's behalf. Unless the Board orders otherwise or there has been a substantial change in circumstances, as determined by the Board, a person may not reapply for Executive Clemency.

Budget Information

The Parole Board in Montana is a citizen's board. They are not paid Correctional employees. They volunteer their time and are paid \$75.00 per day for each day they conduct Board business. They also have some expenses reimbursed. The total budget for Board members reimbursement per year is approximately \$40,425.00. The entire budget for the Board of Pardons and Parole is approximately \$748,503.00 for the current fiscal year. This includes the salaries of the 10 employees.

Factors in Parole Decisions: (criteria)

The Board has designated certain factors as important when considering a person for parole. They will determine the following:

1. If the inmate can be released without being a detriment to him/herself or community.
2. If the best interests of society are furthered.
3. If the inmate is able and willing to fulfill the obligations of a law-abiding citizen.
4. If continued correctional treatment would substantially enhance the inmate's capacity to lead a law abiding life.

The Board will not parole an inmate if there is a substantial reason to believe the inmate will engage in further criminal conduct or will not conform to specific conditions of parole.

A. HISTORY

1. Education, training, occupational skills, and employment history.
2. Past use of narcotics or habitual excessive use of alcohol.
3. Circumstances of the offense for which the inmate is serving a sentence.
4. Criminal record, including nature of crimes, how recent, and frequency.
5. Behavior and attitude while previously supervised on probation or parole.

B. PRISON RECORD

1. Attitude toward law and authority.
2. Institutional conduct, including disciplinary reports.
3. Work evaluations and work history.
4. Utilization of treatment opportunities.
5. Utilization of vocational and educational opportunities.
6. Maturity, stability, and behaviors consistent with the general population.
7. Noticeable attitude changes since incarceration.

8. Mental or physical makeup; for instance, physical and emotional status.

- [Privacy & Security](#)
- [Accessibility](#)

- [Services](#)
- [Agencies](#)
- [Search](#)

Montana Board of Pardons & Parole

[About Us](#) [Hearings & Decisions](#) [Victim Information](#) [Final Dispositions](#) [History & Statistics](#) [Links](#)

Home » [Victim Information](#) » Information for Victims

Victim Information for the Board of Pardons and Parole

[Victim Notification Registration form](#) 

PAROLE PROCESS

Parole is the release of an inmate into the community prior to the completion of sentence subject to the orders of the Board of Pardons and Parole and the supervision of the Department of Corrections. The Parole Board is an independent agency and exercises its quasi-judicial and policy-making functions without the approval or control of the Department of Corrections. The Board acts somewhat like a Judge when making parole decisions and generally does so without review. The primary concern of the Board is the protection of the public. It is also important to note the Board members are not state employees, but are appointed by the Governor and confirmed by the Senate. They do not receive a salary but are paid a per-diem and reimbursed for expenses.

The purpose of parole is multifaceted. Most offenders, even those serving life sentences, may have a lawful date for parole eligibility. Parole is a proven method for the re-entry of incarcerated offenders into society. The need to earn parole motivates offenders to address problems that contributed to their criminal behavior and accept responsibility for their actions.

The mission of the correctional and sentencing policy of the State of Montana is to: a) punish each offender commensurate with the nature and degree of harm caused by the offender and to hold an offender accountable; b) protect the public, reduce crime, and increase the public sense of safety by incarcerating violent offenders and serious repeat offenders; c) provide restitution, reparation, and restoration to the victim(s) of the offense; and d) encourage and provide opportunities for the offender's self-improvement, rehabilitation, and reintegration of offenders back into the community.

PAROLE ELIGIBILITY

Offenders who commit their crimes after 1-31-1997 must serve 25% of their sentence to become eligible for parole unless otherwise ordered by the Court and will be required to serve 100% of their sentence to discharge. These dates are calculated by Prison Records in accordance with State law and the sentence imposed by the Court.

GOOD TIME LAWS

State law mandates -offenders who committed a crime prior to April 13, 1995, must be considered for parole with these guidelines in mind: a non-dangerous offender is eligible for parole after serving ¼ of their sentence less good time earned in prison. The eligibility is further reduced by credited time served in jail prior to sentencing. A dangerous offender must serve ½ of their term with the same credits for good time and jail time. Good time also reduces discharge dates.

Offenders who committed crimes between April 13, 1995, and January 31, 1997, must serve 25% of the sentence to be eligible for parole. Good time and dangerous/non-dangerous designations have been removed; however, inmates will continue to receive 30 days per month good time for discharge purposes.

PAROLE IS A PRIVILEGE NOT A RIGHT

The Parole Board is required to contemplate certain factors when an inmate is considered for parole: All offenders will be interviewed by the Board at their initial hearing. Offenders may voluntarily waive a parole hearing by notifying the Board in writing. After their initial appearance, an offender denied parole may be set for a progress or case review. The offender will not be allowed to appear at this hearing. The Board generally does not release from review violent offenders, sex offenders, or offenders who have had opposition at previous hearings. At the time of the hearing, the Board may receive written statements from interested persons. The Board permits a victim to present a statement concerning the effects of the crime on the victim, the circumstances surrounding the crime, the manner in which the crime was perpetrated, and the victim's opinion regarding whether the prisoner should be paroled. The Board may also include the imposition of restitution as a condition of parole. The Board keeps testimony confidential if requested and articulated in writing.

VICTIM RIGHTS

State law (46-24-201, MCA) requires law enforcement personnel to ensure that a victim of a crime receives information about their rights, including the stages in the criminal justice process of significance to a crime victim and the manner in which information about such stages may be obtained. 46-24-212, MCA, provides other victim rights information. Upon request of a victim of a felony offense, the Department of Corrections or the Board of Pardons and Parole, as applicable, shall:

- Promptly inform the victim of the following information concerning a prisoner committing the offense: custody level; projected discharge and parole eligibility dates; actual date of the prisoner's discharge from confinement or parole, if reasonably ascertainable; time and place of a parole hearing concerning the prisoner and of the victim's right to submit a statement to the board of pardons and parole under 46-23-202, MCA; and the community in which the prisoner will reside after parole release.
- Provide reasonable advance notice to the victim before release of the offender on furlough or to a work-release program, half-way house, or other community-based program or correctional facility.
- Promptly inform the victim of the occurrence of any of the following events concerning the prisoner: escape from a correctional or mental health facility or community program; recapture; decision of the Board of Pardons and Parole; decision of the Governor to commute the sentence or grant executive clemency; release from confinement and any conditions attached to the release; and the prisoner's death.

State law does not require that the Board of Pardons and Parole inform anyone of an inmate's parole eligibility dates, appearances, or release, **unless specifically requested in writing** to do so by the victim or family. However, the Board does inform all interested parties of upcoming parole hearings when requested and every effort is made to inform the sentencing Judge, county attorney, sheriff, chief of police, and parole office.

VICTIM OBLIGATION

The obligation to inform a victim is contingent upon the victim informing the appropriate agency in writing of the name, address, and phone number of the persons to whom the information should be provided and of any changes in name, address, or telephone number.

Regardless of the sentence, let the county attorney know you want to be notified of an offender's movement within the criminal justice system. If the person who committed the crime against you or your family is sent to prison, advise the county attorney that you wish to be notified according to your rights and request the forms that the following provide notification:

Montana State Prison
400 Conley Road
Deer Lodge, MT 59722

Montana State Board of Pardons and Parole
1002 Hollenbeck Road
Deer Lodge, MT 59722

Montana Women's Prison
701 S. 27th St.
Billings, MT 59101

If you articulate in writing the reasons to have your correspondence kept confidential, this request can be honored. You can request notification of initial parole dates and appearances, release, movement of the inmate within the system, or any additional parole consideration while the inmate is serving the sentence for the crime of which you were a victim. You may request to appear before the Board to present oral testimony or you may submit written, audio or video testimony.

PAROLE SUPERVISION

When an offender is eligible for parole, it does not mean he/she will be released. As stated earlier, the Board considers a multitude of individual characteristics and circumstances in order to make that decision. These include, but are not limited to: criminal history, prior supervision, nature of the offense, institutional conduct treatment accomplishments, and victim/citizenry input as well as the adequacy of the inmate's parole plan.

The Board can deny parole and place the inmate on annual, biennial, or extended review. The Board can deny parole and set a date for reappearance. The members can also deny parole and send the inmate to a treatment program in the prison or other appropriate program, or deny early release altogether.

If an inmate is granted parole, he/she is generally not free to leave that day. A paperwork process will follow the Board's decision and a parole date will not be set until all criteria is complete. The supervising community agent will investigate and approve or deny the proposed plan. The parolee will be required to report regularly to a parole officer, is subject to numerous standard conditions, and may be subject to several special conditions such as: no alcohol or bars; urinalysis testing; ongoing treatment for chemical dependency; sex offender aftercare; or mental health counseling.

In certain circumstances, the Board can impose conditions suggested by the victim such as: no contact with victim or family, travel restrictions, and/or restitution. The Board can also mandate the Intensive Supervision or Enhanced Supervision Programs. If a parolee becomes a risk or violates parole conditions, the Board can recommit the offender and assure continued incapacitation through detention. If you have problems with a parolee, you have every right to contact the parole office or police nearest you and request assistance.

Standard Parole Conditions:

1. **RESIDENCE:** Your residence must be approved by your PO. You shall not change your place of residence without first obtaining permission from your PO. You will make your home open and available for an officer to visit or search upon reasonable suspicion. You will not own dangerous/vicious animals such as guard dogs, use perimeter security doors or any other device that would hinder an officer, or refuse to open the door to your residence when requested.
2. **TRAVEL:** You shall not leave your assigned district without first obtaining written permission from your PO.

3. **EMPLOYMENT:** You shall seek and maintain employment or a program approved by the Board of Pardons and Parole or your PO. You must obtain permission from your PO prior to any change of employment. You must inform your employer of your status on probation, parole, or other community supervision.
4. **REPORTING:** You are required to personally report to your PO as directed. You must submit written monthly reports on forms provided. You will make yourself available to your PO as requested.
5. **WEAPONS:** You shall not use, own, possess, transfer or be in control of any firearms, deadly weapons, or ammunition, including black powder, as defined by state or federal law. You will not possess chemical agents such as O.C. or pepper spray.
6. **FINANCIAL:** You must obtain permission from your PO before financing or purchasing a vehicle, real property or engaging in business. You will not go into debt without your officer's permission. Victim restitution, child support, fines and fees will be your priority financial obligations.
7. **SEARCH:** Upon reasonable suspicion, as ascertained by the PO, you, your vehicle, and/or residence may be searched at any time, day or night, without a warrant by a PO, ISP officer or a law enforcement officer (at the direction of the PO or ISP officer). You may also be searched at your place of employment. Any illegal property or contraband will be seized and may be destroyed.
8. **LAWS & CONDUCT:** You shall comply with all city, county, state, and federal laws and ordinances, conduct yourself as a good citizen, and report any arrests or contacts with law enforcement to your PO within 72 hours. You shall be cooperative and truthful in all your communications and dealings with your PO and any law enforcement agency.
9. **ILLEGAL DRUG USE:** You will not possess or use illegal drugs or any drugs unless prescribed by a licensed physician. You will not be in control or under the influence of illegal drugs, nor will you have in your possession any drug paraphernalia.
10. **NO ALCOHOL:** You will not possess or consume intoxicants/alcohol. You will submit to breathalyzer testing or bodily fluid testing as requested by your PO.
11. **DRUG TESTING:** You will submit to alcohol and/or drug testing on a random or regular basis as required by your PO.
12. **NO GAMBLING:** You will not gamble or play games of chance.
13. **SUPERVISION FEES:** You will pay supervision fees as per 46-23-1031, M.C.A.
14. **VICTIM RESTITUTION:** You will pay court ordered restitution to the victim. Payments are to be made as determined by the Court and/or PO.
15. **FINES/FEES:** You will pay all fines and fees as ordered by the Court.

OTHER IMPORTANT RESOURCES

- BOPP Website ~ www.bopp.mt.gov
- DOC Website ~ www.cor.mt.gov
- DOJ Sex/Violent Offender Registry ~ <https://doj.mt.gov>
- VINE (Victim Information and Notification Everyday) ~ 1-800-456-3076 or www.vinelink.com
- CON (Correctional Offender Network) ~ <https://app.mt.gov/conweb>
- DOC Victim Information ~ 1-888-223-6332 or 406-444-7461
- MSP Victim Information ~ 406-846-1320 ext 2201
- MWP Victim Information ~ 406-247-5102

We hope this information is beneficial to you. We find that most victims feel better once the process is explained and they can provide their input. The information provided in this pamphlet is only a guide and is not intended to provide legal advice or impart specific requirements to victims or the Board. If you have further questions, you should contact the County Attorney, your private attorney, or the Board.

- [Privacy & Security](#)
- [Accessibility](#)

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-23-201. Prisoners eligible for nonmedical parole -- rulemaking. (1) Subject to the restrictions contained in subsections (2) through (5) and when in the board's opinion there is reasonable probability that a prisoner can be released without detriment to the prisoner or to the community, the board may release on nonmedical parole by appropriate order any person who is:

(a) confined in a state prison;
(b) sentenced to the state prison and confined in a prerelease center;
(c) sentenced to prison as an adult pursuant to [41-5-206](#) and confined in a youth correctional facility;
(d) sentenced to be committed to the custody of the director of the department of public health and human services as provided in [46-14-312](#) and confined in the Montana state hospital, the Montana developmental center, or the Montana mental health nursing care center.

(2) Persons under sentence of death, persons sentenced to the department who have been placed by the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences imposed under [46-18-202\(2\)](#) or [46-18-219](#) may not be granted a nonmedical parole.

(3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(5) A parole may be ordered under this section only for the best interests of society and not as an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.

(6) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years before a hearing panel conducts another hearing or review. The board shall adopt by administrative rule a process by which a prisoner may request an earlier hearing or review.

History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(1), (2); amd. Secs. 1, 2, Ch. 235, L. 1983; amd. Sec. 1, Ch. 451, L. 1985; amd. Sec. 2, Ch. 188, L. 1989; amd. Sec. 2, Ch. 248, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 1, Ch. 315, L. 1991; amd. Sec. 3, Ch. 519, L. 1991; amd. Sec. 68, Ch. 10, L. 1993; amd. Sec. 4, Ch. 372, L. 1995; amd. Sec. 17, Ch. 482, L. 1995; amd. Sec. 227, Ch. 546, L. 1995; amd. Sec. 9, Ch. 189, L. 1997; amd. Sec. 7, Ch. 491, L. 1999; amd. Sec. 5, Ch. 559, L. 2003; amd. Sec. 5, Ch. 102, L. 2011; amd. Sec. 1, Ch. 176, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-23-104. Board of pardons and parole. (1) The board of pardons and parole is responsible for executive clemency and parole as provided in this chapter.

(2) The board shall meet monthly at a place determined by the board and at other times and places that the board considers necessary.

(3) The principal office of the board is in Deer Lodge.

(4) The presiding officer of the board or a designee in consultation with the members shall appoint hearing panels and their presiding officers to conduct hearings and to issue final decisions concerning parole and executive clemency and shall request out-of-state releasing authorities to conduct hearings pursuant to Article IV(6) of the Western Interstate Corrections Compact. The presiding officer of the board or a designee shall attempt to make hearing panel appointments in a manner that ensures equitable distribution of workload among board members. If a hearing panel consisting of two members is unable to reach a unanimous decision, the presiding officer of the board shall appoint a third member to consider all pertinent information and render a final decision. The hearing panels have the full authority and power of the board to order the denial, grant, or revocation of parole and to make final decisions and recommendations in matters of executive clemency.

History: En. Sec. 2, Ch. 153, L. 1955; Sec. 94-9822, R.C.M. 1947; redes. 95-3204 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 81, Ch. 120, L. 1974; amd. Sec. 3, Ch. 333, L. 1975; R.C.M. 1947, 95-3204; amd. Sec. 1, Ch. 234, L. 1981; amd. Sec. 1, Ch. 300, L. 1987; amd. Sec. 225, Ch. 546, L. 1995; amd. Sec. 1, Ch. 425, L. 2001; amd. Sec. 3, Ch. 559, L. 2003; amd. Sec. 3, Ch. 102, L. 2011.

Provided by Montana Legislative Services

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

2-15-121. Allocation for administrative purposes only. (1) An agency allocated to a department for administrative purposes only in this chapter shall:

- (a) exercise its quasi-judicial, quasi-legislative, licensing, and policymaking functions independently of the department and without approval or control of the department;
- (b) submit its budgetary requests through the department;
- (c) submit reports required of it by law or by the governor through the department.

(2) The department to which an agency is allocated for administrative purposes only in this title shall:

(a) direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the agency;

(b) include the agency's budgetary requests in the departmental budget;

(c) collect all revenues for the agency and deposit them in the proper fund or account. Except as provided in [37-1-101](#), the department may not use or divert the revenues from the fund or account for purposes other than provided by law.

(d) provide staff for the agency. Unless otherwise indicated in this chapter, the agency may not hire its own personnel.

(e) print and disseminate for the agency any required notices, rules, or orders adopted, amended, or repealed by the agency.

(3) The department head of a department to which any agency is allocated for administrative purposes only in this chapter shall:

(a) represent the agency in communications with the governor;

(b) allocate office space to the agency as necessary, subject to the approval of the department of administration.

History: En. 82A-108 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 8, Ch. 358, L. 1973; R.C.M. 1947, 82A-108.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-23-202. Initial parole hearing -- conduct of hearing. Within the 2 months prior to a prisoner's official parole eligibility date or as soon after that date as possible, the department shall make the prisoner available for a hearing before a hearing panel. The hearing panel shall consider all available and pertinent information regarding the prisoner, including:

- (1) the circumstances of the offense;
- (2) the prisoner's previous social history and criminal record;
- (3) the prisoner's conduct, employment, and attitude in prison;
- (4) the reports of any physical, psychological, and mental evaluations that have been made; and
- (5) written or oral statements from criminal justice authorities or any other interested person or the interested person's legal representative, including written or oral statements from a victim regarding the effects of the crime on the victim. A victim's statement may also include but is not limited to the circumstances surrounding the crime, the manner in which the crime was committed, and the victim's opinion as to whether the prisoner should be paroled. The victim's statement may be kept confidential.

History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(3); amd. Sec. 1, Ch. 45, L. 1983; amd. Sec. 4, Ch. 579, L. 1993; amd. Sec. 22, Ch. 125, L. 1995; amd. Sec. 5, Ch. 372, L. 1995; amd. Sec. 2, Ch. 450, L. 1999; amd. Sec. 2, Ch. 425, L. 2001; amd. Sec. 6, Ch. 559, L. 2003; amd. Sec. 6, Ch. 102, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-23-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of pardons and parole provided for in [2-15-2302](#).
- (2) "Department" means the department of corrections provided for in [2-15-2301](#).
- (3) "Executive clemency" refers to the powers of the governor as provided by section 12 of Article VI of the constitution of Montana.
- (4) "Hearing panel" means a panel made up of two or three board members appointed to conduct parole hearings, revocation hearings, rescission hearings, and administrative parole reviews and to make final decisions and recommendations in matters of executive clemency.
- (5) "Parole" means the release to the community of a prisoner by the decision of a hearing panel prior to the expiration of the prisoner's term, subject to conditions imposed by the hearing panel and subject to supervision of the department.
- (6) "Victim" means a victim as defined in [46-18-243](#).

History: En. Sec. 3, Ch. 153, L. 1955; Sec. 94-9823, R.C.M. 1947; amd. Sec. 1, Ch. 73, L. 1973; redes. 95-3205 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 82, Ch. 120, L. 1974; amd. Sec. 5, Ch. 333, L. 1975; R.C.M. 1947, 95-3205; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 224, Ch. 546, L. 1995; amd. Sec. 1, Ch. 450, L. 1999; amd. Sec. 2, Ch. 559, L. 2003; amd. Sec. 2, Ch. 102, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-23-215. Conditions of parole. (1) A prisoner while on parole remains in the legal custody of the department but is subject to the orders of the board.

(2) When a hearing panel issues an order for parole, the order must recite the conditions of parole. If restitution was imposed as part of the sentence under [46-18-201](#), the order of parole must contain a condition to pay restitution to the victim. The prisoner may not be paroled until the prisoner provides a biological sample for purposes of Title 44, chapter 6, part 1, if the prisoner has not already done so under [44-6-103](#) and if the prisoner was convicted of, or was found under [41-5-1502](#) to have committed, a sexual offense or violent offense as defined in [46-23-502](#). An order for parole or any parole agreement signed by a prisoner may contain a clause waiving extradition.

(3) Whenever a hearing panel grants a parole to a prisoner on the condition that the prisoner obtain employment or secure suitable living arrangements or on any other condition that is difficult to fulfill while incarcerated, the hearing panel or the presiding officer of the board or a designee may grant the prisoner a furlough, not to exceed two consecutive 10-day periods, for purposes of fulfilling the condition. While on furlough, the prisoner is not on parole and is subject to official detention as defined in [45-7-306](#). The prisoner remains in the legal custody of the department and is subject to all other conditions ordered by the hearing panel or the presiding officer of the board or a designee.

History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(4); amd. Sec. 1, Ch. 1, Sp. L. 1982; amd. Sec. 3, Ch. 392, L. 1987; amd. Sec. 24, Ch. 125, L. 1995; amd. Sec. 10, Ch. 189, L. 1997; amd. Sec. 6, Ch. 147, L. 1999; amd. Sec. 8, Ch. 491, L. 1999; amd. Sec. 7, Ch. 559, L. 2003; amd. Sec. 8, Ch. 102, L. 2011.

Provided by Montana Legislative Services

MONTANA BOARD OF PARDONS AND PAROLE
RISK ASSESSMENT SCALE

Offender Name _____ DOC ID _____

Regular work assignment while in prison

No 5
Yes 0

Serious drug or alcohol problem

Both 5
Either alcohol or drug problem 3
None 0

Age at first arrest

Up thru age 18 6
19 - 24 3
25 and older 0

Any arrest for burglary, robbery, theft, auto theft, or forgery

Yes 5
No 0

Prior felony convictions

Yes 3
No 0

TOTAL RISK SCORE _____
RISK LEVEL _____

High school graduate or some college

No 2
Yes 0

Prior community supervision

Yes 1
No 0

RISK SCORES AND LEVELS				
Risk Score	Risk Level	Percent Meeting Board Standard	Percent Not Meeting Board Standard	Percent of Total
1-15	Low	68	32	37
16-20	Med	56	44	35
21-27	High	39	61	28

Board standard for inmate performance following release on parole requires no arrests for either a felony or a misdemeanor, and no return to prison for a technical violation of parole during the 12 months following release.

Note: This risk assessment is an information tool used by the Montana Board of Pardons and Parole. It does not limit the discretion of the Board in any way.

RISK ASSESSMENT OVERVIEW

The Montana Board of Pardons and Parole had been interested in developing a risk assessment tool to assist the Board members following a 1991 National Institution of Corrections- (NIC) funded site visit and short-term technical assistance project. The consultant's assessment of the parole process in Montana suggested consideration of a structured parole decision-making process. This type of decision-making includes a risk assessment tool. A second NIC-funded project was completed in 1996. Each consultant's report indicated an assessment tool would benefit the citizen Board members. Continuing dialogue with the ever-changing Board members resulted in a request for the formulation of a Risk/Needs scale. The Board of Pardons and Parole applied for funding through the Byrne Memorial Anti-Drug Funds of the U.S. Department of Justice. The application was approved and the process of developing a validated assessment tool began in 1998.

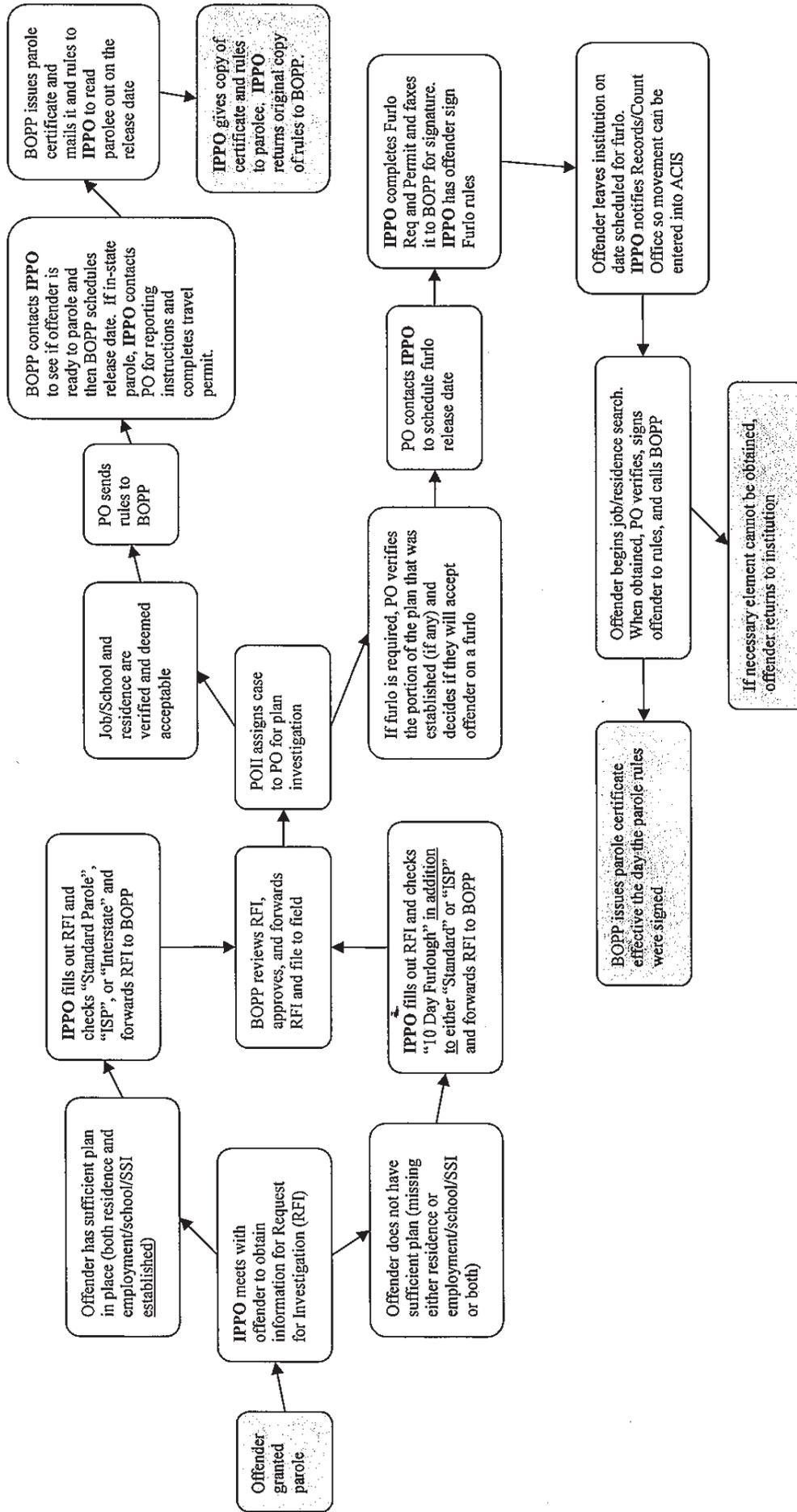
In September 1998, Peggy Burke of the Center for Effective Public Policy, the Board members, and Board staff met in Montana to plan and implement the project. The consensus of the Board members was to continue with the process and develop an assessment tool to use as one part of the decision-making process.

The first phase of the project began on July 1, 1999. The information the Board feels is critical when considering an offender for parole and details of offenders who were released on parole or discharged from prison were recorded by Board staff and submitted to the consultant for analysis. Also recorded and analyzed was an assessment of the parolee or discharged person's progress at the end of one year. This phase of the project concluded on June 30, 2000. In July 2001, the outcome date was completed and an assessment tool was developed for testing.

The Montana Board of Pardons and Parole began assessing inmate risk, according to the assessment tool on January 1, 2002. All inmates for whom the tool is established and appear before the Board are assessed and given a numeric score, according to the risk tool. (See Appendix for an example of the risk assessment tool). It should be noted that the tool is not used for any sexual offenders, DUI offenders or women. All sex offenders are given a tier level, thus the risk assessment would be redundant. It was determined that DUI offenders are much harder to develop a scale for because of their background and the fact that many of them do not have a criminal lifestyle. At the time of the development of the tool, the State of Montana did not have sufficient women offenders to track and therefore it does not apply to them. It may be a consideration for future Board action.

The Montana Board remains committed to assessing inmate risk prior to making release decisions. The risk assessment tool remains one part of the Board's consideration.

BOARD OF PARDONS AND PAROLE PAROLE RELEASE PROCESS



STATE OF MONTANA - BOARD OF PARDONS AND PAROLE CASE DISPOSITION

TO: _____ DOC ID: _____

This is to notify you of the Montana State Board of Pardons and Parole decision in your parole consideration, in accordance with Sections 46-23-201 - 46-23-218, and 46-23-1021 - 46-23-1031, MCA.

You will be granted parole subject to the standard parole conditions* with the following changes and/or added special conditions:

***Standard Parole Conditions (paraphrased):** Residence must be approved by PO, shall not change place of residence without PO's approval, shall not own dangerous/vicious animals, use security doors, or any other device that would hinder an officer, or refuse to open the door when requested; shall not leave assigned district without PO's written permission; shall maintain employment or a program approved by BOPP or PO, must inform employer of parole status, and must obtain PO's permission prior to any change of employment; shall report to PO as directed; shall not own, possess, transfer, or be in control of any firearms, ammunition (including black powder), weapons, or chemical agents such as O.C. or pepper spray; shall obtain PO's permission before making any financial transactions; shall submit to search by PO at any time without a warrant; shall comply with all laws and ordinances, conduct yourself as a good citizen, and report any arrests or contacts with law enforcement to your PO; shall not possess or use illegal drugs or drug paraphernalia; shall not possess or consume intoxicants/alcohol, shall submit to breathalyzer or bodily fluid testing as requested by PO; shall submit to alcohol and/or drug testing as required by PO; shall not gamble; pay supervision fees; pay victim restitution; pay fines and fees as ordered by the court.

- Parole when the Board determines you have successfully completed _____
- Parole to ISP – comply with all rules and conditions of the program
- Regular Chemical Dependency Counseling
- Regular Mental Health Counseling
- Regular Sex Offender Counseling
- Restricted from maintaining a checking or credit card account
- Comply with court ordered conditions
- Restricted from entering any place where gambling takes place
- Shall not enter any place where intoxicants are the chief item of sale
- Restricted from operating a motor vehicle while on parole
- Restricted from participating in any medical marijuana program
- Other: _____

I have been advised and fully understand that I am subject to "official detention" until a parole certificate is issued authorizing my release from confinement and I sign the "Conditions of Parole" document. Any misconduct on my part prior to release, substantial changes in parole plan, and/or new information and evidence received that was not available at the time of my parole hearing may result in the rescission of my parole.

Acknowledgment _____

The Board members will render a final disposition on the _____ day of _____, _____, at Deer Lodge, Montana.
Hearings Officer _____ Date: _____

BOPP (white)
INMATE (yellow)
RECORDS (pink)
IPPOs (gold)

Board Member _____
Board Member _____
Board Member _____
Date: _____

STATE OF MONTANA - BOARD OF PARDONS AND PAROLE CASE DISPOSITION

Initial

Reappearance

Review

TO: _____ DOC ID: _____

After careful evaluation of all relevant facts known to the Board, including those under §46-23-202(1), MCA, and in accordance with §46-23-201 through §46-23-218, MCA, the Board denies your parole application or reapplication at this time.

Reappearance Date: _____ Progress Review Date: _____ Pass to Discharge

A. In the opinion of the Board, there is reasonable probability that you are not currently able and willing to fulfill the obligations of a law-abiding citizen. Our conclusions are based on the following:

NEED FOR IMPROVED:

- Institutional conduct
- Institutional custody level

- Housing unit/work evaluation
- Parole plan

- No interest in parole
- Attitude toward authority

Remarks/Other: _____

B. In the opinion of the Board, there is reasonable probability that you cannot be released at this time without being a detriment to yourself or the community. Release at this time would not be in the best interest of society.

OUR CONCLUSIONS ARE BASED ON THE FOLLOWING:

- Nature or severity of offense(s)
- Previous criminal history
- Pattern of similar offenses
- Escape(s) from custody

- Multiple offenses
- Poor history in community placement and/or under supervision
- Repeat sex offenses
- Strong objection from criminal justice authorities and/or citizenry

Remarks/Other: _____

C. In the opinion of the Board, there is a need for education, job training, treatment, or continued treatment to enhance success on parole and further insure that the applicant is willing and able to fulfill the obligations of a law-abiding citizen.

THE FOLLOWING ARE INDICATED NEEDS:

- Adult Education/GED
- Sex offender treatment
- Anger management
- No early consideration

- Chemical dependency counseling
- Mental health
- Pre-release extended stay/worker
- Request a return/review

- TSCTC/ ICP/Aftercare
- CP&R
- Pre-release

Remarks/Other: _____

Board Member _____

Board Member _____

Board Member _____

Date: _____

BOPP (white)
INMATE (yellow)
RECORDS (pink)
IPPOs (gold)



[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

46-23-215. Conditions of parole. (1) A prisoner while on parole remains in the legal custody of the department but is subject to the orders of the board.

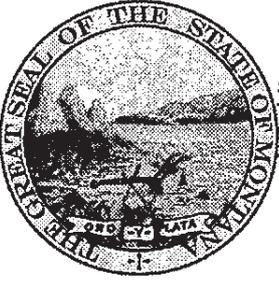
(2) When a hearing panel issues an order for parole, the order must recite the conditions of parole. If restitution was imposed as part of the sentence under [46-18-201](#), the order of parole must contain a condition to pay restitution to the victim. The prisoner may not be paroled until the prisoner provides a biological sample for purposes of Title 44, chapter 6, part 1, if the prisoner has not already done so under [44-6-103](#) and if the prisoner was convicted of, or was found under [41-5-1502](#) to have committed, a sexual offense or violent offense as defined in [46-23-502](#). An order for parole or any parole agreement signed by a prisoner may contain a clause waiving extradition.

(3) Whenever a hearing panel grants a parole to a prisoner on the condition that the prisoner obtain employment or secure suitable living arrangements or on any other condition that is difficult to fulfill while incarcerated, the hearing panel or the presiding officer of the board or a designee may grant the prisoner a furlough, not to exceed two consecutive 10-day periods, for purposes of fulfilling the condition. While on furlough, the prisoner is not on parole and is subject to official detention as defined in [45-7-306](#). The prisoner remains in the legal custody of the department and is subject to all other conditions ordered by the hearing panel or the presiding officer of the board or a designee.

History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(4); amd. Sec. 1, Ch. 1, Sp. L. 1982; amd. Sec. 3, Ch. 392, L. 1987; amd. Sec. 24, Ch. 125, L. 1995; amd. Sec. 10, Ch. 189, L. 1997; amd. Sec. 6, Ch. 147, L. 1999; amd. Sec. 8, Ch. 491, L. 1999; amd. Sec. 7, Ch. 559, L. 2003; amd. Sec. 8, Ch. 102, L. 2011.

Provided by Montana Legislative Services

BOARD OF PARDONS AND PAROLE



STEVE BULLOCK, GOVERNOR

Fern Johnson
EXECUTIVE DIRECTOR

STATE OF MONTANA

(406) 846-1404
FAX (406) 846-3512
bopp@mt.gov

1002 Hollenbeck Road
Deer Lodge, MT 59722

DATE:

TO:

FROM:

RE:

Please be advised that, in addition to any other Board imposed conditions, Board policy requires 120 days clear conduct prior to parole release. Based on your recent misconduct, you will not be scheduled for release until these mandates are satisfied. You must contact the Board when all Board imposed conditions have been met.

Any further misconduct on your part may likely result in a rescission hearing.



Montana Board of Pardons & Parole

[About Us](#) [Hearings & Decisions](#) [Victim Information](#) [Final Dispositions](#) [History & Statistics](#) [Links](#)

[Home](#) » [Administrative Rules](#) » [Administrative Rule 20.25.601](#)

Administrative Rule 20.25.601

20.25.601 RESCISSION HEARING

(1) A hearing panel may conduct a hearing and rescind a previously granted parole if the offender has not left confinement or is on furlough status and the panel finds one of the following has occurred:

- (a) the offender has committed disciplinary violations;
- (b) there is a substantial change in the approved release plan; or
- (c) new evidence or information shows the offender does not deserve a release.

(2) The panel will make its decision regarding rescission after it has considered all relevant information including the offender's own testimony regarding extenuation or mitigation.

(3) The presiding hearing panel member will conduct the rescission hearing informally and will make a record of it. The offender has the right to be present at the hearing, but may waive that right and admit the allegations are true.

(4) In lieu of scheduling a rescission hearing the board, through its staff, may delay the offender's release from confinement for up to 120 days for the reasons listed in (1).

(5) Unless a hearing panel otherwise orders, before an offender leaves prison confinement on parole, the offender must be clear of major disciplinary misconduct for a minimum of 120 days. If the offender is a resident of a community-based program, the offender must be clear of Class 100 and 200 disciplinary violations for at least 90 days. (History: 46-23-218, MCA; IMP, 46-23-218, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 1552, Eff. 12/1/78; AMD, 1993 MAR p. 297, Eff. 2/26/93; AMD, 1994 MAR p. 168, Eff. 1/28/94; AMD, 2010 Mar p. 2816, Eff. 12/10/10; AMD, 2012 MAR p. 1619, Eff. 8/10/12.)



Montana Board of Pardons & Parole

[About Us](#) [Hearings & Decisions](#) [Victim Information](#) [Final Dispositions](#) [History & Statistics](#) [Links](#)

Home » [Administrative Rules](#) » [Administrative Rule 20.25.506](#)

Administrative rule 20.25.506

20.25.506 FURLOUGH

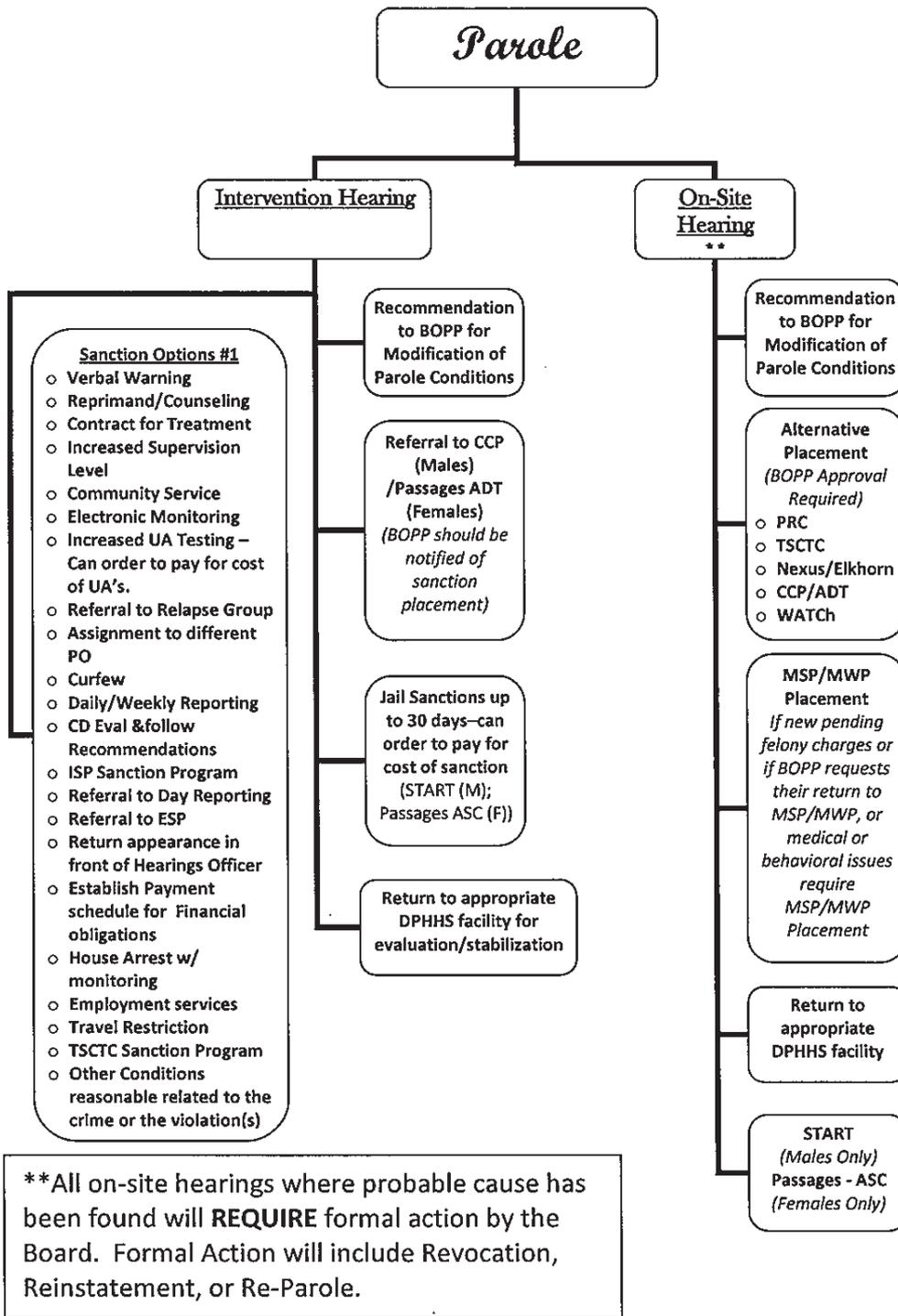
- (1) When a hearing panel has granted an offender a parole, the panel or the board chair or designee may grant the offender a furlough for the sole purpose of finding employment, making suitable living arrangements, or fulfilling any other hearing panel condition that is difficult to fulfill while incarcerated.
- (2) Furlough is for ten days, but board staff may grant an extension of up to another consecutive ten-day period to allow the offender to fulfill the furlough purposes.
- (3) While on furlough the offender remains in the legal custody of the department and is subject to the department's furlough program rules, standard parole conditions, and any other special conditions recited by the hearing panel. If the offender fails to report as directed or fails to return to custody, the offender may be charged with a violation of 45-7-306, MCA.
- (4) The offender may be immediately returned to the institution from which the furlough was granted if the offender violates the furlough program rules, any of the standard parole rules, any of the panel's special conditions, or if the offender is unable to fulfill the employment, housing, or other furlough conditions.
- (5) If the offender violates any of the conditions listed in (4) it is considered a major disciplinary violation and is handled in accordance with the department's disciplinary policy and ARM 20.25.601 concerning rescission.
- (6) If the offender successfully fulfills the furlough conditions, the offender must sign the rules of parole and the board will issue a parole certificate. The offender is not officially on parole until the rules are signed and the certificate is issued. (History: 46-23-218, MCA; IMP, 46-23-218, MCA; NEW, 2010 MAR p. 2816, Eff. 12/10/10; AMD, 2012 MAR p. 1619, Eff. 8/10/12.)



STATE OF MONTANA

MONTANA BOARD OF PARDONS AND PAROLE

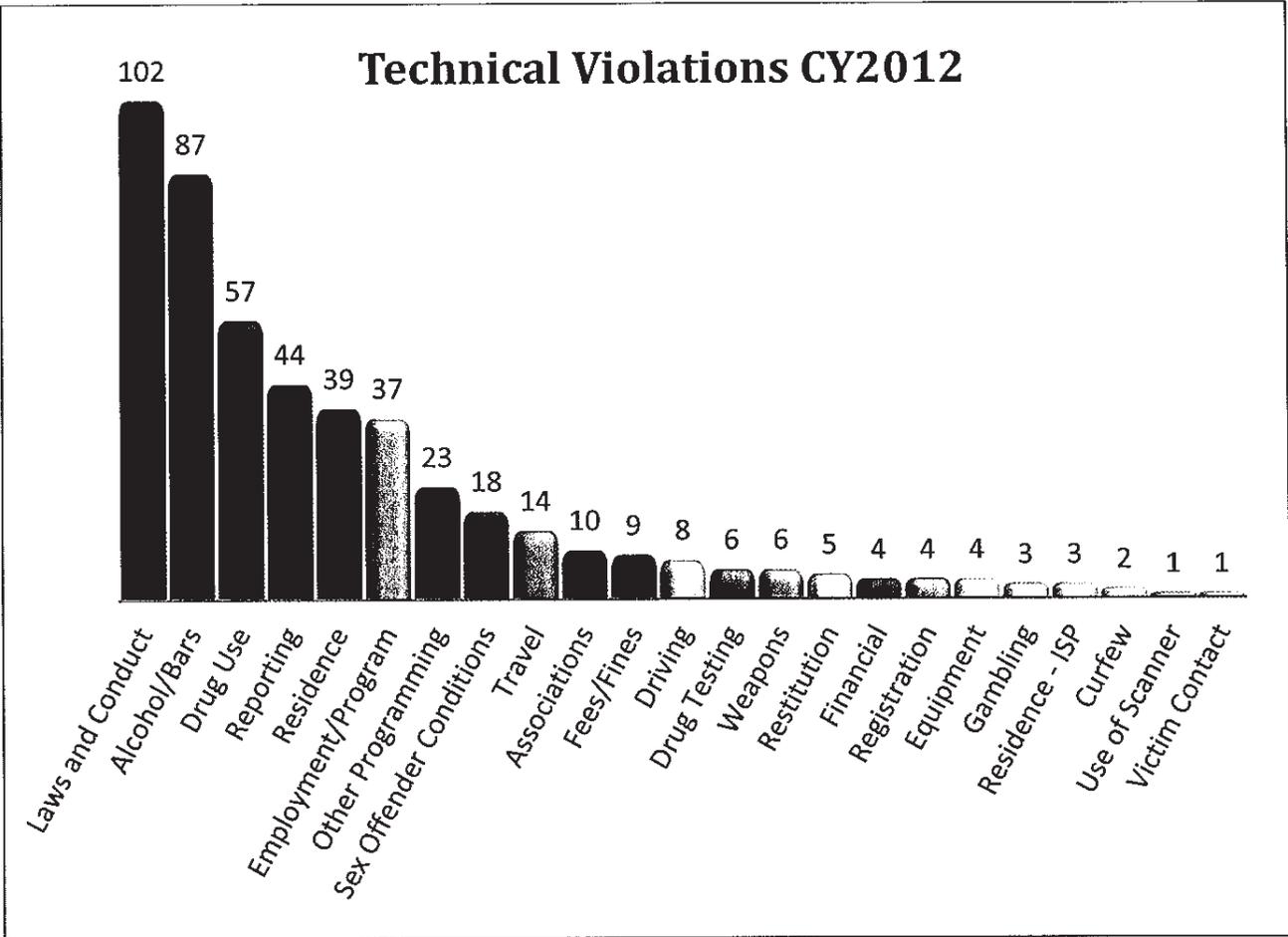
Hearing Placement Options



- **M** – Males
- **F** - Females
- **MSP** – Montana State Prison
- **MWP** – Montana Women's Prison
- **Passages ASC** - Passages Assessment & Sanction Center (Females Only)
- **Passages ADT** - Passages Alcohol & Drug Treatment (Females Only)
- **PRC – Pre-Release** – Available in Billings, Butte, Bozeman, Great Falls, Helena, and Missoula

Codes

- **CCP** – Connections Corrections Program (Males Only)
- **TSCTC** – Treasure State Correctional Training Center (Males Only)
- **ESP** – Enhanced Supervision Program – Available in Billings, Butte, Bozeman, Great Falls, Helena, and Missoula
- **Day Reporting** – Available in Kalispell
- **START** - (Males Only)
- **WATCH** – Warm Springs Addiction Treatment, and Change Program – Available in Warm Springs and Glendive



Technical Violations - CY 2012

The Board of Pardons and Parole reviewed 487 technical parole violations during Calendar Year 2012. Probable cause was established at each of these violations during an on-site hearing. Each occurrence represents a single violation in 2012, however; the majority of offenders have multiple violations during an individual on-site-hearing.

■	Laws and Conduct Violation	Some of the violations within this category include pending felonies; however, they are considered technical because offenders are innocent until proven guilty. These violations are a failure to comply with city, county, state and federal laws. Examples include, but are not limited to, theft, assault, burglary, criminal mischief, and lying to law enforcement.
■	Alcohol/Bars	<ul style="list-style-type: none"> • Possession or consumption of intoxicants alcohol; • Failure to submit to a breathalyzer or bodily fluid test; or • Entering a bar.
■	Drug Use	<ul style="list-style-type: none"> • Possession or use of illegal drugs; • Under the influence of illegal drugs; or • Possession of drug paraphernalia.

<input checked="" type="checkbox"/>	Reporting	<ul style="list-style-type: none"> • Failure to report to a probation and parole officer as directed; • Failure to remain available to probation and parole officers as Requested; • Failure to submit written monthly reports.
<input checked="" type="checkbox"/>	Residence	<ul style="list-style-type: none"> • Failure to reside in a place approved by a probation and parole officer; • Failure to obtain permission to change the place of residence from a probation and parole officer; • Failure to ensure the home is available for visit or search upon reasonable suspicion; • Owning dangerous animals; • Use of perimeter security doors or any other device that would hinder a probation and parole officer.
<input type="checkbox"/>	Employment/ Program	<ul style="list-style-type: none"> • Failure to seek and maintain employment or programming approved by the BOOPP or a probation and parole officer; • Failure to inform employer of status on probation, parole, or other community supervision • Failure to obtain permission from a probation and parole officer prior to changing employment.
<input checked="" type="checkbox"/>	Other Programming	Offender failed to enter or participate on a regular basis and complete other programming as ordered by the court or BOPP
<input type="checkbox"/>	Sex offender conditions	A failure to comply with all conditions pertaining specifically to the supervision of sex offenders.
<input type="checkbox"/>	Travel	Failure to obtain written permission from a probation and parole officer prior to leaving the offender's assigned district.
<input checked="" type="checkbox"/>	Associations	<ul style="list-style-type: none"> • Association with probationers, parolees, prison inmates, or persons the custody of any law enforcement agency without prior approval from the probation and parole officer; or • Association with persons against in violation orders of the court or BOPP.
<input checked="" type="checkbox"/>	Fees/Fines	<ul style="list-style-type: none"> • Failure to pay supervision fees pursuant to 46-23-1031, MCA; • Failure to pay fees in lieu of imprisonment in accordance with 45-9-303, MCA; or • Failure to pay all fines and fees as ordered by the court
<input type="checkbox"/>	Driving	Operation of a motor vehicle while on parole despite restrictions.
<input type="checkbox"/>	Drug Testing	Failure to submit to drug testing on a random or regular basis as required by a probation and parole officer.
<input type="checkbox"/>	Weapons	Owning, possessing, transferring, or control of any firearms, ammunition, weapons, or chemical agents such as pepper spray.
<input type="checkbox"/>	Restitution	Failure to pay court ordered victim restitution.
<input type="checkbox"/>	Financial	<ul style="list-style-type: none"> • Failure to obtain permission from a probation and parole officer before financing or purchasing an automobile, real property, or engaging in business; • Failure to obtain permission from a probation and parole officer

		<p>prior to accruing debt;</p> <ul style="list-style-type: none"> • Failure to prioritize victim restitution, child support, fines, and fees over other financial obligations
<input type="checkbox"/>	Registration	Failure to register as a sexual or violent offender, as applicable.
	Equipment	<ul style="list-style-type: none"> • Failure to maintain a land-line phone; • Failure to wear, maintain, and care for electronic monitoring equipment as a condition of ISP; • Opening, damaging, losing, stealing, or in any way rendering electronic monitoring equipment inoperable; or • Possession of equipment that monitors law enforcement or DOC Radio frequencies or activities.
	Gambling	Entering into casinos or gambling.
	Residence ISP	<p>Offender on ISP failed to:</p> <ul style="list-style-type: none"> • Failure to reside in a place approved by a probation and parole officer; • Failure to obtain permission to change the place of residence from a probation and parole officer; • Failure to ensure the home is available for visit or search upon reasonable suspicion; • Owning dangerous animals; • Use of perimeter security doors or any other device that would • hinder a probation and parole officer.
	Curfew	Offender failed to abide by a curfew as determined necessary and appropriate by a probation and parole officer.
<input type="checkbox"/>	Use of Scanner	The offender possessed or used an electronic device or scanner capable listening to law enforcement communications.
<input type="checkbox"/>	Victim Contact	The offender contacted directly or indirectly the offender's victim, victim's family, or co-defendant.

ABOLISHING

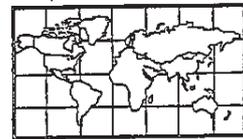
PAROLE:

WHY THE EMPEROR

HAS NO CLOTHES



**American Probation
and Parole Association**



**Association of Paroling
Authorities, International**

ABOLISHING PAROLE: WHY THE EMPEROR HAS NO CLOTHES

HIGHLIGHTS

As legislative sessions proceed, many states are targeting public concern about crime and punishment. The abolition of parole in Virginia, and a similar proposal in South Carolina, indicate that parole abolition will once again be a hot button issue. Important new information suggests that the parole abolition "solution" merits another look.

➤ **Parole abolition has been tried and failed.** Parole abolition is an "old" slogan that was tried in the 1970s and has failed to bring about tougher sentencing or reduce crime rates. A number of states who had abolished parole — Connecticut, Colorado and Florida, for example — have actually reinstated parole—though sometimes under a different name.

➤ **Parole can actually make a sentencing system tougher.** The public doesn't understand the power that is lost when parole is abandoned. Parole makes release from prison a privilege that must be earned. Through the exercise of its discretion, parole can actually target more violent and dangerous offenders for longer periods of incarceration. Non-parole systems may sound tough, but they actually make release from prison automatic.

➤ **Parole is one of the strongest, most far-reaching weapons the system has to control violent and dangerous criminals.** Parole provides constant review of the criminal in prison; continual re-evaluation of the risk that criminal presents to society; leverage over criminals before they are released to assure good behavior in the community; careful supervision of criminals after they are released; and the potential to re-imprison those who appear to be a threat to the community.

➤ **Parole is the one part of the system that has, as its foremost concern, the safety of the community.** Unlike the prosecutor who must "make" the case, the judge who must assure due process and establish guilt or innocence, or the prison warden who must manage a crowded institution, the parole board is an independent, citizen-oriented body who has the protection of the public as its chief concern. As parole eligibility approaches, the parole board can reevaluate risk, lengthen incarceration if appropriate, set conditions that must be met before release, and supervise offenders as they complete their sentences in the community and re-imprison those that threaten public safety. Surely the public has the right to have its interests represented throughout the period of a sentence—not just at the moment the judge imposes a sentence. All of these safeguards are lost when parole is abolished.

➤ **Parole is an important ally within the system for the victims of crime.** Most criminals will eventually be released from prison. Parole provides an independent, citizen-oriented board to assure that crime victims are considered as the timing and conditions of release are planned. It can take steps to facilitate a safe transition back into the community. Most parole boards keep victims informed of a criminal's status; a growing majority of boards allow victims to provide input on their decision and to appear in person at parole hearings.

➤ **The public wants a system that protects its safety and peace of mind.** Parole can be an effective, tough weapon to defend both of these. Give it a second look, and give it the support it needs to get the job done.

THE TRAGEDIES OF AUTOMATIC SENTENCING

By providing a reasonable sentence range, and allowing the parole board to adjust actual time served within that range, the system is much more able to provide greater punishment and community protection where it is needed.

The essence of the so-called "reforms" of the 1970's was something the legal scholars refer to as "determinate" sentencing. In essence, this amounts to sentencing with "automatic" release. An offender convicted of a crime, that is in all likelihood much less serious than his actual offense, receives a sentence from the judge as prescribed by law for the "admitted" offense. On the surface, this "automatic" sentencing sounds appealing, by supposedly assuring that offenders will receive tough punishment. The truth about sentencing as it has been "reformed" and as it operates in most "automatic" sentencing systems is far less comforting. As with most facile solutions, it has only served to undermine the system's ability to target dangerous offenders for tough punishment. By prescribing exact sentences based upon the plea-bargained offense, the system has locked itself into the punishment that may not fit the crime or the criminal at all. In addition, by treating all offenders within broad offense categories similarly, it has eliminated the ability to distinguish among very different types of offenses. Not every first degree assault is the same as every other. At least some are more nearly akin to rape. Not every burglary is a burglary, many are robberies. By providing a reasonable sentence range, and allowing the parole board to adjust actual time served within that range, the system is much more able to provide greater punishment and community protection where it is needed.

Abolishing parole robs courts of a powerful partner to reaffirm sentences. Unhampered by the responsibilities the court has to establish guilt and assure due process, the parole board can make release decisions based on complete information and knowledge of the offender's performance in prison. In many states close to 95 percent of all cases receiving criminal sentences in our courts are settled by "plea bargains." An offender agrees to plead guilty to a lesser charge in order to avoid going to trial and risking a stiffer sentence. This practice has the advantage of greatly expediting the massive number of cases moving through our criminal courts. However, without a trial, the full facts of the case or the background of the offender will not be considered in open court.

Abolishing parole removes the one part of the system that has the safety of the community as its primary concern. Every part of the criminal justice system clearly has a concern for public

safety. In almost every case, however, that concern must be balanced with equally weighty concerns. For the prosecutor, primary concerns are "making" the case in terms of adequate evidence, the offender's willingness to agree to a plea negotiation, and the availability of witnesses. For the sentencing judge, primary concerns are assuring strict adherence to the rules of evidence, assuring that the full panoply of due process rights are afforded to offenders accused of a crime, and establishing guilt. Officials who manage prisons are concerned with management of resources and — increasingly — with the pressures of crowding. Parole boards, on the other hand, have as their primary concern, the safety of the community. The plea has already been made, guilt has been established, and the conviction is a matter of record. What the parole board must then address is the way in which this offender will serve his sentence, and how the transition from the prison to supervision in the community can be handled with the greatest assurances of protection to the community.

Abolishing parole makes release from prison a right, rather than a privilege. Many critics of parole have no idea of the immense power that is lost by the system when parole is abolished. Because parole is a privilege, not a right, parole hearings are not subject to the same due process requirements as are found in a court of law. A parole board is free to consider—and does consider—all information surrounding an offender and an offense. This includes the police report; testimony of victims; input from the judge, prosecutor and law enforcement; statements from the community; information about the offender's performance in prison; the degree to which drug and alcohol problems have been addressed; and the preparations made on the outside to assure a safe transition. During the period of the sentence over which parole has legal authority, then, the parole board can extend time-served to reflect concerns about what an offender might do in the future—something that a sentencing court is constrained to consider.

Automatic sentences mean release is a right which cannot be denied to an offender without cause. Parole means release is a privilege which must be earned. In a determinate or "automatic" sentencing system, the time of release is virtually determined at the time of sentencing—unless it is further shortened by automatic "good time" credits. We, the community, are forced to promise the offender release by a certain date! In a parole-based system the tables are quite the reverse. The offender is the one who must demonstrate through efforts and behavior in prison readiness to be released.

Automatic sentences mean that the decision made by the sentencing judge is the one and only opportunity the system has to make the right decision regarding appropriate punishment and protection of the public. It is important to under-

Prison officials are concerned with management of resources and—increasingly—with the pressures of crowding. Parole boards, on the other hand, have as their primary concern, the safety of the community.

When a plea is entered and a sentence imposed, the sentencing issues are closed. In effect, the system is promising the offender release by a certain date. There is no incentive for the offender to do anything except to "do his time."

stand the conditions under which sentencing decisions are made. Most citizens would be quite shocked to know that the vast majority of offenders who receive criminal sentences in this country receive them as the result of pleading guilty to offenses and not as a result of a trial. Not only is the plea usually to a lesser offense, but the plea is often accepted without the benefit of further review and consideration. The amount of time devoted to the plea and sentence decision is, of necessity, limited by the pressing caseloads of our crowded urban courts. Because there is no trial, there is little opportunity for a full airing of the circumstances surrounding the crime or the risks presented by the criminal. And, again, because of the enormous workload of our courts, the press of other court business, both criminal and civil, can claim vast amounts of the court's and the judge's attention.

Under a determinate sentencing scheme, however, the system expects sentencing judges to make final decisions involving public safety, enormous public resources, and to see far into the future regarding eventual release and transition back to the community. In spite of the less than ideal situation for making irrevocable decisions, when a plea is entered and sentence given, the sentencing issues are closed. There is no incentive for the offender to do anything except to "do his time." It is a good bargain for most offenders; the system's leverage to demand effort, cooperation, and commitments from the offender essentially disappears.

On the contrary, in states that have parole boards, sentencing issues will be considered again. An independent, citizen-oriented parole board will review the offender after the service of the minimum sentence imposed by the judge. The parole board is in a position to demand participation in drug treatment, and to require an adequate plan for a job and residence in the community. A system that provides for the sentence to be revisited by a parole board also allows a reasonable period of time to collect the information about the offense and the offender, to observe the offender's behavior in prison, and to personally meet with victims of the crime to understand their wishes in the matter.

In the so-called reforms of the past 20 years, the sentence of the court, despite the less than ideal conditions under which it is pronounced, determines when that criminal will get out of prison. No parole board reviews the information. No parole board looks into the case to discover how much injury the victim really suffered. No one will reconsider that a gun was involved in the crime--even though the offense to which the offender pled, by definition, indicates a weapon was not involved. In a system which incorporates discretionary parole, however, all of these

limitations are balanced by a subsequent review of the sentence by a parole board. The system gets a second chance to make sure it is doing the right thing.

The abolition of parole robs crime victims of one of their most valuable allies in the criminal justice system. Contrary to the popular myth that parole is somehow a natural enemy of crime victims, paroling authorities provide an important, human point of contact for crime victims as a criminal sentence is carried out. As they consider the criminal's entire background, the circumstances of the crime, and potential risks to the community if the offender is released, parole boards provide victims with the opportunity to give their side of the story.

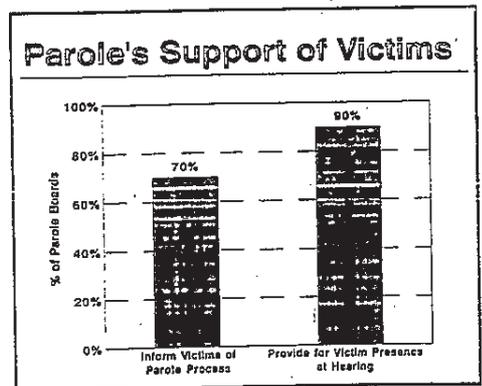
Virtually every criminal sent to prison will complete his sentence and be released. Parole is a human, visible, and accountable point of contact for victims in a large, impersonal, and often insensitive criminal justice system. The public may not be aware of this, but parole has quietly been building an impressive set of services that are geared to assuring that victims are:

- **informed** of all aspects of the case in which they are involved--90 percent of parole boards provide information to victims on the parole process;³
- **involved** in providing information regarding the crime and its impact upon them--victims are offered more opportunity for input into the parole process than are any other group and almost 70 percent of parole boards have provisions for victims to be present during the parole hearing itself;⁴
- **considered** as supervision and control plans are designed to facilitate a safe transition of the offender back to the community;
- **assisted** with securing restitution;
- **protected** from contact with the criminal during the parole process and after release through special hearing facilities and through no-contact orders; and
- **assured of a human point of contact** with the system even after their court proceedings have been completed. Parole boards provide a contact for the victim prior to release. Parole officers in the community provide a personal and immediate point of contact for victims who may feel threatened or concerned about offenders who are under supervision in the community.

Parole services vary from state to state, and clearly much is left to be done in bringing this broad array of services to the

³ John C. Runda, Edward E. Rhine, and Robert E. Wetter, *The Practice of Parole Boards* (Lexington, Kentucky: Association of Paroling Authorities, International, 1994), 17.
⁴ *Ibid.*, p. 16.

Parole is a human, visible, and accountable point of contact for victims in a large, impersonal, and often insensitive criminal justice system.



victims of crime everywhere. The fact is, however, that parole has taken an aggressive leadership stance in raising the importance and visibility of victims in the criminal justice system.

Indeed, a prestigious coalition of victims' advocacy groups recently concluded after an exhaustive survey of victims services provided by paroling authorities, that "the past decade has witnessed some very important improvements in victims' rights in the parole process in many states. The majority of states now allow crime victims to attend and testify at parole hearings."⁵

⁵ National Victim Center, National Organization for Victim Assistance, American Correctional Association, California Department of Corrections, California Youth Authority, *Final Report National Victim Services Survey of Adult and Juvenile Correction and Parole Agencies*, (Washington, D.C., September 1991), 13.



Parole board members typically review case information with crime victims and victim advocates prior to parole hearings.

THE TRUTH ABOUT "TRUTH-IN-SENTENCING"

"Truth-in-sentencing" and parole are not mutually exclusive. Indeed, many of the goals of truth-in-sentencing--including greater credibility with the public and more predictability of time-served in prison--are precisely the goals that parole boards across the nation have been striving toward. There is a strong role for parole boards to play in the "truth-in-sentencing" reform movement.

The reason that the public is demanding "truth-in-sentencing" is because the criminal justice system has not done a very good job of keeping the public informed about sentencing in the past. One common misconception that is most frustrating to the general public is that offenders should — but do not — serve their full sentences in prison. When the judge imposes a ten-year sentence, for instance, the average citizen expects that the criminal will be in prison for ten years. When anything less than that happens, the average citizen feels that he or she has not been told the truth, and that the criminal has "beaten the system" by not getting what the judge has said he deserved.

Unfortunately, the system has not done a good job of educating the average citizen about why a criminal will not serve 100 percent of his sentence in prison. The sentence pronounced in court under virtually any sentencing scheme is designed to allow for some period of time in prison, and some period of time out of prison, but all under the control of the criminal justice system.

We need to tell the public the truth: sentences imposed in court should and must provide for:

- ☐ a period of expected incarceration, PLUS;
- ☐ a period of time that can be adjusted according to the offender's performance in prison — giving him an incentive for acceptable behavior;
- ☐ a period of time that can be adjusted to reflect the dangerousness of the offender — giving an incentive for risk-reduction measures; and
- ☐ a period of time providing for supervision in the community when offenders can be brought back to prison if they are endangering public safety.

The court must impose a sentence long enough to give legal control over the offender during all of these periods.

Unfortunately, the system has not done a good job of educating the average citizen about why a criminal will not serve 100 percent of his sentence in prison.

Once the sentence has been pronounced in court--to allow for all four elements of the sentence--the parole board becomes the visible, accountable, and independent decision-making body to assure implementation of the sentence to maximize public safety.

For those who assume that pronounced sentences are intended to be served fully in prison, parole may appear as a particular villain. After all, discretionary parole review, by definition, anticipates that offenders will most likely not serve their full sentence in prison. For those who understand that the sentence is designed to include several phases, parole becomes a sensible tool. We simply need to be honest and clear with the public about parole's legitimate role.

Ironically, in those systems where "truth-in-sentencing" has been adopted without parole, criminals still serve less than the full sentence in prison. In California, a "truth-in-sentencing" state, most offenders typically serve 50 percent of their "pronounced" sentences. Even under the new federal sentencing guidelines offenders do not serve their full sentences in prison. They are likely to serve only 85 percent of their sentence in prison, except for those offenders who receive the approval of a prison warden to serve some portion of their sentence in the community in a halfway house setting, resulting in less than 85 percent of sentences served in prison.

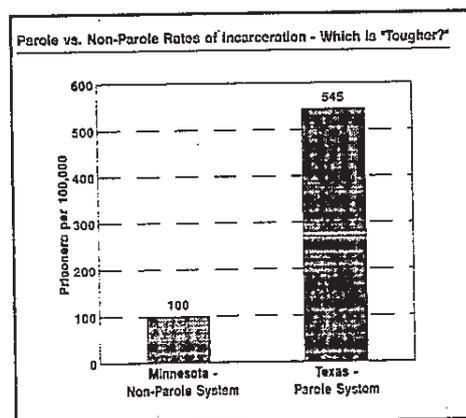
In virtually every sentencing scheme adopted in the United States, provisions are made for criminals to serve less than 100 percent of their pronounced sentences in prison. In those systems without a parole board, the actual portion of the sentence served behind bars is determined either by formula, or by employees of the prison system. In contrast a parole board provides identifiable decision-makers, usually appointed by the governor, and increasingly, with published rules about how decisions are made. There is clear accountability for the decision about how much time is to be spent in prison, about what standards must be met before release will be allowed, and about the standards that will govern re-imprisoning criminals for showing themselves to be a danger in the community.

WHAT ARE THE REAL ISSUES?

The rhetoric implies that parole is somehow soft on crime. It suggests that the choice is between being "tough" on crime--no parole; or being "soft" on crime--parole. Nothing can be further from the truth. Parole means that criminals must earn their way out of prison; demonstrate that they are no longer a risk; and agree to cooperate with stringent requirements if they are released. Parole has to do with "how" punishment is administered, not "how much" punishment is administered. Parole implies flexible, judgment-driven, tailored, and targeted punishment. The abolition of parole implies that, once a judge imposes a sentence, there is a loss of control over the completion of the sentence, a lack of human judgement, and an "assembly-line" approach to justice.

The length of time in prison that offenders must spend before they can be reviewed by parole can be short or long. The amount of punishment depends largely on other choices that legislatures make about the sentencing structure and what individual judges do in imposing an individual sentence. In fact there is as much variation among states with parole in terms of their relative "toughness" as there is among states who have abolished parole. For instance, Minnesota, which was one of the first states to abolish parole, has one of the lowest incarceration rates in the nation — 100 people in prison for every 100,000 people in the state. At the same time, Texas, which has a system of parole, has one of the highest incarceration rates in the nation — 545 people in prison for every 100,000 population.⁶ That is more than five times the rate of incarceration than Minnesota. Indeed, those two states take very different approaches to the use of punishment. Minnesota abolished parole specifically to use incarceration less, while Texas has found parole to be a powerful tool in its tough-minded approach to crime.

The absence of parole means that offenders simply walk out the door of prison at the end of a pre-determined period of time, no questions asked. No human being asks the tough questions about what has been done to make sure this criminal is no longer a danger before he is released. The choice is between parole, which means earned release, and no parole, which means automatic release. The vast majority of offenders



⁶U.S. Department of Justice, Bureau of Justice Statistics, *Press Release*, October 27, 1994.

What is Parole?

Parole is four things.

in our prison systems will be released at some point. The question is whether their release should be automatic, based on a definite sentence of a definite number of months or years; or whether release should be planned within a certain range. Within that range, the parole board can lengthen the time in prison for more dangerous and violent offenders beyond what the court has required and demand the cooperation of offenders in preparing for release that will only be granted when the board has been satisfied.

What is Parole? Parole is four things.

First, parole is an **independent, citizen-oriented board** who carefully reviews each prisoner nearing the end of a period of incarceration mandated by the court:

- to extend the time in prison for the more violent and dangerous offenders;
- to demand that all prisoners demonstrate that they are no longer a danger to society before they are permitted to return to the community; and
- to set specific conditions that must be met before release.

Second, parole is the same **independent, citizen oriented board** who carefully plans a safe return to the community for offenders who have met the requirements for release by:

- setting specific requirements for prisoners once back in the community, — which must be agreed to before release-- including restitution to victims, mandatory work, electronic monitoring, house arrest, continuing drug treatment, appropriate residence and employment, and a whole range of strategies to minimize risk;
- monitoring offenders carefully through a network of professional parole officers who work in the community; and
- returning offenders to prison whenever community safety is threatened.

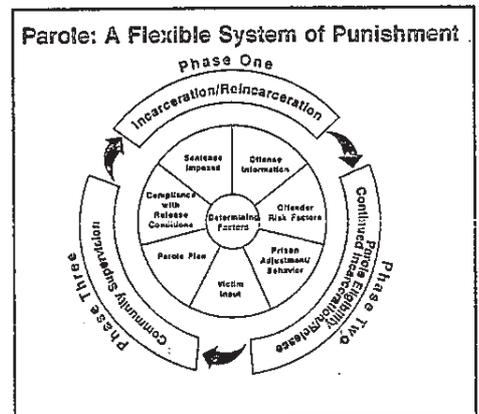
Third, parole is careful control and supervision of offenders after they have earned release from prison, and while they are demonstrating their worthiness to remain in the community. This supervision, carried out by parole officers who work closely with the parole board itself, can include careful monitoring of the offender's home, job, activities, and associates. It may well incorporate frequent drug testing, curfews, electronic monitoring, required drug treatment, strict requirements about not having contact with former victims, requirements to pay restitution, and the like. Importantly, this supervision is an early warning system to allow the Board to take offenders back into custody and to re-imprison them if they violate the requirements set down by the Board.

Fourth, parole is the legal framework that empowers judges, prison officials and parole boards to work together to administer a flexible system for punishing offenders and protecting the public. Such a framework pronounces sentences that typically anticipate three phases:

- A first phase--before an offender is eligible for parole--which must be served entirely in prison. This is often expressed as a proportion (e.g., one-fourth or one-third) of the pronounced sentence. By setting a sentence in light of eligibility as established by law, the judge can virtually always assure a period of incarceration that he or she feels is appropriate for the punishment of the offender and the safety of the community. Only at the completion of this first phase does the offender become eligible for parole review.
- A second phase can be served either in prison or in the community, depending upon the severity of the crime and risk presented by the offender. The trade-off between the amount of time spent in prison versus under close supervision in the community is the province of the parole board. It is here that the parole board can significantly lengthen time-served for dangerous offenders. Unlike the judge, who must make a decision at the time of conviction, the parole board has the advantage of knowing any new information that may come to light about the offender's record, can study the prisoner's behavior in prison, and--as many boards do--hear personally from the victims of the crime as they review a prisoner's case. While the judge must rely on a brief sentencing hearing with little lead time to assess an offender's prior record or true character, the parole board has the advantage of months or years to gather information.
- A third phase is served in the community under supervision and requirements set by the Board. If the offender fails to follow the mandates of the parole board, the board can quickly return him to prison to serve the remainder of his sentence or part of the third phase of the sentence inside the walls.

There are those who are particularly critical of the aspect of parole that provides authority over the exact timing of release. Some states have eliminated this aspect of parole while retaining parole supervision after release. Indeed, virtually every state has retained some type of supervision after release. Its usefulness is so apparent, that even when parole release is abolished, post-release supervision has been retained. What should be emphasized, however, is that the abolition of parole review and the ability of parole boards to decide who will be released, and when, significantly undercuts post-release supervision.

The abolition of parole review and the ability of parole boards to decide who will be released, and when, significantly undercuts post-release supervision.



In every state that has abolished parole, the alternative has resulted in shorter, definite sentences which automatically release offenders at the end of a set sentence, with no review, no ability to extend sentences to reflect the risk of the offender, and no ability to demand that offenders demonstrate they have earned release and are no longer a risk to the community.

When a board has no ability to select those who will be granted release, they are forced to supervise a population not of their own choosing; What college or university could expect to maintain its standards if it were not allowed to make its own decisions about which students to admit? Similarly, it is ludicrous to expect paroling authorities to exercise responsible control and supervision of offenders in the community if they have no discretion about who will be supervised. It is impossible to assure cooperation of offenders when they know they must be released regardless of their willingness to agree to certain conditions. And we have seen, in states such as Illinois, that when the parole board loses its discretion over release, it tends to lose its visibility and power in the system. Field supervision tends to be undervalued and, eventually, underfunded and understaffed. It is important to support parole in its entirety--preparation for release, timing and conditions of release, supervision, and revocation--to secure the benefits that parole offers to the criminal justice system.

Abolishing parole eliminates all of these safeguards. In every state that has abolished parole, the alternative has resulted in shorter, definite sentences which automatically release offenders at the end of a set sentence, with no review, no ability to extend sentences to reflect the risk of the offender, and no ability to demand that offenders demonstrate they have earned release and are no longer a risk to the community. The following table illustrates just how punishments compared under California's indeterminate and determinate sentencing laws. Under the former, the parole board had the power to significantly lengthen terms in prison for dangerous and violent offenders.

Comparison of Various Terms Under the Indeterminate and Determinate Sentencing Laws of California ⁷		
Offense	Indeterminate Sentences (Actual time-served to be set by Parole Board)	Determinate Sentences (Actual terms subject to 50% reductions)
Robbery: Sentence	5 years to life	3, 4, or 5 years
Actual time to be served in prison	Between 60 months and life depending on Parole Board assessments	18 months on 3 year sentence 24 months on 4 year sentence 30 months on 5 year sentence
Kidnapping: Sentence	1 to 25 years	3, 4, or 5 years
Actual time to be served in prison	Between 1 and 25 years depending on Parole Board assessments	18 months on 3 year sentence 24 months on 4 year sentence 30 months on 5 year sentence
Burglary: Sentence	6 months to life	2, 3, or 4 years
Actual time to be served in prison	Between 6 months and life depending on Parole Board assessments	12 months on 2 year sentence 13 months on 3 year sentence 24 months on 4 year sentence

⁷California Board of Prison Terms.



than others for similar offenses, and that overall sentencing and release laws were too soft on criminals. Locking criminals away for longer periods of time and "just deserts" replaced rehabilitation as the primary goal of American prisons. States began developing sentencing guidelines, enacting mandatory minimum sentences, and adopting other sentencing reforms in attempts to reduce disparity in sentencing and toughen penalties for certain offenses. Drug offenses, offenses with weapons, and offenses committed by repeat or habitual criminals were specifically targeted by these new penologists in an effort to reduce disparity and increase time served in prison. The pillars of the American corrections system—indeterminate sentencing coupled with parole release for the purpose of offender rehabilitation—in place for the majority of the twentieth century, basically collapsed during this time.

By 1997, the 28 percent of state prisoners released as a result of parole board decisions was the lowest figure since the federal government began compiling statistics on the issue. This compares to 41 percent of state prisoners released as a result of a parole

board decision in 1990. Mandatory releases, where the required release of an inmate occurs at the expiration of a certain time period not decided by a parole board, now surpass parole releases, and if one adds expiration releases, there is an even bigger imbalance between discretionary parole and mandatory release (28 percent v. 57 percent). These numbers reflect an obvious societal change in the perception of how prisoners should be handled and whether punishment or reformation is more important.

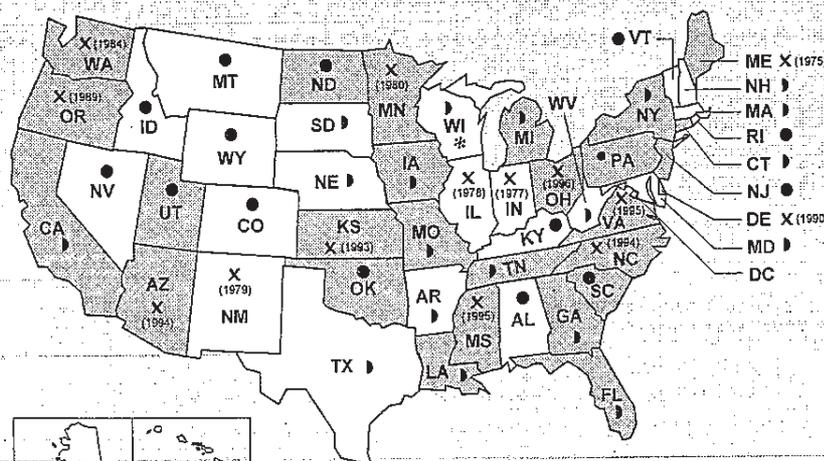
Abolishment of Parole

One of the arguments for eliminating parole, or limiting its use, is to increase the length of prison term served. In 1975, Maine became the first state to adopt this point of view and eliminate parole. The following year, California and Indiana joined Maine in establishing determinate sentencing legislation (the release date is established at the time of the sentence) and abolishing discretionary parole release (persons entering the community because of a parole

board decision). Additionally, Colorado abolished discretionary parole release in 1979. North Carolina placed severe constraints on its parole commission in 1981, and by adopting sentencing guidelines in 1983, Florida also abolished parole. This movement towards abolishing parole was the first in a series of reforms that would change the face of the corrections system throughout the United States. After all, parole and indeterminate sentencing had been around since the late 19th century, and people could only hypothesize about the abolishment of parole and its actual effects.

After this initial movement by states to abolish parole, some retreated. North Carolina, Florida, and Colorado have since re-established its equivalent. North Carolina has gradually restored some of its previous discretion in the practice of allowing prisoners to re-enter society. Florida has now returned the function under another name, and Colorado reinstated discretionary parole six years later. Apparently, these states felt that abolishment of parole was not necessarily the best way to handle the problems associated with their correctional systems.

Figure 2. Status of Parole and VOITIS Truth-in-Sentencing Funds in the U.S.



State	If Parole Board Powers are Limited, Crimes Ineligible for Discretionary Release
California	Only for indeterminate life sentence
Connecticut	Murders, capital felonies
Florida	Certain capital/life felonies
Georgia	Several felonies
Hawaii	Punishment by life w/o parole
Iowa	Murder 1, kidnap, sex abuse
Louisiana	Several felonies
Maryland	Violent, or death penalty sought
Massachusetts	Murder 1
Michigan	Murder 1, 650+ g. cocaine
Missouri	Several felonies
Nebraska	Murder 1/life, kidnap/life
New Hampshire	Murder 1
New York	Violent felony offenders
South Dakota	None with life sentence
Tennessee	Murder 1/life, rapes
Texas	None of death row
West Virginia	No life without mercy
Wisconsin	No life without parole

Source: Status Report on Parole, 1996, Results from an NIC Survey (1997), and updated with information from Ditton and Wilson, 1999

■ The states and the Districts of Columbia that met the federal standards for Truth-in-Sentencing in 1995.
 ● Parole board has full release powers
 ▲ Parole board has limited release powers
 X Discretionary Parole abolished (Year Abolished)
 * Abolished discretionary parole release in 1999 to go into effect on January 1, 2000 for crimes committed on or after that date.

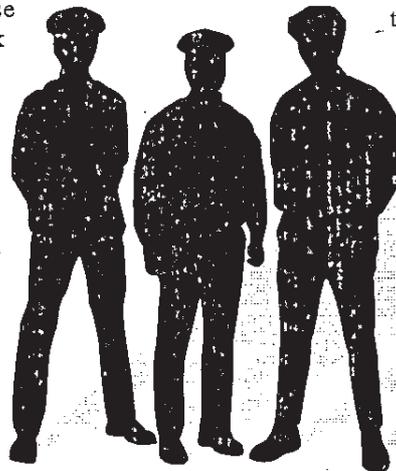


By the end of 1999, 14 states had abolished discretionary parole for all offenders, and 21 others had severely limited its use. [See Figure 2, page 3] Of the 14 states that abolished discretionary parole, eight states abolished discretionary parole within the last 10 years. However, the number of states that have abolished discretionary parole can be misleading if the difference between discretionary parole and parole is not understood. The abolishment of discretionary parole takes the release decision away from the parole board, and some of the states that have abolished discretionary parole have other systems similar to parole in place. For example, some states provide that a prisoner serve a set amount of time in prison and then be released automatically into the community under supervision. This system releases a prisoner to the community with a set of conditions, which if violated, could cause the person to be returned to prison to serve out the remainder of their prison sentence. This system is similar to parole in that a prisoner is released before the entire sentence is served, but a parole board is not involved in determining when the release should occur.

Although some states have abolished discretionary parole, 15 states have given their parole boards full authority to release inmates through a discretionary process, with other parole boards exercising discretionary control over inmates who were sentenced for crimes committed prior to the effective date of the law that eliminated parole board release. In 21 states, parole authorities operate under what might be called a sunset provision, still using this discretionary control over a small or diminished parole-eligible population. However, in those states that have retained parole as a means of releasing prisoners, granting parole has become much more stringent. In Texas over half, or 57 percent of all cases considered for parole release in 1988, were approved. However, that figure dropped in 1998 to just 20 percent. In general, states restrict the possibility of parole board release based on the offenders' criminal history or the circumstances of the offense; and mandatory minimum sentencing policies now exist in every state.

In the 15 states that give parole authorities the discretionary power to release prisoners, most of them utilize formal risk prediction instruments or parole guidelines to assist in the parole decision making. Parole guidelines are usually actuarial devices, which objectively predict the risk of recidivism based on crime and offender background information. The guidelines produce a score for each individual by summing up points assigned for various background characteristics. Inmates with the least serious criminal history and the lowest statistical probability of re-offending would then be the first to be released. This use of objective instruments helps to reduce the disparity in parole decision making, and has been shown to be more accurate than release decisions based on those which utilize case studies or individualized methods in their determinations.

As has been noted, abolishment of parole was a target early on as a way to increase sentences and lock prisoners away longer. Since the 1970's, parole has been abolished in some states and limited in others. Despite these developments, parole and similar systems are still in use throughout the United States, but the way parole is used has changed.



Post-Prison Supervision

As discussed earlier, some states have programs similar to parole. Today, 48 states and the federal system have some requirements for post-prison or parole supervision, with Maine and Virginia being the exceptions. At the federal level, the Comprehensive Crime Control Act of 1984 created the United States Sentencing

Commission. That legislation abolished the United States Parole Commission, and parole was phased out from the federal criminal justice system in 1997. Offenders sentenced to federal prison are no longer eligible for parole release, but they are required to serve a defined term of "supervised release" following release from prison. That means a person serves a set number of years in prison and a set amount of time supervised in the community, all of which are pre-determined by a court.

In Maine and Virginia, both the parole board and parole supervision have been abolished. In Virginia, the judge must remember to impose a split sentence with a term of probation, to follow prison, in order to have control of released prisoners. A few other states have also considered abolishing post-prison or parole supervision, but the transition from prison back into the community is exceedingly difficult, with recidivism rates highest in the first year following release.

Some figures put the number at fully half of all parolees failing to successfully complete parole, and their returns to prison represent about a third of all incoming United States prisoners each year. To assist in this high-risk time period, post-prison or parole supervision has historically provided job assistance, family counseling, and chemical dependency programs.

In 1997, nearly 80 percent of all released prisoners were subject to some form of post-prison or parole supervision. While discretionary release from prison by a parole board has been eliminated by some states, some form of post-prison supervision still exists. To distance themselves from the negative image that parole has, some states changed the name. For example, post-prison supervision is called, variously among the states, controlled release authority in Florida, community control in Ohio, supervised release in Minnesota and in the federal system, and community custody in



Washington. In some of the states that have abolished discretionary parole and established determinate sentencing, a defendant could receive a sentence for a set amount of time and upon completion of a percentage of the sentence, say 85 percent, be released automatically without the discretion of a parole board to serve the remaining 15 percent of the sentence under supervision in the community, barring violation of the terms of release. Parole boards, in various forms, have the responsibility to set conditions of release for offenders under conditional community or supervised release, the authority to return an offender to prison for violating the conditions of parole or supervised release, and the power to grant parole for medical reasons. Consequently, parole is not dead, rather it has taken on a new identity.

Truth-In-Sentencing

Truth-in sentencing is a new movement, started when parole was called into question. People reacted negatively to prisoners being

released early and called for stronger sentences and requirements that inmates serve more of the sentence actually imposed by the courts. As a result of this public outcry, states and the federal government responded with various laws to combat the problem of early release. These new laws took on the moniker, truth-in-sentencing.

Generally, truth-in-sentencing measures address the criminal sentence imposed by the court and the actual time an offender serves in prison. These truth-in-sentencing laws require offenders to serve a substantial portion of their prison sentence imposed by the court before being eligible for release, but the definition of truth-in-sentencing varies among the states, as does the percentage of sentence required to be served and the crimes covered by the laws. [See Figure 3] Some states include all crimes in their truth-in-sentencing legislation, and most states target violent offenders under truth-in-sentencing. The percentage of sentence required to be served under truth-in-sentencing, in general, spans from 50 percent to 100 percent of a minimum sentence. Florida, Mississippi, and Ohio

require all offenders to serve a substantial portion of their sentences before release. Indiana, Maryland, Nebraska, and Texas have a 50 percent requirement. Idaho, Nevada, and New Hampshire require 100 percent of sentence to be served.

Moreover, Arizona adopted truth-in-sentencing in 1993, while undertaking a complete revamping of its criminal code. The law established the requirement that all inmates serve 85 percent of their sentences, followed by supervision in the community for the remaining 15 percent. California adopted truth-in-sentencing legislation in 1994 and limited work credits that violent offenders can earn so that they must, by law, serve at least 85 percent of their sentence. Florida repealed sentencing guidelines in favor of minimum sentences, no parole for persistent offenders, and an 85 percent policy for others. Ohio reclassified all felony offenses and addressed truth-in-sentencing by eliminating discretionary parole release. Oklahoma enacted a major truth-in-sentencing act that requires violent offenders to serve 85 percent of the sentence, while other less serious offenders serve less time

Figure 3. Truth-in-sentencing requirements, by State

Meet Federal 85% requirement		50% requirement	100% of minimum requirement	Other requirements
Arizona	Missouri	Indiana	Idaho	Alaska ^c
California	New Jersey	Maryland	Nevada	Arkansas ^d
Connecticut	New York	Nebraska	New Hampshire	Colorado ^e
Delaware	North Carolina	Texas		Kentucky ^f
District of Col.	North Dakota			Massachusetts ^g
Florida	Ohio			Wisconsin ^h
Georgia	Oklahoma ^b			
Illinois ^a	Oregon			
Iowa	Pennsylvania			
Kansas	South Carolina			
Louisiana	Tennessee			
Maine	Utah			
Michigan	Virginia			
Minnesota	Washington			
Mississippi				

^a Qualified for Federal funding in 1996 only.
^b Effective July 1, 1999, offenders will be required to serve 85% of the sentence.
^c Two-part sentence structure (2/3 in prison; 1/3 on parole); 100% of prison term required
^d Mandatory 70% of sentence for certain violent offenses and manufacture of methamphetamine.
^e Violent offenders with 2 prior violent convictions serve 75%; 1 prior violent conviction, 56.25%.
^f Effective July 15, 1998, offenders are required to serve 85% of the sentence.
^g Requires 75% of a minimum prison sentence.
^h Effective December 31, 1999, two-part sentence: offenders serve 100% of the prison term and a sentence of extended supervision at 25% of the prison sentence.

Source: BJS Special Report: Truth-in-Sentencing in State Prisons



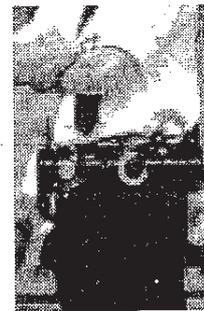
or are handled in the community corrections program. These examples illustrate how states have moved towards increasing time served in prison for serious or violent offenders. Some of the changes occurred before federal funding was approved, and others were a direct result of the federal government influence.

As a means of influencing the states, Congress addressed truth-in-sentencing in 1994 as part of the Violent Crime Control and Law Enforcement Act that was subsequently amended in 1996. This legislation authorized funding at \$8 billion, through the year 2000, for the Violent Offender Incarceration and Truth-in-Sentencing grant (VOITIS) program. VOITIS authorized the federal government to provide financial assistance to the 50 states, the District of Columbia, and the United States territories, to construct or renovate prisons to incarcerate additional violent offenders. Those states and territories that demonstrated that truth-in-sentencing and related incarceration policies existed for violent offenders became eligible for an increased portion of federal funding. Since fiscal year 1996, the Justice Department has provided more than \$3.8 billion through the VOITIS incentive grants program.

The federal regulations were designed to accommodate various sentencing structures, including guidelines, as well as new laws that specified 85 percent of sentence policy.

To qualify for truth-in-sentencing grants, states must require persons convicted of certain serious or violent offenses to serve not less than 85 percent of the prison sentence. To satisfy the 85 percent of sentence test and qualify for federal funds for prison construction, states have limited the powers of parole boards to set release dates, or of prison managers to award good time and gain time (time off for good behavior or participation in work or treatment programs), or both. The federal government's financial assistance is spurring states to meet certain truth-in-sentencing guidelines and in the process, accommodate the public's desire that more serious or violent offenders serve longer terms in prison. By the end of 1998, 27 states and the District of Columbia required violent offenders to serve at least 85 percent of their prison sentence, up from five states in 1993. Another 13 states have adopted truth-in-sentencing laws requiring violent offenders to serve a substantial portion of their sentence before being eligible for release. As a result, some 70 percent of prison admissions for a violent offense in 1997 were in states requiring offenders to serve at least 85 percent of their sentence and 90 percent were in states requiring at least 50 percent of their sentence to be served. The Bureau of Justice Statistics issued a report listing the 27 states and the District of Columbia that required violent offenders to serve at least 85 percent of their prison sentence, and noted that these states qualified for VOITIS truth-in-sentencing

funds. The states and the District of Columbia that met the federal standard for truth-in-sentencing in 1998 are set out in *Figure 2, page 3*. Figure 2 shows that truth-in-sentencing is sweeping the nation as the new penal methodology in much the same way parole did at the turn of the twentieth century, with serious and violent criminals paying with longer terms behind bars.



As states continue to enact restrictions on the possibility of early release, prisoners (especially violent offenders) are spending more time behind bars. An increasing amount of time served by offenders is

contributing to the growth in state prison populations. As the number of offenders sentenced under truth-in-sentencing continues to grow, the national average percentage of sentences served by violent offenders will of course correlate and continue to increase. Because truth-in-sentencing laws are a relatively recent trend, the majority of offenders sentenced under them will not be released from prison for many years, and statistics based on current release data may underestimate changes in time served due to truth-in-sentencing.

Figure 4. Time served in prison for the first releases from State prison, by release type, 1990-96

Year	Parole Board	Mandatory Parole	Expiration of Sentence
Months Served			
1990	23	20	27
1991	23	20	27
1992	23	19	22
1993	23	19	23
1994	24	20	26
1995	24	23	25
1996	25	24	26

Note : Includes only offenders with a sentences of more than 1 year released for the time on the current sentence. Excludes persons released from prison by escape, death, transfer, appeal or detainer.

Source: BJS Special Report: Truth-in-Sentencing in State Prisons



More Time in Prison

Franklin E. Zimring, director of the Earl Warren Legal Institute, writes that "no matter what the question has been in American criminal justice over the last generation, prison has been the answer." This is substantiated when we look at recent statistics showing increased time in prison across the board. It doesn't seem to matter what the state of parole is; rather truth-in-sentencing seems to have affected all states, with and without parole alike. The figures below point out the rising trends in time spent behind bars and demonstrate that the abolishment of parole is not necessarily the cause.

For example, the average time served among offenders released by a parole board from 1990 through 1994 increased from 23 months to 24 months, and to 25 months in 1996. [See Figure 4] The time served for those released under non-discretionary

mandatory parole also increased from 20 months in 1990, to 23 months in 1995, and 24 months in 1996. At the same time, the overall number of releases relative to the number of inmates in prison dropped from 37 per 100 state prisoners in 1990, to 31 per 100 in 1996; the release rate for murderers went from about 10 per 100 in 1990, to five per 100 in 1996; and 18 percent of released prisoners in 1997 served their entire sentences compared to 13 percent in 1990. Therefore, total time served in prison has increased in recent years for all offenders, whether released by a parole board or released by other means.

Also, abolishing parole is not necessarily responsible for keeping prisoners in jail longer. During 1996, violent offenders released nationwide by the discretion of a parole board served 42 months while other conditional releases served 38 months in prison. [See Figure 5] Offenders released by a parole board, who were in prison for murder/non-negligent manslaughter, served 21 months longer than other conditional

releases (96 months v. 75 months); offenders serving time for assault who were released by a parole board served 30 months, or five months longer than other conditional releases (25 months).

Additionally, property offenders released by a parole board served 23 months and other conditional releases served 22 months. Drug offenders released by a parole board served 21 months and other conditional releases served about 19 months in prison. Persons in prison for a public-order offense served about the same amount of time, whether released by a parole board (16 months), or other conditional releases (17 months). The above figures indicate the trend that parole boards have followed, established by truth-in-sentencing legislation, with the amount of time offenders serve in prison increasing. Often, offenders released by parole boards serve the same amount of time or longer than offenders released through other methods.

Another way to look at time spent in prison is to consider the percent of sentence served

Figure 5. Sentence length, time served, and percent of sentence served, for first releases, by offense and release type, 1996

Most serious offense	Maximum sentence		Time served in prison		Percent of sentence served in prison	
	Parole board	Other conditional*	Parole board	Other conditional*	Parole board	Other conditional*
All offenses	79 mo	47 mo	25 mo	25 mo	29.10%	47.00%
Violent offenses	113 mo	65 mo	42 mo	38 mo	34.00%	53.20%
Murder/nonnegligent manslaughter	229	138	96	75	35.60	52.30
Rape	157	94	65	64	37.60	57.20
Other sexual assault	117	75	44	41	35.50	50.00
Robbery	118	63	42	40	32.40	56.90
Assault	81	45	30	25	35.10	51.50
Drug offenses	74 mo	40 mo	21 mo	19 mo	25.60%	41.80%
Possession	66	42	18	18	24.50	39.60
Trafficking	80	42	22	21	25.30	44.40

Note: Data were obtained from the National Corrections Reporting Program. Includes only offenders with a sentence of more than 1 year released for the first time on the current sentence. Excludes persons released from prison by escape, death, transfer, appeal, or detainer.

*Includes mandatory parole releases and other nondiscretionary conditional releases for select States.

Source: BJS Special Report Truth-in-Sentencing in State Prisons



by inmates. Offenders who were released by a parole board during 1996 served 29 percent of their sentence, and other conditional releases served 47 percent of their sentence. Offenders released in 1996 by a parole board had an average sentence of 79 months, and offenders released in 1996 via other conditional releases had an average sentence of 47 months. This does not mean that parole boards were easier on offenders released in 1996, rather that offenders released by a parole board had been sentenced to serve 32 months longer than other conditional releases.

Conclusion

The changes in the criminal justice system in the last twenty-odd years that find offenders serving substantial portions of their sentence reflect a confluence of conservative and liberal politicians who view falling crime rates as evidence that things must be working. Although lawmakers view these results with satisfaction, their cause is not as clear. On the one hand, some scholars and politicians attribute longer sentences for criminals to the abolishment of parole. On the other hand, statistics show this is not necessarily the case. Allen Beck, chief of corrections statistics at the Bureau of Justice Statistics, recently observed that ending parole by itself "has no real impact on time served." Bureau of Justice Statistics data reveal no obvious relationship between type of release (mandatory v. parole boards) and actual length of time spent in prison prior to release. Time served in prison has increased in recent years, but this is attributable to the implementation of truth-in-sentencing laws, not the abolishment of parole boards. Some states have abolished parole and gone to determinate sentencing, others have renamed parole, while others, like Texas, have kept their parole boards, which serve as strict guardians of the prison population, and rarely release offenders. The constant that has put criminals in prison longer is the truth-in-sentencing movement and the "get tough on crime" attitude of the populace, not the abolishment of parole.

—by Todd Reimers, SRC

Sources

Books

Petersilia, Joan. Parole and Prisoner Reentry in the United States. Forthcoming in Understanding Prisons: Performance and Policy Options. Chicago: University of Chicago Press, 1999.

Burke, Peggy B. Abolishing Parole: Why the Emperor Has No Clothes. Lexington, Kentucky: American Probation and Parole Association, 1995.

Camp, Camille Graham, and George M. Camp. The 1998 Corrections Yearbook. Middletown, Connecticut: Criminal Justice Institute, Inc., 1998.

Government Publications

Ditton, Paula M., and Doris James Wilson. State Sentencing Law Changes Linked to Increasing Time Served in State Prisons. Online: <http://www.ojp.usdoj.gov/bjs/pub/press/tssp.pr>, accessed on March 9, 1999.

Ditton, Paula M., and Doris James Wilson. Truth in Sentencing in State Prisons. Online: <http://www.ojp.usdoj.gov/bjs/pub/pdf/tssp.pdf>, accessed on March 9, 1999.

Periodicals

Butterfield, Fox. "Eliminating Parole Boards Isn't a Cure-all, Experts Say." New York Times 10 Jan. 1999.

Lyons, Donna. "Truth in Sentencing."

National Conference of State Legislatures - Legisbrief. 7.21 (1999) 1-2.

Phone Interviews

Ecker, Alan, Arizona Community Corrections Division

Maddock, Tom, Colorado Division of Adult Parole

Rieger, Chris, Kansas Sentencing Commission

Madler, John, North Carolina Department of Corrections

Rauschenberg, Fritz, Ohio Criminal Sentencing Commission

Goodman, Roger, Washington Sentencing Guidelines Commission



Ideas Changing the World

States Are Abolishing Parole

January 13, 1999

Fifteen states have abolished their parole boards -- thus confining criminals until they have served their sentences. Some criminologists say parole boards are a failure. Others contend that there is no statistical evidence that ending release programs reduces crime.

The movement to abolish parole began in the late 1970s after studies suggested that rehabilitative efforts in prison and early release on parole for good conduct had no measurable effect on reducing repeat offenses.

However, keeping criminals in prison without chance of parole increases prison costs -- and some experts suggest that less serious criminals be sentenced to shorter terms, thus freeing up space for serious offenders.

Parole consists of two parts: parole boards with the authority to decide when to release prisoners, and parole officers supervise convicts after their release. The failure rate of parolees may partly depend on the number of parole officers and the effectiveness of transition programs, say experts. Thus, having more parole officers may lead to uncovering more violations and sending more parolees back to prison.

- In California, 80 percent of parolees fail to complete parole successfully.
- In 1997, 57 percent of people entering California's prisons were parole violators, not criminals convicted of new crimes, according to criminologist Joan Petersilia of the University of California at Davis.
- But in New York state, only 20 to 25 percent of those sent to prison are parole violators, according to Katie Lapp, the state's chief criminal justice official.

States that have eliminated their parole boards are Arizona, California, Delaware, Illinois, Indiana, Kansas, Maine, Minnesota, Mississippi, Ohio, Oregon, New Mexico, North Carolina, Virginia and Washington. And New York Gov. George Pataki has proposed making that state the 16th. The federal prison system has also eliminated parole boards.

However, three other states (Connecticut, Colorado and Florida) have reinstated parole boards after eliminating them.

Source: Fox Butterfield, "Eliminating Parole Boards Isn't a Cure- All, Experts Say," *New York Times*, January 10, 1999.

[Previous Article](#) / [Next Article](#)

Browse more articles on [Government Issues](#)

[Full Article List](#)

Like  0

THE CONSERVATIVE CASE

Fighting Crime, Prioritizing Victims, and I

A project of the Texas Public Policy Foundation in cooper

HOME THE CHALLENGE THE CASE FOR REFORM PRIORITY ISSUES REFORM IN ACTION

Search this website...

SEARCH

About

Contact

RSS Feed

Twit

Home > Blog > State Initiatives > Kansas > Kansas Abolishes its Parole Board

Blog

Events

Request a Speaker

Audio and Video

KANSAS ABOLISHES ITS PAROLE BOARD

APRIL 8, 2011 BY JOSEPH A. ADAMS

Earlier this year, Kansas Governor Sam Brownback signed an executive order to abolish the state's Parole Board and transfer its duties to the Department of Corrections. The Legislature had sixty days to reject the order, but in March, the Senate defeated an attempt to block Governor Brownback's plan. Brownback has argued that the move to abolish the Parole Board would save the state about \$500,000 annually.

According to the *Kansas City Star*, in addition to saving costs, the plan would also "bring the state in line with a national trend to more efficiently decide when convicts leave prison." However, the proposed shift has raised concerns about whether the concerns of victims' families will continue to be heard. The existing Parole Board held public comment sessions when reviewing inmates for possible release, and until recently, it had been unclear whether these sessions would be continued by the new review panel.

Opponents of the move argued that the projected savings—\$500,000 annually—is not worth "denying victims and their families this outlet for continued grief and suffering."

But, according to the Kansas Department of Corrections, the idea that the public will lose its voice when the Department of Corrections takes over could not be further from the truth. The public comment sessions in Wichita, Topeka and Kansas City will continue.

In total, about 15 states have eliminated parole boards, many replacing them with a system of mandatory supervised release upon completion of a certain percentage of the sentence. One such state is Minnesota, which now has one of the lowest incarceration rates in the country. On the other hand, according to Carl Wicklund of the American Probation and Parole Association, "a disadvantage of eliminating parole is that convicts have no incentive to participate in prison self-improvement programs because they know exactly when they will get out." A study by Allen Beck of the Bureau of Justice Statistics found that 4 percent of people released by parole boards in 1999 successfully completed their parole, compared with only 33 percent who had to be released by law.

To truly save money on corrections, as the *Kansas City Star* argues, "the state needs more focus on recidivism." If mandatory parole makes time served more predictable, the incentive for inmates to participate in rehabilitation and education programs may decrease, driving up recidivism rates. After all, keeping people from returning to prison is one way to "really trim the corrections budget significantly."



FILED UNDER: KANSAS, PAROLE AND RE-ENTRY, ROC BLOG



Bureau of Justice Statistics Special Report

October 2001, NCJ 184735

Trends in State Parole, 1990-2000

By Timothy A. Hughes
Doris James Wilson
and Allen J. Beck, Ph.D.
BJS Statisticians

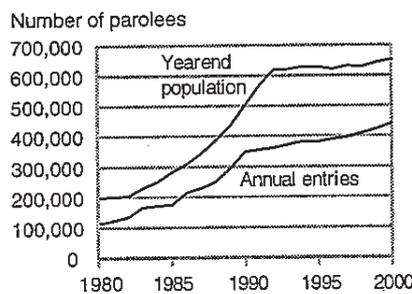
By the end of 2000, 16 States had abolished discretionary release from prison by a parole board for all offenders. Another four States had abolished discretionary parole for certain violent offenses or other crimes against a person. As a result of the movement away from release by parole boards (discretionary parole), release determined by statute (mandatory parole) became the most common method of release from State prison. After 1990 mandatory parole increased from 29% of releases to 41% in 1999, while discretionary parole decreased from 39% to 24%.

Despite changes in release policies, 652,199 adults were under State parole supervision at yearend 2000, more than a 3-fold increase since 1980, when 196,786 adults were on parole. About 312 adults per 100,000 adult U.S. residents were under parole supervision in 2000, compared to 121 in 1980 and 271 in 1990. While the average annual rate of growth in State parole from 1980 to 2000 was 6.2%, the largest increase occurred between 1980 and 1992, when the number of adults on parole grew 10% annually. After 1992 growth in the number of adults on State parole slowed, increasing at an average annual rate of 0.7%.

This report focuses on trends in the State parole population after 1990, the effect of sentencing policies on community release, and the implications for success or failure of offenders under community supervision.

Highlights

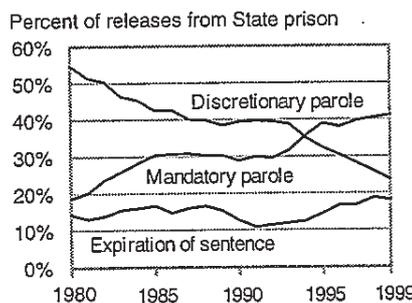
State parole population has remained stable since 1992



- After more than a decade of rapid growth, the number of adults under State parole supervision has nearly stabilized — increasing by 33,510 (0.7% per year) since 1992.

- During the 1980's, entries to State parole supervision tripled, growing from around 113,000 to 349,000 in 1990. During the 1990's, parole entries continued to rise (up 2.4% per year), but were offset by an increase in parole discharges (up 4.6% a year).

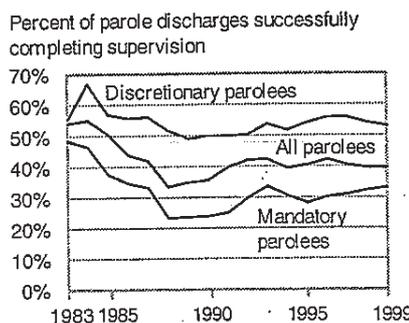
Since 1990 mandatory parole releases have increased, while discretionary releases have decreased



- Between 1990 and 1999, the number of discretionary parole releases from prison dropped (from 159,731 to 128,708), while the number of mandatory parole releases nearly doubled (from 116,857 to 223,342).

- In 1999 nearly 100,000 inmates released from State prisons served their entire prison term (18%), up from 51,288 (13%) in 1990.

42% of parole discharges in 1999 successfully completed supervision



- Among State parole discharges in 1999, over half of discretionary parolees successfully completed their term of supervision, compared to a third of mandatory parolees.

- Success rates were higher among parole discharges who were first prison releases (63%), age 55 or older (54%), and female (48%), than among those who were re-releases (21%), under age 25 (36%), and male (39%).

Table 1. Number of persons in State prison and on parole, yearend 1980, 1985, and 1990-2000

Year	State prisoners ^a		State parolees ^b	
	Number	Percent change	Number	Percent change
1980	305,458		196,786	
1985	462,284		283,139	
1990	708,393		502,134	
1991	753,951	6.4%	568,887	13.3%
1992	802,241	6.4	618,689	8.8
1993	879,714	9.7	620,390	0.3
1994	959,668	9.1	628,941	1.4
1995	1,025,624	6.9	627,960	-0.2
1996	1,076,375	4.9	620,498	-1.2
1997	1,127,686	4.8	631,275	1.7
1998	1,176,055	4.3	629,216	-0.3
1999	1,228,455	4.5	643,452	2.3
2000	1,236,476	0.7	652,199	1.4
Percent change,				
1980-90		131.9%		155.2%
1990-2000		74.5%		29.9%
Average annual change,				
1980-90		8.8%		9.8%
1990-2000		5.7%		2.6%

Note: Counts are for December 31 of each year and may have been revised based on the most recently reported counts.
^aBased on prisoners under the jurisdiction of State correctional authorities.
^bAdult State parolees only.

Parole defined

Parole — a period of conditional supervised release following a prison term. Prisoners may be released to parole either by a parole board decision (discretionary parole) or according to provisions of a statute (mandatory parole).

Discretionary parole — parole boards have discretionary authority to conditionally release prisoners based on a statute or administrative determination of eligibility.

Mandatory parole — generally occurs in jurisdictions using determinate sentencing statutes. Inmates are conditionally released from prison after serving a portion of their original sentence minus any good time earned.

Data sources

National Corrections Reporting Program (NCRP) — collects individual inmate records for prison admissions and releases and parole admissions and discharges.

Annual Parole Survey (APS) — provides a count of the total number of persons under parole supervision on January 1 and December 31, and a count of the number entering and leaving supervision during each year.

National Prisoner Statistics (NPS-1) — provides yearend jurisdiction-level data on the number of prisoners in State and Federal correctional facilities and the number of parole violators returned to prison during each year.

Survey of Inmates in State Adult Correctional Facilities — provides self-reported data on individual characteristics of State inmates admitted to prison while under parole supervision and on characteristics of soon to be released inmates.

States have reduced the discretion of parole boards in determining prison release

From 1990 to 2000, the State parole population grew at a slower rate than the State prison population. During this period, parolees increased 30%, compared to a 75% increase for State prisoners (table 1). On average, the parole population increased 2.6% per year, while the prison population rose 5.7% per year. The low rate of growth in parole supervision reflects changes in sentencing and parole release policies that have resulted in increasing lengths of stay in prison and declining prison release rates. (See *Prisoners in 1999*, August 2000, NCJ 183476.)

Historically, most State inmates were released to parole supervision after serving a portion of an indeterminate sentence based on a parole board decision. (See box on this page for definitions.) In 1977, 69% of offenders released from State prison were released by a parole board. In 44 States and the District of Columbia, parole boards were responsible for the majority of prison releases. In other States most inmates were released through expiration of sentence (Louisiana, Missouri, and Wyoming), to probation (Idaho), or to mandatory parole (Alaska and Arizona).

States began moving away from discretionary release policies in the 1980's in favor of determinate sentences and mandatory supervised release. By 1989 eight States had abolished discretionary parole. In 20 States the majority of prison releases were through expiration of sentence or mandatory parole release. As a percentage of all State prison releases, discretionary parole releases decreased from 55% in 1980 to 38% in 1989, while mandatory parole releases increased from 19% to 30%.

Continuing the shift away from release by a parole board, an additional eight States abolished discretionary parole in the 1990's. Most of the remaining States further restricted parole by setting specific standards offenders must meet to be eligible for release.

States that have abolished discretionary parole, 2000

All offenders		Certain violent offenders
Arizona	Minnesota	Alaska
California ^a	Mississippi	Louisiana
Delaware	North Carolina	New York
Florida ^b	Ohio ^d	Tennessee
Illinois	Oregon	
Indiana	Virginia	
Kansas ^c	Washington	
Maine	Wisconsin	

^aIn 1976 the Uniform Determinate Sentencing Act abolished discretionary parole for all offenses except some violent crimes with a long sentence or a sentence to life.

^bIn 1995 parole eligibility was abolished for offenses with a life sentence and a 25-year mandatory term.

^cExcludes a few offenses, primarily 1st-degree murder and intentional 2nd-degree murder.

^dExcludes murder and aggravated murder.

By yearend 2000, 29 States and the District of Columbia had adopted the Federal truth-in-sentencing standard that requires Part 1 violent offenders to serve not less than 85% of their sentence in prison before becoming eligible for release (table 2). Part 1 violent offenses, as defined by the Federal Bureau of Investigation's Uniform Crime Reports, include murder, nonnegligent manslaughter, rape, robbery, and aggravated assault. By adopting this standard, States could receive truth-in-sentencing funds under the Violent Offender Incarceration and Truth-in-Sentencing (VOITIS) incentive grant program as established by the 1994 Crime Act. VOITIS grants can be used by States to build or expand prison capacity.

Five States (Delaware, Minnesota, Tennessee, Utah, and Washington) enacted truth-in-sentencing laws prior to passage of the Crime Act. The remaining States passed truth-in-sentencing laws after 1994. (See *Truth in Sentencing in State Prisons*, January 1999, NCJ 170032.)

At yearend 2000 nearly three-quarters of the parole population was in the District of Columbia and the 29 States that met the Federal 85%-standard. Nine of the ten States with the largest parole populations in 2000 met the Federal truth-in-sentencing standard for violent offenders. Texas, with the second largest parole population, required violent offenders to serve 50% of their sentence.

Overall, 11 States more than doubled their parole populations from 1990 to 2000; 6 of the 11 were Federal truth-in-sentencing States. In absolute numbers, 6 Federal truth-in-sentencing States (California, Illinois, Louisiana, New York, Ohio, and Pennsylvania) had an increase of 11,000 or more parolees. Thirteen States (9 of which were Federal truth-in-sentencing States) experienced a decline of at least 10% during this period.

Table 2. Number of adults on parole, by State, yearend 1990, 1995, and 2000

	Parole population ^a			Percent change 1990-2000	Number per 100,000 adults ^b
	1990	1995	2000		
All States	502,134	641,038	652,199	29.9%	312
Truth-in-sentencing States ^c					
Arizona	2,474	4,109	3,474	40.4%	92
California	68,120	91,807	117,647	72.7	478
Connecticut	416	1,233	1,868	349.6	73
Delaware	1,002	1,033	579	-42.2	98
District of Columbia	5,157	6,340	5,684	10.2	1,244
Florida	5,237	11,197	6,046	15.5	49
Georgia	20,406	19,434	21,556	5.6	358
Illinois	18,882	29,541	30,199	59.9	329
Iowa	1,991	2,340	2,763	38.8	126
Kansas	5,647	6,094	3,829	-32.2	194
Louisiana	9,754	19,028	22,860	134.4	704
Maine	18	55	28	55.6	3
Michigan	11,083	13,862	15,753	42.1	215
Minnesota	1,701	2,117	3,072	80.7	85
Mississippi	3,321	1,510	1,596	-51.9	77
Missouri	8,939	13,001	12,357	38.2	297
New Jersey	23,172	37,867	14,899	-35.7	235
New Mexico	1,283	1,366	1,670	30.2	127
New York	42,360	55,568	57,858	36.6	405
North Carolina	10,409	18,501	3,352	-67.8	55
North Dakota	130	114	116	-10.8	24
Ohio	6,601	7,432	18,248	176.4	216
Oregon	7,972	15,019	17,832	123.7	693
Pennsylvania	57,298	73,234	82,002	43.1	876
South Carolina	3,770	5,545	4,240	12.5	141
Tennessee	10,221	8,851	8,094	-20.8	189
Utah	1,543	2,700	3,266	111.7	216
Virginia	8,671	10,188	5,148	-40.6	96
Washington	9,114	875	160	-98.2	4
Wisconsin	4,111	7,548	9,430	129.4	236
Other States ^d					
Alabama	6,291	7,793	5,494	-12.7%	165
Alaska	551	459	507	-7.9	116
Arkansas	3,559	4,685	9,453	165.6	474
Colorado	2,140	3,024	5,500	157.0	172
Hawaii	1,383	1,689	2,504	81.1	273
Idaho	318	619	1,443	354.5	156
Indiana	3,291	3,200	4,917	49.4	109
Kentucky	3,239	4,257	4,909	51.6	161
Maryland	11,106	15,748	14,143	27.3	359
Massachusetts	4,816	5,256	3,703	-23.1	76
Montana	685	744	621	-9.3	92
Nebraska	596	661	473	-20.6	38
Nevada	2,702	2,863	4,056	50.1	273
New Hampshire	527	785	944	79.3	102
Oklahoma	2,752	2,356	1,825	-33.7	71
Rhode Island	369	591	353	-4.3	44
South Dakota	681	688	1,481	117.6	268
Texas	104,693	103,089	111,719	6.7	747
Vermont	297	618	902	204.2	196
West Virginia	991	923	1,112	12.3	79
Wyoming	358	403	514	43.8	141

^aBased on the *Annual Parole Survey*.

^bParolees per 100,000 adult U.S. residents based on State populations for April 1, 2000.

^cStates met Federal truth-in-sentencing standards under the Violent Offender Incarceration and Truth-in-Sentencing incentive grants program in fiscal year 2000.

^dSome States may have truth-in-sentencing but did not meet the Federal standard. See *Truth in Sentencing in State Prisons*, NCJ 170032.

Four States accounted for nearly two-thirds of the growth in parole during the 1990's

Four States (California, New York, Pennsylvania, and Texas) supervised over half of all State parolees at yearend 2000. Together, these States accounted for 64% of the growth in State parole from 1990 to 2000.

Sixteen States experienced a decline in their parole populations. Washington State (down 98%), followed by North Carolina (down 68%) and Mississippi (down 52%), had the largest declines, as the result of abolishing discretionary parole.

At yearend 2000 nearly 1 in every 320 adults were under State parole supervision. Overall, there were 312 parolees per 100,000 adult U.S. residents in 2000, up from 271 per 100,000 residents in 1990.

Among States, Pennsylvania (with 876 parolees per 100,000 State residents), Texas (with 747), and Louisiana (with 704) had the highest rates of parole supervision. Excluding Maine and Washington, which abolished parole in 1975 and 1984, respectively, North Dakota had the lowest rate of parole supervision (24 per 100,000 State residents), followed by Nebraska (with 38), Rhode Island (with 44), and Florida (with 49).

Since 1990 discretionary releases have declined; mandatory parole and expiration of sentence releases have increased

Regardless of their method of release, nearly all State prisoners (at least 95%) will be released from prison at some point; nearly 80% will be released to parole supervision. (See *Prisoners in 1998*, August 1999, NCJ 175687.) As a percentage of all releases, mandatory parole releases increased from 29% in 1990 to 41% in 1999 (figure 1). Discretionary parole releases dropped from 39% to 24%, while releases due to expiration of sentence rose from 13% to 18%.

In the 1980's discretionary parole was the primary method of release from State prison (table 3). Between 1985 and 1990 discretionary parole releases increased from 88,069 to 159,731. The number released by State parole boards peaked in 1992 (at 170,095) and declined each year thereafter, dropping to 128,708 in 1999.

Consistent with the adoption of truth in sentencing and other mandatory release statutes, mandatory parole releases have steadily increased, from 26,735 in 1980 to 116,857 in 1990. By 1995 the number of mandatory releases exceeded the number of discretionary releases. In 1999, 223,342 State prisoners were released by mandatory parole, a 91%-increase from 1990.

Growth in prison releases linked to drug offenders

Overall, the number of prison releases rose from 405,374 in 1990 to 542,950 in 1999. Based on the most serious offense for which prisoners had served time, drug offenders comprised an increasing percentage of prison releases. Nearly 33% of State prison releases in 1999 were drug offenders (up from 26% in 1990 and 11% in 1985) (figure 2). The number of drug offenders released rose from 23,000 in 1985 to 105,800 in 1990. After 1990 the number of drug offenders continued to go up, reaching 177,000 in 1999.

As a percentage of all releases from prison, violent offenders have remained stable, while property

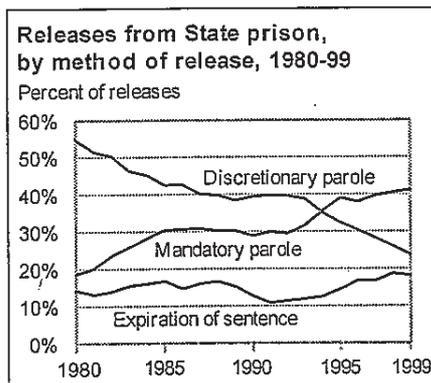


Figure 1

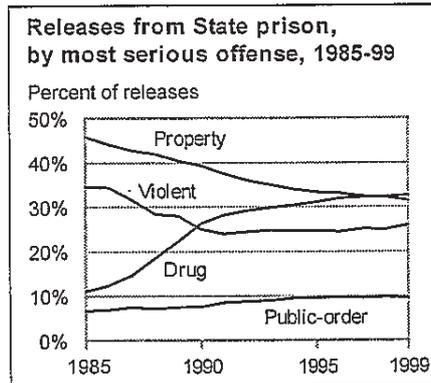


Figure 2

Table 3. Method of release from State prison, for selected years, 1980-99

Year	All releases*	Discretionary parole	Mandatory parole	Other conditional	Expiration of sentence
1980	143,543	78,602	26,735	9,363	20,460
1985	206,988	88,069	62,851	15,371	34,489
1990	405,374	159,731	116,857	62,851	51,288
1992	430,198	170,095	126,836	60,800	48,971
1995	455,140	147,139	177,402	46,195	66,017
1999	542,950	128,708	223,342	66,337	98,218

Note: Based on prisoners with a sentence of more than 1 year who were released from State prison. Counts are for December 31 for each year.

*Includes releases to probation, commutations, and other unspecified releases and excludes escapees, AWOL's, and transfers.

offenders have dropped sharply. Nearly 25% of releases were violent offenders in 1999 (down from 26% in 1990), and 31% were property offenders (down from 39%).

Between 1990 and 1999, annual releases from State prison to parole supervision grew by an estimated 78,900 inmates (table 4). Drug offenders accounted for 61% of the increase, followed by violent offenders (23%), and public-order offenders (15%). The number of property offenders released to parole declined from 1990 to 1999.

About 98,000 State prisoners were released unconditionally through an expiration of their sentence in 1999, up

from 48,971 released in 1990. These inmates were released without any parole supervision. Of those released in 1999, 32% were violent offenders, 32% property offenders, 24% drug offenders, and 12% public-order offenders.

Prison releases have served more time and a greater portion of their sentence before release

Among all State inmates released from prison for their first time on their current offense ("first releases"), the average time served in prison increased from 22 months in 1990 to 29 months in 1999 (table 5). Released inmates had also served an average

of 5 months in local jails prior to their admission to prison. Overall, released inmates had served a total of 34 months in 1999 — 6 months longer than released inmates in 1990.

Murderers released in 1999 served on average 14 months longer than those released in 1990 (106 months versus 92 months). Rape offenders served 17 months longer (79 months compared to 62 months). Drug offenders served 27 months in 1999, compared to 20 months in 1990.

Reflecting statutory and policy changes that required offenders to serve a larger portion of their sentence before release, all offenders released for the first time in 1999 served on average 49% of their sentence, up from 38% in 1990.

Of the four major offense categories, violent offenders served the highest percentage (55%) in 1999, followed by public-order (51%), property (46%), and drug offenders (43%). Offenders convicted of assault served the highest percentage of their sentence (about 59%), followed by offenders convicted of rape (58%).

Table 4. Partitioning the growth in method of release from State prison, by offense, 1990-99

Most serious offense	Parole supervision*		Expiration of sentence	
	Change, 1990-99	Percent of total	Change, 1990-99	Percent of total
All offenses	78,900	100.0%	46,900	100.0%
Violent	19,800	23.3	15,500	33.0
Property	-1,100		9,100	19.3
Drug	52,100	61.4	14,900	31.7
Public-order	13,000	15.3	7,600	16.1

Note: Based on prisoners with a sentence of more than 1 year who were released from State prison. Counts are for December 31 for each year.
*Includes all releases to parole, probation, and other conditional supervision.

Table 5. Sentence length and time served for first releases from State prison, 1990 and 1999

	Mean sentence length ^a		Mean time served in —				Total time served ^c		Percent of sentence served ^d	
	1990	1999	Jail ^b		Prison		1990	1999	1990	1999
			1990	1999	1990	1999				
All offenses	69 mo	65 mo	6 mo	5 mo	22 mo	29 mo	28 mo	34 mo	38.0%	48.7%
Violent offenses	99 mo	87 mo	7 mo	6 mo	39 mo	45 mo	46 mo	51 mo	43.8%	55.0%
Murder ^e	209	192	9	10	83	96	92	106	43.1	53.1
Manslaughter	88	102	5	6	31	49	37	56	41.0	52.5
Rape	128	124	7	6	55	73	62	79	45.5	58.3
Other sexual assault	77	76	5	6	30	42	36	47	43.8	57.0
Robbery	104	97	7	6	41	48	48	55	42.8	51.6
Assault	64	62	6	6	23	33	30	39	43.9	58.7
Property offenses	65 mo	58 mo	6 mo	5 mo	18 mo	25 mo	24 mo	29 mo	34.4%	45.6%
Burglary	79	73	6	5	22	31	29	36	33.9	44.3
Larceny/theft	52	45	6	4	14	19	20	24	35.5	46.9
Motor vehicle theft	56	44	7	5	13	20	20	25	33.1	52.5
Fraud	56	49	6	4	14	19	20	23	33.2	41.7
Drug offenses	57 mo	59 mo	6 mo	5 mo	14 mo	22 mo	20 mo	27 mo	32.9%	42.8%
Possession	61	56	6	5	12	20	18	25	29.0	42.4
Trafficking	60	64	6	5	16	24	22	29	34.8	42.0
Public-order offenses	40 mo	42 mo	5 mo	4 mo	14 mo	19 mo	18 mo	23 mo	42.6%	51.1%

Note: Based on prisoners with a sentence of more than 1 year who were released for the first time on the current sentence. Excludes prisoners released from prison by escape, death, transfer, appeal, or detainer.
^aMaximum sentence length for the most serious offense. Excludes sentences of life, life without parole, life plus additional years, and death.
^bTime served in jail and credited toward the current sentence.
^cBased on time served in jail and in prison. Detail may not add to total because of rounding.
^dBased on total sentence length (not shown) for all consecutive sentences.
^eIncludes nonnegligent manslaughter.

Table 6. Time served, maximum sentence, and percent of sentence served for Part 1 violent offenders, by State, 1993, 1996, and 1999

	Mean maximum sentence ^a			Mean time served			Percent of sentence served ^b		
	1993	1996	1999	1993	1996	1999	1993	1996	1999
All States	108 mo	99 mo	103 mo	46 mo	50 mo	53 mo	46%	52%	56%
Truth-in-sentencing States ^c	89 mo	88 mo	93 mo	41 mo	46 mo	50 mo	50%	54%	58%
Arizona	69	71	60	43	48	49	62	68	81
California	58	63	60	33	36	37	57	57	61
Connecticut	71	74	80	38	49	64	54	65	80
Delaware	--	--	--	42	42	46	--	--	--
Florida	74	84	91	31	45	53	42	54	58
Georgia	150	134	117	63	67	76	42	50	65
Illinois	91	99	107	40	45	48	44	45	45
Iowa	192	135	146	39	48	58	20	36	40
Kansas	--	--	--	29	33	41	--	--	--
Louisiana	104	98	96	67	68	45	64	69	48
Maine	--	--	--	43	44	39	--	--	--
Michigan	43	50	52	46	53	59	/	/	/
Minnesota	50	56	60	34	37	39	68	67	65
Mississippi	106	118	128	45	58	57	43	49	44
Missouri	96	98	99	74	78	85	77	80	86
New Jersey	121	108	120	47	46	53	39	43	44
New Mexico	70	67	77	38	37	57	54	56	74
New York	94	96	98	50	53	66	53	56	68
North Carolina	136	121	120	33	44	52	24	36	44
North Dakota	47	60	38	31	47	29	66	78	76
Ohio	237	226	165	61	71	64	26	32	39
Oregon	111	65	62	43	37	42	39	58	67
Pennsylvania	117	119	140	54	61	80	46	51	57
South Carolina	100	90	104	44	44	46	44	48	44
Tennessee	130	121	131	48	58	65	37	48	50
Utah	121	90	100	43	36	35	36	40	36
Virginia	107	97	113	41	50	62	38	51	55
Washington	41	47	49	31	34	38	76	72	78
Wisconsin	84	82	80	41	43	51	49	52	64
Other States ^d	129 mo	113 mo	104 mo	53 mo	54 mo	55 mo	42%	48%	54%
Alabama	--	--	--	--	--	--	--	--	--
Alaska	115	124	88	65	71	63	57	57	72
Arkansas	131	109	157	35	37	56	27	34	36
Colorado	98	89	96	39	40	50	40	45	52
Hawaii	138	124	125	64	57	59	47	46	47
Idaho	104	90	98	59	80	36	57	89	37
Indiana	108	111	102	54	56	46	50	51	45
Kentucky	242	156	196	77	71	/	32	45	/
Maryland	118	106	99	63	59	57	53	56	58
Massachusetts	123	110	98	51	61	61	42	55	63
Montana	89	119	--	61	54	60	69	46	--
Nebraska	118	123	140	55	49	61	47	40	44
Nevada	--	86	107	--	34	41	--	40	39
New Hampshire	98	89	100	36	39	48	37	44	48
Oklahoma	104	110	111	34	42	47	33	38	42
Rhode Island	80	80	68	44	50	46	55	63	67
South Dakota	101	78	72	36	37	29	35	48	40
Texas	157	123	97	48	57	59	31	46	61
Vermont	100	113	121	29	56	54	29	50	45
West Virginia	171	108	139	76	50	62	44	46	45
Wyoming	140	123	137	69	69	55	49	56	40

Note: Data were obtained from the Violent Offender Incarceration and Truth-in-Sentencing (VOITIS) Incentive Grant Program. Includes only offenders with a sentence of more than 1 year released for the first time on the current sentence. Excludes persons released from prison by escape, death, transfer, appeal or detainer. Part 1 violent crimes include murder/nonnegligent manslaughter, rape, robbery, and aggravated assault.
 --Not reported.

/Not calculated.
 *Excludes sentences of life or death.
^bBased on States that reported both mean maximum sentence and mean time served.
^cStates met the Federal 85% requirement for VOITIS grants in fiscal year 2000 based on 1999 data. Excludes the District of Columbia.
^dRequirement for percent of sentence served may vary by State and by type of offender.

Time served by released Part 1 violent offenders increased in 33 States between 1993 and 1999

Through the VOITIS program, 33 States reported an increase in average time served by released Part 1 violent prisoners between 1993 and 1999 (table 6). Overall, time served by released Part 1 violent offenders rose from 46 months to 53 months. The average time served for violent offenders released in 1999 ranged from 29 months in North Dakota to 85 months in Missouri.

The percent of the total sentence served increased from 46% in 1993 to 56% in 1999. Part 1 violent offenders in Missouri (86%), Arizona (81%), and Connecticut (80%) served the highest percent of their sentences before release. Violent offenders in Utah and Arkansas served the lowest percent of their sentences before release (36%).

On average, in 1999 released violent offenders in Federal truth-in-sentencing States served 50 months (or 58% of the average maximum sentence), while violent offenders in other States served 55 months (54% of the maximum sentence). Between 1993 and 1999, the percent of sentence served by released violent inmates rose in 21 of the 25 truth-in-sentencing States that reported data and in 12 of the 21 States not meeting the 85%-standard.

Inmates released by parole boards served longer than those released by mandatory parole

In 1999 prisoners released by discretionary parole for the first time on the current sentence had served an average of 35 months in prison and jail, while those released through mandatory parole had served 33 months (table 7). Among discretionary

releases, time served rose for all types of offenders during the 1990's. In 1999 violent offenders released by discretionary parole served 10 months longer than violent offenders released in 1990; property offenders served 6 months longer; drug offenders, 8 months; and public-order offenders, 3 months.

Among mandatory parole releases, time served also increased for all types of offenders — violent and public-order offenders served 6 months longer in 1999 than in 1990, while property and drug offenders served 7 months longer.

Although the average time served by discretionary releases exceeded the time served by mandatory parole releases in both years, discretionary releases served a smaller percentage of their prison sentences before release. In 1999 discretionary releases served 37% of their total prison sentence (up from 34% in 1990); mandatory releases served 61% of their sentence (up from 55%).

Prisoners released due to expiration of sentence had served longer in 1999 (36 months) than in 1990 (31 months). Violent offenders released through expiration of sentence had the largest increase (8 months) in time served in prison. In 1999 violent offenders released through expiration of sentence served, on average, 68% of their total maximum sentence, up from 53% in 1990.

Among discretionary and mandatory parole releases, black offenders served longer than whites

Time served by prisoners released for the first time on their current sentence in 1999 varied among white, black, and Hispanic prisoners. Overall, black non-Hispanic offenders released by

Table 7. Sentence length and time served for first releases from State prison, by method of release, 1990 and 1999

Type of release and offense	1990			1999		
	Mean sentence length ^a	Mean total time served ^b	Percent of sentence served ^c	Mean sentence length ^a	Mean total time served ^b	Percent of sentence served ^c
Discretionary release	82 mo	29 mo	34%	89 mo	35 mo	37%
Violent	118	49	40	126	59	44
Property	77	25	31	83	31	34
Drug	70	20	29	80	28	33
Public-order	44	18	37	49	21	39
Mandatory release	42 mo	27 mo	55%	48 mo	33 mo	61%
Violent	64	41	59	66	47	63
Property	38	23	52	43	30	59
Drug	33	20	50	40	27	59
Public-order	27	19	61	38	25	61
Expiration of sentence	56 mo	31 mo	53%	49 mo	36 mo	67%
Violent	81	44	53	69	52	68
Property	50	27	52	41	30	65
Drug	35	21	57	41	29	65
Public-order	43	28	62	35	25	66

Note: Based on prisoners with a sentence of more than 1 year. Excludes persons released from prison by escape, death, transfer, appeal, or detainee.

^aExcludes sentences of life without parole, life plus additional years, life and death.

^bIncludes time served in prison and jail.

^cBased on total sentence length (not shown) for all consecutive sentences.

Table 8. Mean time served in prison for first releases to State parole, by method of release, 1999

Most serious offense	Discretionary parole releases					Mandatory parole releases				
	Male	Female	White ^a	Black ^a	Hispanic	Male	Female	White ^a	Black ^a	Hispanic
All offenses	36 mo	26 mo	34 mo	37 mo	33 mo	34 mo	24 mo	31 mo	38 mo	30 mo
Violent offenses	60 mo	45 mo	58 mo	62 mo	47 mo	48 mo	36 mo	47 mo	53 mo	41 mo
Murder ^b	122	91	126	116	113	104	87	112	105	97
Manslaughter	58	52	52	67	39	50	42	46	53	52
Rape	93	—	80	122	54	86	—	82	98	71
Other sexual assault	52	41	52	54	40	46	44	49	43	42
Robbery	61	40	62	61	45	51	33	52	56	39
Assault	46	34	43	48	41	32	27	30	36	29
Property offenses	32 mo	21 mo	30 mo	32 mo	30 mo	31 mo	22 mo	29 mo	33 mo	29 mo
Burglary	39	27	37	41	36	37	24	35	41	34
Larceny/theft	25	19	24	23	22	26	20	25	27	24
Motor vehicle theft	26	21	26	26	27	24	19	23	28	24
Fraud	26	20	24	25	26	27	22	25	27	23
Drug offenses	29 mo	24 mo	27 mo	28 mo	31 mo	27 mo	21 mo	22 mo	31 mo	26 mo
Possession	27	23	24	26	34	27	20	20	34	27
Trafficking	29	24	28	28	29	31	26	25	36	29
Public-order offenses	21 mo	19 mo	19 mo	22 mo	22 mo	26 mo	21 mo	24 mo	29 mo	24 mo

Note: Based on prisoners with a sentence of more than 1 year. Excludes prisoners released from prison by escape, death, transfer, appeal, or detainee. Includes time served in prison and jail.

--Not calculated.

^aExcludes persons of Hispanic origin.

^bIncludes nonnegligent manslaughter.

discretionary parole in 1999 served 37 months; white non-Hispanics served 34 months; and Hispanics 33 months (table 8). Black offenders released by mandatory parole served 7 months longer than whites (38 months compared to 31 months). Hispanics served 30 months.

Among released violent offenders, blacks served 4 months longer than whites before a discretionary parole release (62 months compared to 58 months) and 6 months longer before a mandatory parole (53 months compared to 47 months). Hispanic prisoners served the shortest amount of time for violent offenses before release (47 months before a discretionary parole release and 41 months before a mandatory release).

In 1999 Hispanics served longer than other groups for drug offenses before a discretionary parole release (31 months versus 27 for whites and 28 for blacks). Black drug offenders served more time before a mandatory release (31 months), than whites (22 months) and Hispanics (26 months).

Women released in 1999 served less time in State prison than men, regardless of the method of release. On average, women released by discretionary parole served 26 months, and

men served 36 months. Women released by mandatory parole served 24 months and men served 34 months.

For violent offenses, women served 45 months prior to discretionary release compared to 36 months among women who received a mandatory parole. Women in prison for drug offenses served 24 months before a discretionary release and 21 months before a mandatory release.

Over half of prison releases had a prior incarceration; more than a quarter were parole violators

A majority of released State prisoners had been in prison before and were returned to prison for new offenses or parole violations. According to inmates in State prison in 1997, 56% of those who expected to be released to the community by yearend 1999 had one or more prior incarcerations, and 25% had 3 or more prior incarcerations (table 9). Among those expecting to

Table 9. Characteristics of State prisoners expected to be released by yearend 1999

Characteristic	Percent of expected releases
Most serious offense	
Violent	33.2%
Property	26.6
Drug	26.7
Public-order	13.3
Other	0.2
Number of prior incarcerations	
0	44.0%
1	20.6
2	9.9
3 to 5	15.3
6 or more	10.2
Criminal justice status at time of arrest	
None	46.4%
On probation	26.2
On parole	26.7
Escape	0.7

Note: Based on data from the *Survey of Inmates in State Adult Correctional Facilities, 1997*.

Table 10. Substance abuse, mental illness, and homelessness among State prisoners expected to be released by yearend 1999

Characteristic	Percent of expected releases
Alcohol or drug involved at time of offense	83.9%
Alcohol abuse	
Alcohol use at time of offense	41.5%
Alcohol dependent	24.9
Drug use	
In month before offense	58.8%
At time of offense	45.3
Intravenous use in the past	24.8
Committed offense for money for drugs	20.9
Mentally ill	14.3%
Homeless at time of arrest	11.6%

Note: Based on data from the *Survey of Inmates in State Adult Correctional Facilities, 1997*.

Table 11. State parole entries and discharges, 1980 and 1990-2000

Year	Entries	Discharges
1980	113,383	105,215
1990	349,030	274,697
1991	355,748	300,084
1992	362,466	325,470
1993	372,823	366,038
1994	382,999	374,183
1995	381,878	368,746
1996	390,537	372,875
1997	396,651	389,074
1998	409,922	402,946
1999	423,850	410,613
2000	441,605	432,183

Note: Based on the *Annual Parole Survey, 1980-2000*. Counts are for entries and discharges between January 1 and December 31 of each year.

return to the community by 1999, 27% had been on parole and 26% on probation at the time of arrest for their current incarceration.

These criminal records were compounded by histories of drug and alcohol abuse, mental illness, and homelessness (table 10). Among prisoners expected to be released to the community by yearend 1999, 84% reported being involved in drugs or alcohol at the time of the offense. Nearly 25% were determined to be alcohol dependent, and 21% had committed the offense to obtain money for drugs. Fourteen percent were determined to be mentally ill, and 12% reported being homeless at the time of arrest.

State parole entries and discharges rose during the 1990's

During 2000 there were 441,605 entries to State parole, a 27% increase over the number that entered parole in 1990 (table 11). The number of discharges from State parole rose from 274,697 in 1990 to 432,183 in 2000, an increase of 57%. During the 1990's, State parole entries increased an average of 2.4% per year, while parole discharges increased an average of 4.6% per year.

Discharges include parolees who are successful as well as those who are unsuccessful (including revocations, returns to prison or jail, and absconders). Discharges also include parolees transferred to other jurisdictions and those who die while under supervision.

Re-releases an increasing portion of State parole entries

Among parole entries, the percentage who had been re-released rose between 1990 and 1999. Re-releases are persons leaving prison after having served time either for a violation of parole or other conditional release or for a new offense committed while under parole supervision. In 1990, 27% of entries to parole were re-releases; in 1999, 45% were re-releases (figure 3). During 1999 an estimated 192,400 re-releases entered parole, an increase of 103% over the 94,900 re-releases in 1990.

Table 12. Criminal justice characteristics of State parole entries, 1990 and 1999

Characteristic	Percent of entries	
	1990	1999
Most serious offense		
Violent	24.8%	24.4%
Property	38.7	30.8
Drug	27.2	35.3
Public-order	7.4	9.0
Other	2.0	0.5
Method of release		
Discretionary parole	59.8%	41.7%
Mandatory parole	40.2	58.3
Type of release		
First release	72.4%	54.2%
Re-release	27.2	45.4
Other	0.5	0.4
Time served in State prison		
First releases		
Less than 12 mos.	47.0%	34.0%
12-23	25.2	27.7
24-59	20.3	26.1
60 or more	7.5	12.3
Mean time served	22 mo	29 mo
Re-releases		
Less than 12 mos.	74.2%	72.3%
12-23	15.8	13.7
24-59	8.1	10.3
60 or more	1.9	3.7
Mean time served	11 mo	13 mo

Note: Based on prisoners with a sentence of more than 1 year who were released from State prison. Data are from the *National Corrections Reporting Program*.

Entries to State parole, by type of prison release, 1985-99

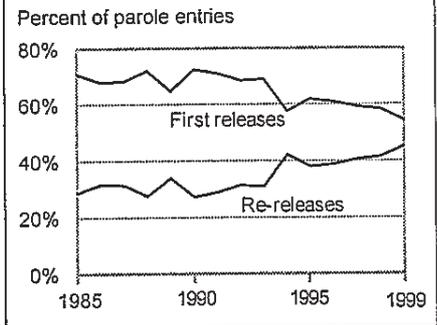


Figure 3

After having been returned to prison for a parole or conditional release violation, re-releases served on average 13 months in prison in 1999 (table 12). From 1990 to 1999 their average time served in prison following re-admission increased by 2 months. In both years about 7 in 10 re-releases had served less than 12 months in prison.

Table 13. Demographic characteristics of State parole entries, 1990 and 1999

Characteristic	Percent of entries	
	1990	1999
Gender		
Male	92.1%	90.1%
Female	7.9	9.9
Race/Hispanic origin		
White non-Hispanic	34.2%	35.4%
Black non-Hispanic	48.8	47.3
Hispanic	16.3	16.1
Other	0.7	1.2
Age at prison release		
17 or younger	0.2%	0.1%
18-24	23.4	16.3
25-29	26.6	19.0
30-34	22.2	19.7
35-39	13.9	19.2
40-44	7.3	13.5
45-54	4.9	10.2
55 or older	1.5	2.1
Mean age	31 yrs	34 yrs
Education		
8th grade or less	16.8%	11.0%
Some high school	45.4	39.8
High school graduate	29.6	42.2
Some college or more	8.2	7.0

Note: Based on prisoners with a sentence of more than 1 year who were released from State prison. Data are from the *National Corrections Reporting Program*.

State parole entries older in 1999 than in 1990

The average age of prisoners released to parole increased from 31 years in 1990 to 34 years in 1999 (table 13). In 1999 an estimated 109,300 State prisoners age 40 or older were paroled, — 26% of all entries to parole. This was more than double the 47,800 prisoners age 40 or older who entered parole in 1990.

The number of parole entries among inmates under age 35 declined over the period. In 1999, 233,500 State prisoners under age 35 entered parole, down from 252,700. The largest decline was among inmates age 25 to 29. In 1990 they represented 27% of all parole entries; in 1999, 19%.

Female entries to parole increased during the 1990's

In 1999, 10% of entries to State parole were female, up from 8% in 1990. The number of women who entered parole increased from an estimated 27,600 in 1990 to 42,000 in 1999. Although the 52% increase in the number of female parole entries outpaced that of males (up 19%), there were 381,900 male entries in 1999.

An increasing percentage of women entering parole had served time for drug offenses (table 14). In 1990, 36% of female parole entries were drug offenders; by 1999, 42% were drug offenders. Women first released to parole were less likely to be property offenders in 1999 (35%) than in 1990 (42%). As a percentage of women entering parole, violent offenders remained unchanged (16%).

Among parole entries, the racial and ethnic distributions remained nearly stable during the 1990's. In 1999, 35% of parole entries were white, 47% were black, and 16% were Hispanic. Violent offenders accounted for approximately a quarter of first releases among whites, blacks, and Hispanics in both 1990 and 1999.

Drug offenders represented an increasing percentage of parole entries, among all groups. In 1999 drug offenders comprised 39% of black parole entries (up from 31% in 1990); 43% of Hispanic entries (up from 41%); and 21% of white entries (up from 18%).

Parole success rates unchanged since 1990

Of the 410,613 discharges from State parole in 1999, 42% successfully completed their term of supervision, 43% were returned to prison or jail, and 10% absconded. In 1990, 45% of State parole discharges were successful. Between 1990 and 1999 the percent successful among State parole discharges has ranged from 42% to 49%, without any distinct trend.

States differed in their rate of success among parole discharges (table 15). States with the highest rates of success in 1999 were Massachusetts and Mississippi (at 83% each), followed by North Carolina (80%) and North Dakota (79%). Utah (18%) and California (21%) had the lowest rates of success in 1999.

When comparing State success rates for parole discharges, differences may be due to variations in parole populations, such as age at prison release, criminal history, and most serious offense. Success rates may also differ based on the intensity of supervision and the parole agency policies related to revocation of technical violators.

Table 14. Most serious offense of first releases to State parole, 1990 and 1999

Most serious offense	First releases to State parole in 1990					First releases to State parole in 1999				
	Male	Female	White ^a	Black ^a	Hispanic	Male	Female	White ^a	Black ^a	Hispanic
All offenses	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Violent offenses	26.1%	15.9%	23.7%	27.0%	22.4%	28.7%	15.9%	25.9%	28.4%	26.7%
Murder ^b	1.8	2.2	1.7	2.0	1.9	1.4	1.3	1.0	1.6	1.6
Manslaughter	1.0	1.6	1.4	0.9	0.7	1.1	1.2	1.3	0.9	0.9
Rape	2.1	0.1	2.3	1.7	1.7	1.8	0.2	2.3	1.2	1.3
Other sexual assault	2.9	0.4	4.5	1.4	2.0	3.8	0.4	5.6	1.7	3.5
Robbery	11.1	6.4	6.8	14.0	9.9	9.5	4.9	5.5	12.2	8.0
Assault	6.1	4.3	5.5	6.3	5.4	9.4	6.2	8.1	9.3	9.6
Property offenses	37.6%	41.5%	44.9%	35.3%	28.3%	28.7%	35.3%	38.6%	24.9%	20.4%
Burglary	18.4	6.1	20.6	15.0	16.3	13.4	6.4	16.7	10.3	10.6
Larceny/theft	9.2	17.3	10.7	10.5	5.9	6.5	12.8	8.8	6.9	3.7
Motor vehicle theft	2.7	0.9	2.8	2.3	2.7	2.2	1.2	2.3	1.7	2.5
Fraud	3.9	14.8	6.7	4.2	1.6	3.3	12.4	6.3	3.5	1.3
Drug offenses	26.6%	36.2%	18.4%	30.6%	40.5%	31.3%	41.7%	20.9%	38.7%	42.6%
Possession	7.9	11.0	6.0	10.2	7.7	8.5	12.0	7.4	10.1	9.4
Trafficking	14.0	17.7	8.2	15.5	26.8	17.4	20.0	9.2	21.9	26.6
Public-order offenses	8.5%	5.1%	11.2%	6.1%	7.3%	10.9%	6.5%	14.2%	7.6%	9.8%

Note: Based on prisoners with a sentence of more than 1 year who were released for the first time on the current sentence. Excludes prisoners released from prison by escape, death, transfer, appeal, or detainer. Detail may not add to total because of rounding and exclusion of other/unspecified offenses.

^aExcludes persons of Hispanic origin.

^bIncludes nonnegligent manslaughter.

Table 15. Percent successful among State parole discharges, by State, 1990, 1995, and 1999

Region and jurisdiction	Percent successful of all parole discharges		
	1990	1995	1999
All States	44.6%	44.3%	41.9%
Northeast			
Connecticut	55.0%	55.3%	57.7%
Maine	/	/	/
Massachusetts	75.8	71.3	82.9
New Hampshire	60.1	67.3	--
New Jersey	61.3	43.1	55.1
New York	48.9	51.9	54.9
Pennsylvania	79.2	70.3	/
Rhode Island	62.6	64.8	65.9
Vermont	38.2	48.6	65.8
Midwest			
Illinois	47.0%	66.3%	62.9%
Indiana	73.0	74.6	63.0
Iowa	69.8	68.0	60.9
Kansas	11.5	37.4	32.3
Michigan	52.7	60.0	51.9
Minnesota	73.3	66.6	55.7
Missouri	52.5	66.4	40.4
Nebraska	68.2	57.3	62.9
North Dakota	76.6	75.7	79.1
Ohio	52.4	50.0	43.6
South Dakota	66.8	70.6	62.6
Wisconsin	72.6	59.1	63.4
South			
Alabama	28.8%	/	72.1%
Arkansas	68.1	40.1	39.6
Delaware	82.8	--	/
Dist. of Columbia	40.1	48.8	--
Florida	61.2	40.9	56.5
Georgia	62.2	60.2	63.4
Kentucky	22.6	31.6	33.7
Louisiana	61.5	47.8	46.9
Maryland	67.2	64.6	47.0
Mississippi	62.6	78.2	82.7
North Carolina	78.8	68.4	79.8
Oklahoma	69.2	67.0	75.4
South Carolina	54.7	55.9	65.3
Tennessee	35.9	25.8	42.3
Texas	35.1	41.0	54.9
Virginia	68.0	57.8	63.2
West Virginia	48.2	46.0	65.2
West			
Alaska	44.0%	39.5%	33.7%
Arizona	62.3	48.9	61.9
California	19.4	20.9	21.3
Colorado	58.2	48.9	36.3
Hawaii	13.1	40.5	32.4
Idaho	61.5	26.0	46.4
Montana	55.3	--	59.9
Nevada	70.4	74.6	66.8
New Mexico	37.8	28.9	28.5
Oregon	27.9	39.6	50.6
Utah	21.8	23.7	18.5
Washington	47.9	29.4	/
Wyoming	66.1	48.5	59.6

Note: Based on the *Annual Parole Survey*. Counts are for discharges between January 1 and December 31 of each year.
 --Not reported.
 /Not calculated.

Success rates highest among first releases and discretionary parole releases

In every year during the 1990's, first releases to State parole were more likely to have been successful than re-releases. Among State parole discharges in 1990, 56% of first releases successfully completed their supervision, compared to 15% of re-releases. Of all those exiting parole in 1999, 63% of first releases were successful, compared to 21% of re-releases (table 16).

Success rates also varied by method of release. In every year between 1990 and 1999, State prisoners released by a parole board had higher success rates than those released through mandatory parole. Among parole

discharges in 1999, 54% of discretionary parolees were successful compared to 33% of those who had received mandatory parole. Between 1990 and 1999 the percent successful among discretionary parolees varied between 50% and 56%, while the percent successful among mandatory parolees varied between 24% and 33%.

Among parole discharges in 1999 who had been released from prison for the first time on their current offense, mandatory parolees had a higher success rate (79%) than discretionary parolees (61%) (table 17). Discretionary parolees in 1999 who had been re-released from prison were more likely to be successful (37%) than mandatory parolees (17%).

Table 16. Percent successful among State parole discharges, by method of release from prison, 1990-99

Year	All discharges ^a	Type of release ^b		Method of release ^b	
		First release	Re-release	Discretionary parole	Mandatory parole
1990	44.6%	56.4%	14.6%	51.6%	23.8%
1991	46.8	60.7	17.1	52.6	24.9
1992	48.6	57.4	22.5	50.7	29.8
1993	46.9	65.4	23.0	54.8	33.5
1994	44.3	56.7	19.1	52.2	30.4
1995	44.3	63.4	18.0	54.3	28.0
1996	45.2	67.4	19.4	55.9	30.2
1997	43.4	63.4	18.7	55.8	30.8
1998	43.8	62.9	20.5	55.3	32.2
1999	41.9	63.5	21.1	54.1	33.1

^aData are from the *Annual Parole Survey*.

^bData are from the *National Corrections Reporting Program*.

Table 17. Percent successful among State parole discharges, by type and method of release, 1990-99

Year	First release		Re-release	
	Discretionary	Mandatory	Discretionary	Mandatory
1990	59.6%	51.5%	26.7%	11.7%
1991	58.5	51.9	33.5	13.7
1992	49.4	59.8	43.3	16.6
1993	58.8	88.8	41.8	17.4
1994	53.2	81.6	43.9	13.7
1995	57.8	81.5	40.4	12.7
1996	60.2	84.3	42.7	14.0
1997	60.9	78.9	39.2	13.5
1998	61.7	78.6	38.1	16.2
1999	61.4	78.6	36.7	16.6

Note: Based on prisoners with a sentence of more than 1 year who were released from State prison. Data are from the *National Corrections Reporting Program*.

Among parole discharges, success rates rose for blacks and Hispanics; dropped for whites

Between 1990 and 1999 the success rates among State parole discharges increased from 33% to 39% among blacks and increased from 31% to 51% among Hispanics, but dropped from 44% to 41% among whites (table 18). The 11 percentage-point difference in success rates between white and black parole discharges in 1990 narrowed to less than 2 percentage points in 1999.

Table 18. Percent successful among State parole discharges, by selected characteristics, 1990 and 1999

Characteristic	Percent successful	
	1990	1999
Gender		
Male	35.9%	39.3%
Female	37.1	47.7
Race/Hispanic origin		
White non-Hispanic	44.1%	40.9%
Black non-Hispanic	33.2	39.0
Hispanic	31.0	50.6
Other	33.6	42.2
Age at parole discharge		
17 or younger	26.2%	42.9%
18-24	33.4	36.3
25-29	34.8	42.6
30-34	34.1	39.0
35-39	36.8	38.3
40-44	38.4	39.5
45-54	46.2	43.1
55 or older	56.6	54.5
Method of release		
Discretionary parole	51.6%	54.1%
Mandatory parole	23.8	33.1
Type of release		
First release	56.4%	63.5%
Re-release	14.6	21.1
Most serious offense		
Violent	39.1%	41.0%
Property	33.8	36.5
Drug	33.7	40.9
Public-order	46.1	47.1
Time served in prison*		
Less than 12 months	74.6%	74.0%
12-23 months	67.7	68.7
24-59 months	59.1	62.7
60 months or more	49.5	62.0

Note: Based on prisoners with a sentence of more than 1 year who were released from State prison. Data are from the *National Corrections Reporting Program*.
*First releases only.

Hispanic parolees, who had the lowest rate of success in 1990, had the highest rate in 1999.

For female parole discharges, the rate of success rose over 10 percentage points (from 37% in 1990 to 48% in 1999). The success rate among male parole discharges increased from 36% to 39%.

Older parole discharges had the highest rates of success in both years. Accounting for 2.1% of discharges in 1999, parolees age 55 or older had the highest rate of successful completion (55%). Among parole discharges in other age groups, success rates fluctuated between 36% and 43%.

Success rates highest among first releases serving less than 12 months in prison

Among parole discharges, 74% of first releases who had served less than 12 months in prison successfully completed parole, the highest success rate among paroled first releases. As the length of time served in prison increased for first releases, the success rate declined, with offenders with the longest time served (5 years or more) having the lowest success rate (62%). The rate of success for this group still exceeded the overall success rate of 42% for all parolees.

Rates of successful termination higher when California is excluded

The size and make-up of California's parole population, combined with the low percent of successful terminations (25% in 1999), affect the national rate of success for parole discharges. If data from California are removed from the analysis, the comparative rates of success for discretionary and mandatory parole change dramatically.

Overall, California accounted for nearly 30% of all State parole discharges during 1999. Discretionary parole, though available as a method of release, is rarely used in California. In 1999 more than 99% of California's parole discharges had received mandatory parole.

In 1999 parole discharges served an average of 26 months under supervision, up from 23 months in 1990

Among first releases from prison, successful parole board releases served, on average, 34 months in 1999; while successful mandatory parole releases served 21 months. Unsuccessful parole discharges released by a parole board served an average 26 months, while those released by mandatory parole served 19 months. Overall, successful parole discharges in 1999 served an average of 27 months under parole supervision and unsuccessful discharges served 24 months.

Regardless of outcome, State parole discharges who had been released by a parole board served longer under supervision in 1999 than in 1990.

Method of release	Average time served on parole*	
	1990	1999
All releases	23 mo	26 mo
Successful releases	25 mo	27 mo
Discretionary	27	34
Mandatory	21	21
Unsuccessful releases	21 mo	24 mo
Discretionary	19	26
Mandatory	22	19

Note: Based on prisoners with a sentence of more than 1 year who were released from State prison.
*First releases only.

Percent successful among parole discharges in California and all other States, 1995-99

Year	California	Parole in all other States		
	All parole	All	Mandatory Discretionary	
1995	22.7%	52.8%	64.0%	54.2%
1996	23.8	56.6	71.6	55.8
1997	22.8	55.9	67.2	55.8
1998	24.3	54.5	65.7	55.2
1999	25.2	53.3	63.9	53.9

Note: Based on prisoners with a sentence of more than 1 year who were released from State prison.

Table 19. Percent parole violators among admissions to State prison, 1990 and 1999

Region and jurisdiction	Percent of admissions that were parole violators	
	1990	1999
All States^a	28.8%	34.8%
Northeast		
Connecticut	43.4%	17.4%
Maine	21.3	40.9
Massachusetts	31.4	22.7
New Hampshire	19.3	31.6
New Jersey	20.8	35.5
New York	18.1	31.5
Pennsylvania	26.1	36.1
Rhode Island	24.9	19.0
Vermont	14.5	17.0
Midwest		
Illinois	25.4%	27.3%
Indiana	5.3	9.6
Iowa	26.7	19.3
Kansas	35.0	38.2
Michigan	23.2	36.8
Minnesota	23.1	32.1
Missouri	26.2	38.8
Nebraska	16.3	16.1
North Dakota	13.8	18.7
Ohio	12.9	17.6
South Dakota	17.7	20.7
Wisconsin	19.2	31.2
South		
Alabama	25.9%	9.3%
Arkansas	22.4	25.3
Delaware	6.2	25.3
Florida	5.3	6.9
Georgia	21.1	20.5
Kentucky	27.5	31.9
Louisiana	14.7	53.1
Maryland	13.8	32.6
Mississippi	13.9	9.7
North Carolina	13.0	12.8
Oklahoma	3.4	14.1
South Carolina	22.8	24.1
Tennessee	32.9	36.2
Texas	37.1	21.0
Virginia	10.2	11.1
West Virginia	13.0	9.7
West		
Alaska	14.0%	44.2%
Arizona	14.0	23.0
California	58.1	67.2
Colorado	20.9	37.1
Hawaii	27.7	49.1
Idaho	20.4	32.2
Montana ^b	19.9	--
Nevada	18.6	17.7
New Mexico	28.4	35.7
Oregon	48.0	25.1
Utah	51.0	55.3
Washington	13.0	10.5
Wyoming	6.4	34.5

Note: Based on data from the *National Prisoners Statistics (NPS-1)* series.
 --Not reported.
^aExcludes the District of Columbia.
^bParole violators comprised 9.5% of admissions in 1999; however, data on other persons returned after post-custody supervision were not available.

Number of parole violators returned to prison continued to rise during the 1990's

In 1999, 197,606 parole violators were returned to State prison, up from 27,177 in 1980 and 131,502 in 1990. As a percentage of all admissions to State prison, parole violators more than doubled from 17% in 1980 to 35% in 1999 (figure 4).

Between 1990 and 1999 the number of parole violators rose 50%, while the number of new court commitments rose 7%. On average, the number of parole violators grew 4% per year, while the number of new court commitments rose 0.8% per year.

In 1999 parole violators accounted for more than 50% of State prison admission in California (67%), Utah (55%), and Louisiana (53%) (table 19). In five States — Florida (7%), Alabama (9%), Indiana (10%), Mississippi (10%) and West Virginia (10%) — parole violators comprised 10% or less of all admissions.

In 35 States parole violators increased as a percentage of admissions between 1990 and 1999. As a percentage of all admissions, parole violators rose the most in Louisiana (from 15% in 1990 to 53% in 1999).

Nearly a quarter of State prisoners in 1997 were parole violators

Based on personal interviews of State inmates, an estimated 24% of prisoners in 1997 said they were on parole at the time of the offense for which they were serving time in prison (up from 22% in 1991). Of the 1,129,180 inmates under the jurisdiction of State prison authorities at yearend 1997, approximately 271,000 were parole violators.

Parole violators in prison in 1997 were older and more likely to have committed a public order or drug offense than parole violators in 1991 (table 20). In 1997 about 25% of parole violators in prison were age 40 or older, compared to 17% in 1991. In 1997 an estimated

Admissions to State prison, by type of admission, 1980-99

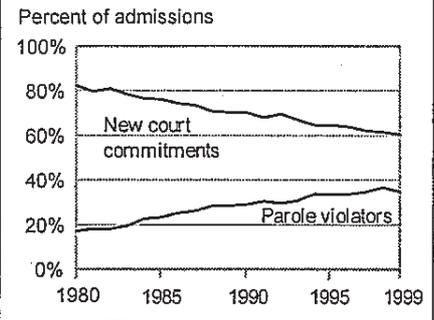


Figure 4

34% were serving time for a violent offense and 23% for a drug offense. In 1991, 36% of parole violators were in prison for a violent offense; 19% for a drug offense. In both years, more than 42% of parole violators reported having been incarcerated 3 or more times in the past.

Table 20. Characteristics of parole violators in State prison, 1991 and 1997

Characteristic	Percent of parole violators	
	1991	1997
Gender		
Male	96.0%	95.3%
Female	4.0	4.7
Race/Hispanic origin		
White non-Hispanic	31.2%	27.5%
Black non-Hispanic	48.4	51.8
Hispanic	17.9	18.3
Other	2.5	2.4
Age at prison release		
17 or younger	0.2%	0.1%
18-24	15.1	9.4
25-29	26.1	20.8
30-34	25.9	24.1
35-39	16.0	20.3
40-44	9.0	13.9
45-54	5.9	9.3
55 or older	1.9	2.0
Most serious offense		
Violent	35.9%	33.7%
Property	35.8	30.1
Drug	19.3	23.1
Public-order	8.7	12.9
Other	0.3	0.2
Number of prior incarcerations		
1	37.8%	42.3%
2	19.4	14.0
3 to 5	26.8	26.3
6 or more	16.0	17.3

Note: Data are from the *Survey of Inmates in State Adult Correctional Facilities, 1991 and 1997*.

70% of parole violators in prison in 1997 returned for a new offense

Among parole violators in State prison in 1997, 215,964 (85%) reported that their parole had been revoked or taken away for violating the conditions of their release. Of that number, 70% said that their parole had been revoked because

of an arrest or conviction for a new offense; 22% said they had absconded or otherwise failed to report to a parole officer; 16% said they had a drug-related violation; and 18% reported other reasons such as possession of a gun, maintaining contact with known felons, or failure to maintain employment (table 21).

Half of parole violators incarcerated in 3 States

The three largest State prison systems (California, Texas, and New York) held over half of all parole violators in prison in 1997. California held 22% of all parole violators in prison, Texas, 21%, and New York, 8%. Within each of these States, the percentage of prisoners who were parole violators was higher than the national level: 39% in Texas, 38% in California, and 28% in New York, compared to 24% nationally.

Among parole violators returned to prison, those held in California (60%) were the least likely to have been arrested or convicted for a new offense and the most likely to have been returned for a drug violation (23%). About 11% of parole violators in New York and Texas reported a drug violation as a reason for their return to prison.

Table 21. Reasons for revocation among parole violators in State prison, for all States, California, New York, and Texas, 1997

Reason for revocation	All States	California	New York	Texas
Arrest/conviction for new offense	69.9%	60.3%	87.1%	78.8%
Drug related violations	16.1%	23.1%	11.4%	10.7%
Positive test for drug use	7.9	12.2	5.6	4.3
Possession of drug(s)	6.6	8.9	5.6	5.6
Failure to report for drug testing	2.3	4.6	1.3	1.3
Failure to report for alcohol or drug treatment	1.7	1.1	1.9	1.2
Absconders	22.3%	26.6%	18.4%	19.7%
Failure to report/absconded	18.6	24.7	17.2	17.2
Left jurisdiction without permission	5.6	3.9	2.5	4.0
Other reasons	17.8%	20.7%	10.6%	13.8%
Failure to report for counseling	2.4	1.2	2.0	1.9
Failure to maintain employment	1.2	0.7	0.6	0.9
Failure to meet financial obligations	2.3	0.2	0.0	2.7
Maintained contact with known offenders	1.2	1.6	0.4	0.8
Possession of gun(s)	3.5	3.8	1.9	2.3

Note: Data are from the *Survey of Inmates in State Adult Correctional Facilities, 1997*. Excludes 37,440 parole violators who reported that their parole had not been revoked. Detail adds to more than 100% because some inmates may have had more than 1 violation of parole.

Characteristics of parole violators varied among the 3 largest States

A higher percentage of parole violators in California (7.1%) were women than in Texas (5.4%) and New York (3.3%) (table 22). Nationally, 4.7% of parole violators in State prison in 1997 were women.

New York had the highest percentage of parole violators in prison who were black (54%), followed by Texas (50%) and California (33%). In New York, 11% of parole violators were white; in Texas, 23%; in California, 31%. The percent Hispanic among parole violators ranged from 26% to 33% in the three States.

New York had the highest percentage of parole violators convicted of a violent offense (41%), compared to 33% in Texas and 24% in California. New York also had the highest percentage of parole violators returned for a drug offense (34%), compared to 27% in California and 21% in Texas.

Table 22. Characteristics of parole violators in State prison for all States, California, New York, and Texas, 1997

Characteristic	All States	California	New York	Texas
Gender				
Male	95.3%	92.9%	96.7%	94.6%
Female	4.7	7.1	3.3	5.4
Race/Hispanic origin				
White non-Hispanic	27.5%	30.8%	11.1%	23.1%
Black non-Hispanic	51.8	33.4	54.2	50.3
Hispanic	18.3	31.9	33.1	26.0
Other	2.4	3.9	1.6	0.6
Age at prison release				
17 or younger	0.1%	0.2%	0.0%	0.0%
18-24	9.4	8.8	8.6	6.1
25-29	20.8	19.8	19.8	19.1
30-34	24.1	25.5	26.0	23.3
35-39	20.3	22.9	20.3	21.1
40-44	13.9	12.8	13.3	15.5
45-54	9.3	8.0	10.2	12.3
55 or older	2.0	2.0	1.8	2.5
Most serious offense*				
Violent	33.7%	24.4%	40.9%	33.3%
Property	30.1	25.3	15.6	36.8
Drug	23.1	27.1	33.6	21.3
Public-order	12.9	22.9	9.4	8.6
Number of prior incarcerations				
1	42.3%	28.9%	52.9%	44.1%
2	14.0	12.6	12.6	14.1
3 to 5	26.3	27.7	26.7	28.4
6 or more	17.3	30.7	7.8	13.5

Note: Data are from the *Survey of Inmates in State Adult Correctional Facilities, 1997*. *Excludes other/unspecified offenses.

Among the three largest States, parole violators in California had the longest criminal histories. More than 58% of parole violators in California had been incarcerated at least 3 times in the past, compared to 42% in Texas and 35% in New York. Nationwide, 44% of parole violators reported three or more prior incarcerations.

Methodology

National Corrections Reporting Program (NCRP)

The National Corrections Reporting Program collects individual level data for persons admitted to and released from State prisons and offenders exiting parole supervision, in each year. NCRP is the only national collection that provides data on offense, sentence length, and time served for State prisoners and parole discharges. While NCRP collects data on all offenders, this report includes data on prisoners with a total sentence of more than a year.

In 1999 release data were reported by 37 States and the California Youth Authority: Alabama, Alaska, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin.

These 37 States reported a total of 499,886 releases from prison in the National Prisoner Statistics series, which represented 91% of all releases in 1999. Between 35 and 39 States provided data on releases from 1990 to 1999. Data were reported on maximum sentence length for 93% of 227,100 first releases reported to the NCRP in 1990 and 93% of the 243,055 first releases reported in 1999. Data were reported on time served in jail for 77% in 1990 and 85% in 1999 and time served in prison for 95% in 1990 and 99% in 1999.

In 1999, 27 States and the California Youth Authority reported data on parole discharges: Alabama, Arkansas, California, Colorado, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

These 27 States reported 335,646 parole discharges in the 1999 Annual Parole Survey, which represented 86% of all State parole discharges in that year. From 1990 to 1999, 27 to 31 States submitted data on parole discharges. States that reported only successful discharges or only unsuccessful discharges were excluded from calculations of success rates.

Annual Parole Survey

The Annual Parole Survey provides a count of the total number of persons supervised in the community on January 1 and December 31, and a count of the number entering and leaving supervision during the collection year. The survey covered all 50 States, the District of Columbia, and the Federal System, for all years from 1980-2000.

The 2000 parole survey was sent to 54 respondents, including 52 central reporters, the California Youth Authority, and one municipal agency. States with multiple reporters were Alabama (2) and California (2). The 2000 survey had a 100% response rate.

National Prisoners Statistics (NPS-1)

The National Prisoners Statistics (NPS-1) series obtains yearend and midyear counts of prisoners from departments of correction in each of the 50 States, the District of Columbia, and the Federal Bureau of Prisons. Excluded from NPS-1 counts are persons confined in locally administered confinement facilities who are under the jurisdiction of local authorities.

NPS-1 also collects comparable data on prison admissions and releases with a sentence of more than 1 year. Admission counts include data on new court commitments, parole violators returned to prison, and other types of admission. Data on method of release from State prison include counts for mandatory parole, discretionary parole, other conditional releases, and unconditional releases from prison. Transfers, AWOL's and escapees are excluded from the release data in this report.

Surveys of Inmates in State and Federal Correctional Facilities, 1991 and 1997

The Surveys of Inmates in State and Federal Correctional Facilities, conducted every 5 to 6 years, provide detailed data on individual characteristics of prison inmates. Based on scientifically selected samples of facilities and of inmates held in them, these surveys provide detailed information unavailable from any other source.

To determine characteristics of inmates to be released by yearend 1999 — including gender, age, race/Hispanic origin, offense, criminal history, substance abuse, mental illness and homelessness — information was drawn for this report from the 1997 survey. Comparisons of parole violators and reasons for revocation in California, New York, and Texas (self-representing States in the sample) were also based on data from the 1997 survey.

For descriptions of the 1991 and 1997 surveys and information on the sample designs and accuracy of the estimates, see *Comparing Federal and State Prison Inmates, 1991*, September 1994, NCJ 145864, and *Substance Abuse and Treatment of State and Federal Prisoners, 1997*, January 1999, NCJ 172871.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Lawrence A. Greenfeld is acting director.

BJS Special Reports address a specific topic in depth from one or more datasets that cover many topics.

Timothy A. Hughes, Doris James Wilson, and Allen J. Beck wrote this report. Paige Harrison provided statistical review and verification. Ellen Goldberg and Tom Hester edited and produced the report. Jayne E. Robinson administered final production.

October 2001, NCJ 184735

To keep current on criminal justice statistics, at no cost...

Subscribe to e-mail notification of the latest statistical releases from BJS, the FBI, and the Office of Juvenile Justice and Delinquency Prevention through JUSTSTATS. To learn how to subscribe, see

<http://www.ojp.usdoj.gov/bjs/juststats.htm>

This report and others from the Bureau of Justice Statistics are available through the Internet —

<http://www.ojp.usdoj.gov/bjs/>

The data from the National Corrections Reporting Program, 1983-1998, are available from the National Archive of Criminal Justice Data, maintained by the Institute for Social Research at the University of Michigan, 1-800-999-0960. The archive may also be accessed through the BJS Internet site.

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics
Washington, DC 20531

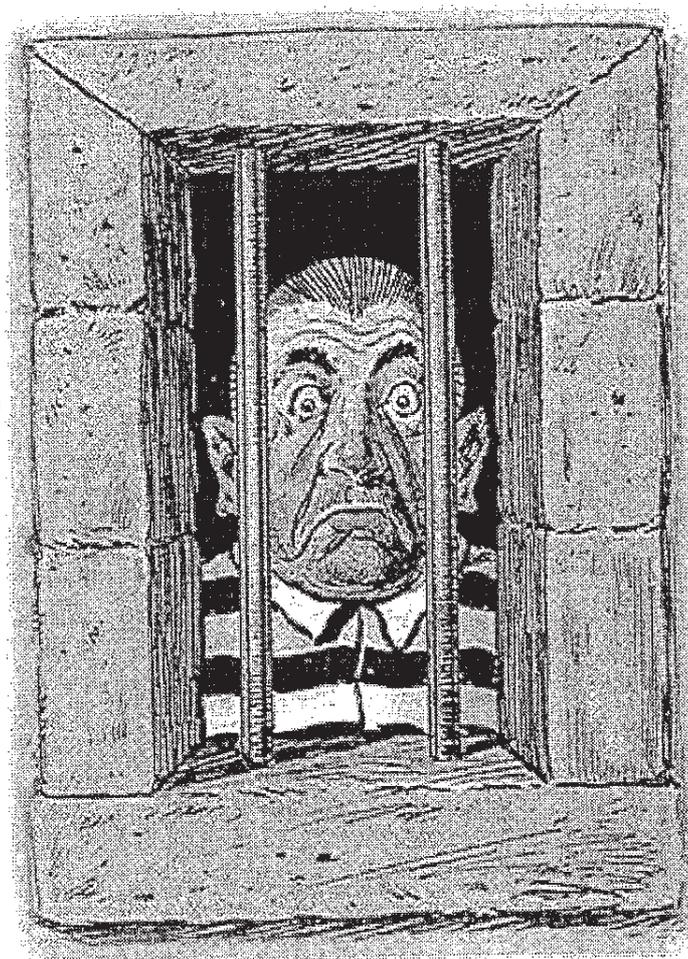
PRESORTED STANDARD
POSTAGE & FEES PAID
DOJ/BJJS
Permit No. G-91

Official Business
Penalty for Private Use \$300



Parole:

& Then Now



The criminal justice system has undergone many changes in the United States, most recently prompted by a “get tough on crime” attitude felt nationwide. As part of this get tough on crime campaign, politicians and their constituents alike have called for reforms in the criminal justice system, including the abolishment of parole. While some states have abolished parole, systems similar to parole still exist throughout the United States. These systems release prisoners under some form of supervision and in many cases before they have served their full sentence. This brief will discuss the rise and fall of parole in the United States and whether its role in early release has been abolished.

The History of Parole

Parole, both a procedure by which a board administratively releases inmates from prison as well as a provision for post-release supervision, comes from the French word *parol*, referring to “word,” as in giving one’s word of honor or promise. Over time, it has come to mean an inmate’s promise to conduct him or herself in a law-abiding manner and according to certain rules—in exchange for release. In a penal philosophy, parole is part of the general 19th-century trend in criminology which changed from punishment to reformation. Persons under parole supervision served terms of incarceration and were released to live and work in the community under supervision, with continued adherence to the law monitored.

Even though parole did not originate in the United States, it was introduced stateside in the 1800’s, primarily to foster offender reformation. Zebulon Brockway, a Michigan penologist, is given credit for implementing the first parole system in the United States. He proposed a two-pronged strategy for managing prison populations and preparing inmates for release. His system was composed of indeterminate sentencing (a sentence where the release date is established at the discretion of a releasing authority) coupled with parole supervision. He was given a chance to put his proposal into practice in 1876 when appointed superintendent at a new youth reformatory, the Elmira Reformatory in New York. He instituted a system of indeterminacy and parole release, and is commonly credited as the father of both in the United States. Brockway’s ideas reflected the tenor of the times; a belief that criminals could be reformed, and that every prisoner’s treatment should be individualized. Prisoners were looked upon as persons who could become effective members of society, instead of as criminals so dangerous that the key should be thrown away once locked up.



Parole: Then & Now



Useful Terms

Parole - A procedure by which a board administratively releases inmates from prison as well as a provision for post-release supervision.

Discretionary Parole - Release of a person into the community because of a parole board decision.

Mandatory Release - The required release of inmates at the expiration of a certain time period. Mandatory releases are persons whose release from prison was not decided by a parole board. Includes those entering because of determinate sentencing statutes, good-time provisions, or emergency releases.

Expiration Release - Refers to the release of an inmate after serving his full sentence.

Parole Supervision - Community supervision of an individual released from prison with a set of conditions for remaining on parole, which, if violated, can cause the person to be returned to prison. This subsequent incarceration can be for any of the remaining portion of the sentence the inmate may have on the current offense.

Indeterminate Sentencing - A release date is established at the discretion of a releasing authority, such as a parole board.

Determinate Sentencing - A release date is established at the time of sentencing.

Post-Prison Supervision - When the inmate is released from prison into community supervision. Some post-prison supervision has a set of conditions which, if violated, can cause the person to be returned to prison. Other post-prison supervision takes place after an inmate has served a full prison term and is then required to remain under supervision for a set period of time after being released.

On being admitted to Elmira, each inmate (males between the ages of 16 and 30) was placed in the second grade of classification. Six months of good conduct meant promotion to the first grade; however, misbehavior could result in being placed in the third grade. If an inmate was placed in the third grade, he would have to work his way back up. Continued good behavior in the first grade resulted in release. Paroled inmates remained under the jurisdiction of authorities for an additional six months, during which the parolee was required to report on the first day of every month to his appointed volunteer guardian (from which parole officers evolved) and provide an account of his situation and conduct. Written reports became required and were submitted to the institute after being signed by the parolee's employer and guardian.

After Brockway's introduction, parole and indeterminate sentencing spread rapidly through the United States, and in 1907, New York became the first state to adopt all the components of a parole system: indeterminate sentences, a system for granting release, post release supervision, and specific criteria for parole revocation. By 1927, only Florida, Mississippi, and Virginia were without parole systems. By 1942, all states and the federal government had a parole system run by parole boards. These parole boards, usually political appointees, were given broad discretion to determine when an offender was ready for release, a decision limited only by the constraints of the maximum sentence imposed by the judge.

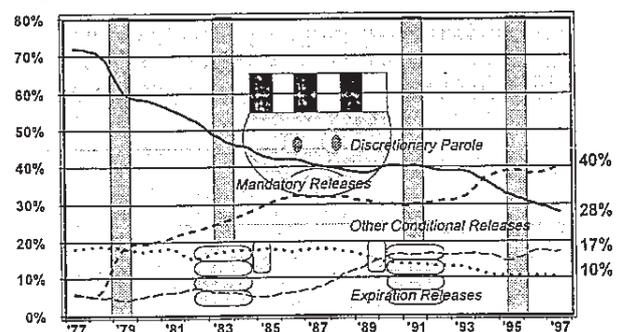
Then with the growth of parole, it was used as a standard mode of release from prison, routinely considered upon completion of a minimum term of confinement. What had initially been used as a special privilege to be extended to exceptional prisoners, came to be used as a mechanism for controlling prison growth. Parole also

developed a distinctly rehabilitative rationale, incorporating the promise of help and assistance as well as surveillance. By the mid-1950's, indeterminate sentencing coupled with parole release was so well entrenched in the United States, it was the dominant sentencing structure in every state.

In the early 1970's, states followed an indeterminate sentencing model and permitted parole boards to determine when an offender would be released from prison. In addition, good-time reductions for satisfactory prison behavior, earned-time incentives for participation in work or educational programs, and other time reductions in order to control prison crowding resulted in the early release of prisoners. These policies permitted officials to individualize the amount of punishment or leniency an offender received and provided a means to manage the prison population. Indeterminate sentencing coupled with parole release was routine and considered to be good correctional practice.

The good intentions of the parole system had evolved to the extreme, and prisoners were being released early in record numbers. By the late 1970's, more than 70 percent of all inmates released were a result of decisions made by a parole board. [See Figure 1] The percentage of United States prisoners released on parole had risen from 44 percent in 1940, to a high of 72 percent in 1977, and led some states to question the very foundations of the practice of parole, which resulted in the number of prisoners released in this fashion declining. In the late 1970's and early 1980's, the discretion in sentencing policy ultimately led critics to argue that some offenders were punished more harshly

Figure 1 - Percent of State Prisoners Released by Various Methods



Source: Bureau of Justice Statistics, *National Prisoner Statistics*, selected years.

The New York Times

U.S.

Eliminating Parole Boards Isn't a Cure-All, Experts Say

By FOX BUTTERFIELD
Published: January 10, 1999

Fifteen states so far have taken the politically popular step of abolishing parole boards, a vestige of what most Americans regard as a failed system of penal rehabilitation, and last week Gov. George E. Pataki of New York proposed to make his state the 16th.

But based on the experience of the other states, there is no proof that eliminating parole boards reduces crime, while it can lead to a further increase in the already swelling prison population, criminologists and other experts say.

For politicians promoting tough-on-crime platforms, it can have an unintended consequence: three states, including Connecticut, reinstated parole boards after eliminating them because the resulting increase in inmates crowded prisons so much that the states were forced to release many of them early.

Yet a number of prison experts, including some who warn that eliminating parole boards could lead to shorter time served for less serious crimes, say the parole system is such a failure that abolishing it does not make much difference. Scrapping parole boards, they say, could save money that might be used on more effective anti-crime programs.

The parole system, like the modern prison, was an American invention in the 19th century. It consists of two parts, parole boards that have the authority to decide when to release prisoners, and parole officers who supervise convicts after their release.

Under Governor Pataki's proposal, New York would follow other states by eliminating the authority of the state parole board while keeping released prisoners subject to supervision by parole officers.

One argument against eliminating parole boards is that an inmate's release then becomes automatic, at the end of a set term.

"You decrease the ability to keep very dangerous offenders in prison," said Joan Petersilia, a leading authority on parole who is a professor of criminology at the University of California at Davis.

California, Professor Petersilia pointed out, the convicted kidnapper Richard Allen Davis was rejected six times by the parole board, but after the state passed a law ending parole, he was released automatically because he had served a sufficient amount of time; a few months later he murdered 13-year-old Polly Klaas.

Some experts caution that the public's discontent with the parole system has also led to a change in the role of parole officers that has helped return more ex-convicts to prisons, swelling their populations.

As the penal system has moved away from rehabilitation, parole officers have been transformed from social workers who helped offenders find jobs or get drug treatment to law-enforcement agents who are more concerned with surveillance, from electronic monitoring and curfews to drug tests.

In California, 80 percent of parolees are failing to complete parole successfully. In 1997, 57 percent of the people entering the state's prisons were parole violators, not criminals convicted of new crimes, Professor Petersilia said.

Some experts say the parole system is so flawed that parole boards may as well be eliminated, but they caution that politicians should be honest with the public about the cost of lengthening prison sentences.

If all inmates serve longer terms, "you will break the bank," said Martin Horn, Pennsylvania's Secretary of Corrections and a former executive director of New York's Division of Parole. One way to avoid that, he said, is to sentence less serious criminals to shorter terms.

As for parole officers, Mr. Horn said, past efforts in New York have shown that when more money is spent on them, reducing their case loads, they tend to find more violations among their parolees, leading them to send more back to prison.

Mr. Horn suggested that New York could achieve a more cost effective crime policy by taking the \$260 million it spent on its 60,000 parolees last year and spending some of it on vouchers that would enable parolees to get drug treatment and job training, and the rest on anti-poverty programs that would help reduce crime.

New York's chief criminal justice official, Katie Lapp, said that Governor Pataki's proposal to end parole had been carefully studied to insure that public knew how long criminals would actually spend in prison, and that she did not expect a jump in the number of inmates as California has experienced.

By contrast with California, Ms. Lapp said, only 20 to 25 percent of the offenders sent to prison in New York are parole violators, a sign that parole officers in New York are more thoughtful about their approach.

The movement to abolish parole began in the late 1970's after academic studies suggested that rehabilitative efforts in prison and early release on parole for good conduct had no measurable effect on reducing repeat offenses. Among the states that have eliminated parole boards are Arizona, California, Delaware, Illinois, Indiana, Kansas, Maine, Minnesota, Mississippi, Ohio, Oregon, New Mexico, North Carolina, Virginia, Washington. California counts itself among these states, although its parole board still considers a handful of cases of inmates who are serving sentences. The Federal prison system has also got rid of the boards.

Only one state, Maine, has taken the additional step of dropping its system of parole agents to supervise inmates after their release.

As the nation has embraced harsher punishment for violent criminals, those states with parole boards have moved to restrict their authority to less serious criminals. And parole boards have become more hesitant to grant release. In Texas, the proportion of eligible inmates approved for parole in 1998 dropped to just 20 percent, from 57 percent in 1988.

But three states that eliminated parole, Connecticut, Colorado and Florida, have re-established the equivalent of parole boards after finding that abolition did not increase actual time served, because prisons became so crowded that some inmates had to be released early.

There is no statistical evidence that abolishing parole boards has lowered crime rates in any state, the experts say. But they acknowledge that keeping serious criminals in prison longer undoubtedly prevents some crimes.

Allen J. Beck, chief of corrections statistics at the Bureau of Justice Statistics, a branch of the Justice Department, said that ending parole by itself "has had no real impact on time served." Time served is going up everywhere, in states that still have discretionary parole boards and states that have abolished them, he said.

[Home](#) | [Times topics](#) | [Member Center](#) | [Copyright 2013](#)

[The New York Times Company](#) | [Privacy Policy](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#) | [Index by Keyword](#)

Abolishing parole: necessary or unnecessary

by By Jason Evans

21.09 - 10:00 am

STATE — Will abolishing parole help reduce overcrowded condition in state prisons or create an extra burden?

Some state legislators feel that Attorney General Henry McMaster's proposal to abolish parole is the way to go, while others feel it's a step in the wrong direction.

While McMaster believes that doing away with parole would result in stiffer and more meaningful sentences, legislators seemed to be divided on the issue during a panel discussion earlier this month.

While what McMaster terms "a middle court" could some have some value, Rep. Doug Jennings doesn't feel abolishing parole would work.

Under the Middle Court model, non-violent offenders would be more likely to receive sentences that focus on education and job training, with less jail time.

But the economic impact on the state's budget would be "devastating," Jennings said.

"Abolishing parole ... would cost us hundreds of millions of dollars," he said. "If we abolish parole, clearly we're going to have to build more prisons, and I don't think that's where we need to be headed."

The Department of Corrections is "struggling like never before," just trying to maintain discipline and order, Jennings said.

"If you take parole out of the system, you're going to create behind the walls of prisons complete chaos," he said. "Where there is no incentive for inmates to obey the rules or be respectful of correctional officers."

While all legislators agree violent offenders "should be locked up," the state needs to be seeking non-incarcerating ways of dealing with non-violent offenders, Jennings said.

"Those who we don't have to feed and clothe and keep behind a prison wall," he said. "This economy cries out for us to look for ways to save money and still be tough on crime."

Sen. Jake Knotts believes that taking parole off the table will work.

"We can abolish parole in South Carolina, if we start putting people in jail who need to be in jail," Knotts said.

Providing incentives for offenders to avoid jail time will be beneficial, he said.

"You put an ankle bracelet on them and you let them work," Knotts said. "You let them know that when they do go to jail, when they do keep violating the law and that time comes, that there will be no parole. Five years means five

Abolishing parole: necessary or unnecessary

years. 20 years means 20 years.”

The current system puts people in jail for offenses that would be better punished by probation or ankle bracelets, he said.

“We need to start making our probation officers something other than a babysitter or a name-taker,” Knotts said.

Hiring more law enforcement agents is a meaningless gesture if the state doesn't have the mechanisms — judges, cells, parole officers — in place to deal with arrests made by those officers, he said.

“He's going to make arrests,” Knotts said. “He's going to create overcrowding. If you don't have an outlet to clear that overcrowding, hiring police officers is not the answer.”

Half of the 23,000 inmates in the prison system are non-violent, said Sen. Gerald Malloy.

“There are some real inconsistencies in our sentencing system,” he said. “We need to address those.”

Sen. Larry Martin has pre-filed a bill in the Senate calling for the abolition of parole for offenders who have been identified as violent, and also those convicted of some sexual crimes not categorized as violent crimes.

“We would treat all the categories of criminal offenses the same,” Martin said.

Martin's bill also calls for the establishment of a Middle Court, that would “enable first time offenders not to go to jail,” he said.

“That's a big part of this whole bill,” Martin said.

Martin does not feel parole abolition would create a nightmare for correctional officers.

“They're still eligible for parole at 85 percent (of time served),” he said. “It would give them some incentive.”

Inmates can also be tried and sentenced for crimes committed while incarcerated, Martin said.

“They would be charged and tried and sentenced for additional time,” he said.

“Non-violent offenders don't traditionally act up to that degree. It's mainly violent offenders.”

© pickenssentinel.com 2009



**FINDINGS FROM THE APAI INTERNATIONAL SURVEY
OF RELEASING AUTHORITIES**

Submitted by

Susan C. Kinnevy, PhD

Joel M. Caplan, MA

University of Pennsylvania

April, 2008

KEY FINDINGS

Structure of Releasing Authorities

- Members of 34 RAs are confirmed by legislature and members of 41 RAs serve a fixed term of office averaging five years.

Scope of Releasing Authorities

- 75% percent of RAs in states with determinate sentencing frameworks indicate that they have some authority to release prior to sentence completion, calling into question the definition of 'determinate sentencing'.
- 32% of RAs have the authority to make pardon release decisions that alter the original sentence.

Release Decision Process

- 87% of RAs use some type of instrument to guide release decisions, most commonly those developed in-house, Static 99 (sex offenders only), or LSI-R.
- When RAs were asked to rank order the sources of input they consider in deciding release, in addition to official records on the offender and the crime, the most often ranked were from the victim (44), the offender's family (42) and the district attorney (41), respectively.
- Between 60 and 81 percent – depending on crime type – of RAs are required to consider victim input when making release decisions; 87% permit in-person interviews, which are considered to have the most impact by 34 RAs.

Time Served and Early Release

- A total of 90% of RAs require offenders to complete programs as a prerequisite for release; only two RAs report that they have enough programs to accommodate the need.

Supervision

- 68.1% of RAs have at least some authority over supervision.
- 27 RAs use a risk assessment instrument to determine *conditions* of parole.
- 22 RAs use a risk assessment instrument to determine *levels* of supervision.
- Approximately 80% of the RAs know the portion of offenders that are eligible for administrative supervision.

Violations of Conditions/Revocations

- 19 RAs use a decision matrix for sanction decisions; 12 use a matrix for revocation decisions; 11 use time setting guidelines for revocation decisions.

Statistics and Recidivism

- 19 states reported some level of difficulty in producing statistics for 'number of offenders paroled'.
- 29 RAs provided recidivism rates over periods ranging from one to over three years.
- The most cited events included in recidivism rates were new convictions (29), revocation for new criminal activity (28), and technical violations (28), all of which resulted in a return to prison.
- 19 RAs reported having secure alternative facilities that can be used in place of incarceration; of these, 15 reported that violators could be held in these facilities for several months or longer without being counted in the recidivism rate.

EXECUTIVE SUMMARY

APAI partnered with the Center for Research on Youth and Social Policy (CRYSP) at the University of Pennsylvania, the Pew Foundation, and the Georgia State Board of Pardons and Paroles to design and implement an international survey of releasing authorities.¹ The survey was sent to the administrative head of every releasing authority (RA) that was a member of APAI as of November 2007 (n=67). Respondents were asked a series of questions related to the structure and scope of the RA, the release decision process, time served and early release, supervision, violations of supervision, and revocation. RAs were also asked about decision-making instruments and to provide statistics on their offender populations. The response rate was 87.7%, with 47 of 50 states participating.

Most RAs are appointed by the Governor and serve an average of five years. They are most often independent agencies or affiliated with the Department of Corrections. A majority of states have the authority to make final release decisions and make those decisions with mixed determinate and indeterminate sentencing structure. Over half the RAs require interviews with parole eligible offenders prior to release, with most interviews conducted in-person by a panel of RA members. A minimum of three panel members and three votes are needed to decide release.

The top three sources of input considered by RAs in their decision release process are from the victim, the offender's family and the district attorney. Other factors that impact most heavily on the decision to release are crime severity, crime type, and offender criminal history respectively. The most frequently cited factor in delayed release is a delay in program completion. Program completion is a prerequisite for release in most states; almost all states report that they do not have enough available programs. Most states do give time off credits (TOC), the most common one being statutory good time.

More than half of RAs have full authority over supervision and most have the power to set conditions of supervision for all their offenders across crime categories. More than half the RAs also have the authority terminate supervision prior to maximum sentence for all offenders across crime categories. The most often cited responses to violations of supervision are outpatient and inpatient treatment programs, electronic monitoring, and house arrest. Most RAs can approve motions to revoke parole and over half can issue arrest warrants. Almost all RAs have the authority to manage or adjudicate violations, although only 75% can set the time to serve for revocation.

Over 90% of RAs can revoke supervision for all offenders across crime categories. Options for revocation for most RAs include both revocation options that return offenders to prison with or without treatment and non-revocation options that place offenders in intermediate sanctions or community-based facilities. Management of community-based facilities usually resides with the states Correctional Authority. With regard to instruments used to guide the parole process, the most commonly cited are Static-99,

¹ The project was funded by JEHT Foundation and The Pew Charitable Trusts

LSI-R, and instruments developed in-house. However, the only instruments that are routinely validated are those developed in-house.

The most easily produced and regularly published statistic is the number of offenders paroled in a given calendar year. Other statistics seem to be difficult to produce, perhaps because the RAs are not always the entity that manages statistics. Only 29 RAs provided recidivism rates, with averages ranging from 25.1% calculated for one year to 4.28% calculated for over three years. The offender population used to calculate rates varied too much to report a pattern. The events used to calculate recidivism were generally those that resulted in incarceration. Only 19 RAs reported having secure facilities that can be used in place of incarceration.

Overall, the APAI survey was successful in gathering a great deal of information about the policies and protocols of the RAs domestically and, to a lesser extent, internationally. Full findings from the state RAs are presented in the body of this report. Findings from federal and other country RAs are tabulated in *Appendix A*.

Parole and Prison Reentry in the United States

Editor's Note: This is the first part of a two part article. Part two of this article will appear in the Fall 2000 issue of Perspectives. Citations for both parts will be included at the end of part two.

Introduction

PUBLIC ANGER AND FRUSTRATION OVER CRIME CONTINUE to produce significant changes in the American criminal justice system, but reforms focused on parole are among the most profound. Parole, which is both a procedure by which a board administratively releases inmates from prison and a provision for post-release supervision, has come to symbolize the leniency of the system, where inmates are "let out" early. When a parolee commits a particularly heinous crime, such as the kidnapping and murder of 13-year-old Polly Klaas by California parolee Richard Allen Davis, or the horrifying rape and murder of four-year-old Megan Kanka in New Jersey by a paroled sex offender, the public is understandably outraged and calls for "abolishing parole."

State legislatures have responded. By the end of 1998, 14 states had abolished early release by a parole board for all offenders, and several others had restricted its use. California still allows discretionary release by a parole board, but only for offenders with indeterminate life sentences (e.g., first-degree murder, kidnap for ransom) (Ditton and Wilson 1999). Even in states that have retained parole, parole boards have become more hesitant to grant it. In Texas, for example, 57 percent of all cases considered for parole release in 1988 were approved; but by 1998, that figure had dropped to just 20 percent (Fabelo 1999).

The argument for abolishing parole is that it will lead to longer prison sentences and greater honesty in sentencing decisions. George Allen, former Governor of Virginia, made abolishing parole a major campaign issue, and one of his first acts once elected Governor in 1994, was to eliminate that state's discretionary parole system for violent offenders. He wrote that:

The principle that has guided our efforts is honesty. Easy-release rules prevented judges and juries from pre-empting the community's judgement about proper punishment for illegal conduct. Under the new law, judges do not have to play guessing games when imposing sentences. Police officers do not have to see the criminals out on the streets only a year after their last arrest. Criminals know they cannot beat the system. Crime victims and their families are finally seeing that justice is done (Allen, 1997:22).

But correctional experts argue that while abolishing parole may make good politics, it contributes to bad correctional practices—and ultimately, less public safety. As Burke (1995:11) notes, parole makes release from prison a privilege that must be earned. When states abolish parole or reduce the amount of discretion parole authorities have, they in essence replace a rational, controlled system of "earned" release for selected inmates, with "automatic" release for nearly all inmates. Proponents argue that the public doesn't understand the tremendous power that is lost when parole is abandoned. Through the exercise of its discretion, parole boards can actually target more violent and dangerous offenders for longer periods of incarceration.

BY JOAN PETERSILIA, PH.D.

The percentage of U.S. prisoners released on parole rose from 44 percent in 1940 to a high of 72 percent in 1977, after which some states began to question the very foundations of parole, and the number of prisoners released in this fashion began to decline (Bottomly 1990). As shown in Figure 1, just 28 percent of prison releases were paroled in 1997, the lowest figure since the federal government began compiling statistics on this issue (Ditton and Wilson 1999). Mandatory releases—the required release of inmates at the expiration of a certain time period—now surpass parole releases. And if one adds the “expiration releases,” where the inmate is released after serving his full sentence, there is even a bigger imbalance between discretionary parole and mandatory release (28 percent vs. 57 percent).

Parole, it seemed during the first half of the 20th century, made perfect sense. First, it was believed to contribute to prisoner reform, by encouraging participation in programs aimed at rehabilitation. Second, the power to grant parole was thought to provide corrections officials with a tool for maintaining institutional control and discipline. The prospect of a reduced sentence in exchange for good behavior encouraged better conduct among inmates. Finally, release on parole, as a “back end” solution to prison crowding was important from the beginning. For complete historical reviews, see (Simon, 1993) and (Bottomly 1990).

The tremendous growth in parole as a concept, however, did not imply uniform development, public support or quality practices. As (Bottomly 1990) wrote, “it is doubtful whether parole ever really operated consistently in the United States either in principle or practice.” Moreover, Bottomly notes that parole-as-rehabilitation was never taken very seriously, and from its inception, prison administrators used parole primarily to manage prison crowding and reduce inmate violence.

Despite its expanded usage, parole was controversial from the start (Rothman 1980). A Gallup poll conducted in 1934 revealed that 82 percent of U.S. adults believed that parole was not strict enough and should not be as frequently granted (The Gallup Organization 1998).

Today, parole is still unpopular, and a recent survey shows that 80 percent of Americans favor making parole more difficult to obtain (The Gallup Organization 1998). A comparable percentage is opposed to granting parole a second time to inmates who have previously been granted parole for a serious crime (Flanagan 1996). On the other hand, the public significantly underestimates the amount of time inmates serve, so their lack of support for parole reflects that misperception (Flanagan 1996).

Nonetheless, over time, the positivistic approach to crime and criminals—which viewed the offender as “sick” and in need of help—began to influence parole release and supervision. The rehabilitation ideal, as it came to be known, affected all of corrections well into the 1960s, and gained acceptance for the belief that the purpose of incarceration and parole was to change the offender’s behavior rather than simply to punish. As Rhine (1996) notes, as the rehabilitative ideal evolved, indeterminate sentencing in tandem with parole acquired a newfound legitimacy. It also gave legitimacy and purpose to parole boards, which were supposed to be composed of “experts” in behavioral change, and it was their responsibility to discern that moment during confinement when the offender was rehabilitated and thus suitable for release.

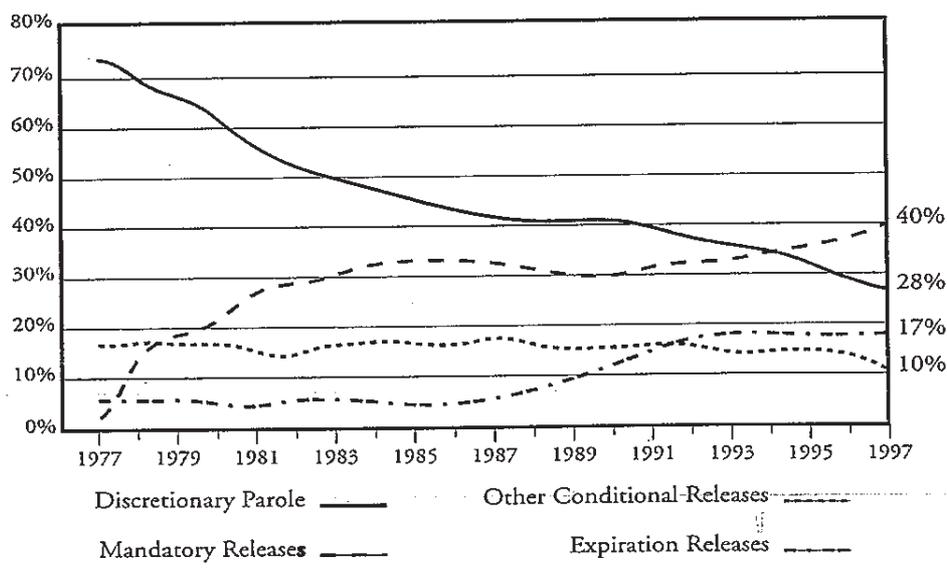
Parole boards, usually political appointees, were given broad discretion to determine when an offender was ready for release—a decision limited only by the constraints of the maximum sentence imposed by the judge. Parole boards—usually composed of no more than ten individuals—also have the authority to rescind an established parole date, issue warrants and subpoenas, set conditions of supervision, restore offenders’ civil rights and grant final discharges. In most states, they also order the payment of restitution or supervision fees as a condition or parole release.

In the early years, there were few standards governing the decision to grant or deny parole, and decision-making rules were not made public. One of the long-standing criticisms of paroling authorities is that their members are too often selected based on party loyalty and political patronage, rather than professional qualifications and experience (Morse 1939).

In his book, *Conscience and Convenience*, David Rothman discussed the issue of discretionary decisions by parole boards. He reported that in the early 20th century, parole boards considered primarily the seriousness of the crime in determining whether to release an inmate on parole. However, there was no consensus on what constituted a serious crime. “Instead,” Rothman wrote, “each member made his own decisions. The judgements were personal and therefore not subject to debate or reconsideration.” (Rothman 1980:173) These personal preferences often resulted in unwarranted sentencing disparities or racial and gender bias (Tonry 1995). As has been observed, “no other part of the criminal justice system concentrates such power in the hands of so few” (Rhine et al. 1991:32-33).

Regardless of criticisms, the use

Figure 1
Percent of State Prisoners Released by Various Methods



Note: Discretionary paroles are persons entering the community because of a parole board decision. Mandatory releases are persons whose release from prison was not decided by a parole board. Includes those entering because of determinate sentencing statutes, good-time provisions, or emergency releases. Other conditional releases include commutations, pardons, and deaths. Expiration releases are those where the inmate has served his maximum court sentence. Source: Bureau of Justice Statistics, *National Prisoner Statistics*, selected years.

of parole release grew, and instead of using it as a special privilege to be extended to exceptional prisoners, it began to be used as a standard mode of release from prison, routinely considered upon completion of a minimum term of confinement. What had started as a practical alternative to executive clemency, and then came to be used as a mechanism for controlling prison growth, gradually developed a distinctively rehabilitative rationale incorporating the promise of help and assistance as well as surveillance (Bottomly 1990:325).

By the mid-1950s, the indeterminate sentencing coupled with parole release was well entrenched in the U.S., such that it was the dominant sentencing structure in every state, and by the late 1970s, more than 70 percent of all inmates released were as a result of parole board discretionary decision. And in some states, essentially everyone was released as a result of the parole board decision-making. For example, throughout the 1960s, over 95 percent of all inmates released in Washington, New Hampshire and California were released on parole (O'Leary 1974). Indeterminate sentencing coupled with parole release was a matter of absolute routine and good correctional practice for most of the twentieth century.

But all that was to change during the late 1970s, gaining increasing strength in the 1980s and 1990s, when demands for substantial reforms in parole practice began to be heard.

B. Modern Challenges and Changes to Parole

The pillars of the American corrections systems—indeterminate sentencing coupled with parole release, for the purposes of offender rehabilitation—came under severe attack and basically collapsed during the late 1970s and early 1980s. This period in penology has been well documented elsewhere and will not be repeated here. For an excellent review, see (Reitz 1998).

In summary, attacks on indeterminate sentencing and parole release seem to have centered on three major criticisms. First, there was little scientific evidence that parole release and supervision reduced subsequent recidivism. In 1974, Robert Martinson and his colleagues published the now-famous review of the effectiveness of correctional treatment and concluded that: "With few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism" (Lipton, Martinson and Wilks 1975). Of the 289 studies they reviewed, just 25 (8.6 percent) pertained to parole, and yet their summary was interpreted to mean that parole supervision (and all rehabilitation programs) didn't work.

The National Research Council reviewed the Martinson data and basically concurred with the conclusions reached (Sechrest, White and Brown 1979). Martinson's study is often credited with giving rehabilitation the *coup de grace*. As Holt (1998) notes, once rehabilitation could not be legitimated by science, there was nothing to support the "readiness for release" idea, and therefore no role for parole boards or indeterminate sentencing.

Second, parole and indeterminate sentencing were challenged on moral grounds as unjust and inhumane, especially when imposed on unwilling participants. Research showed there was little relationship between in-prison behavior, participation in rehabilitation programs and post-release recidivism (Glaser 1969). If that was true, then why base release dates on in-prison performance? Prisoners argued that not knowing their release dates held them in "suspended animation" and contributed one more pain of imprisonment.

Third, indeterminate sentencing permitted authorities to utilize a great deal of uncontrolled discretion in release decisions, and these decisions were often inconsistent and discriminatory. Since parole boards had a great deal of autonomy and their decisions were not subject to

outside scrutiny, critics argued that it was a hidden system of discretionary decision-making and led to race and class bias in release decisions (Citizens' Inquiry on Parole and Criminal Justice, 1974).

It seemed as if no one liked indeterminate sentencing and parole in the early 1980s, and the time was ripe for change. Crime control advocates denounced parole supervision as being largely nominal and ineffective; social welfare advocates decried the lack of meaningful and useful rehabilitation programs. Several scholars, for example, James Q. Wilson, Andrew von Hirsch, and David Fogel, began to advocate alternative sentencing proposals.

James Q. Wilson, an influential scholar, argued that if there was no scientific basis for the possibility of rehabilitation, then the philosophical rationale for making it the chief goal of sentencing should be abandoned. He urged instead a revival of interest in the deterrence and incapacitation functions of the criminal justice system. He urged the abandonment of rehabilitation as a major purpose of corrections, and wrote: "Instead we could view the correctional system as having a very different function—to isolate and to punish. That statement may strike many readers as cruel, even barbaric. It is not. It is merely recognition that society must be able to protect itself from dangerous offenders.... It is also a frank admission that society really does not know how to do much else" (Wilson 1985:193).

Andrew von Hirsch provided a seemingly neutral ideological substitute for rehabilitation (Holt 1998). He argued that the discredited rehabilitation model should be replaced with a simple nonutilitarian notion that sentencing sanctions should reflect the social harm caused by the misconduct. Indeterminacy and parole should be replaced with a specific penalty for a specific offense. He believed that all persons committing the same crimes "deserve" to be sentenced to conditions that are similar in both type and duration, and that individual traits such as rehabilitation or the potential for recidivism should be irrelevant to the sentencing and parole decision. He proposed abolishing parole and adopting a system of "just deserts" sentencing, where similarly situated criminal conduct would be punished similarly (von Hirsch 1976).

David Fogel advocated a "justice model" for prisons and parole, where inmates would be given opportunities to volunteer for rehabilitation programs, but that participation would not be required. He criticized the unbridled discretion exercised by correctional officials, particularly parole boards, under the guise of "treatment." He recommended a return to flat time/determinate sentencing and the elimination of parole boards. He also advocated abolishing parole's surveillance function and turning that function over to law enforcement (Fogel 1975).

These individuals had a major influence on both academic and policy thinking about sentencing objectives. Together they advocated a system with less emphasis on rehabilitation and the abolition of indeterminate sentencing and discretionary parole release. Liberals and conservatives endorsed the proposals. The political left was concerned about excessive discretion that permitted vastly different sentences in presumably similar cases, and the political right was concerned about the leniency of parole boards. A political coalition resulted, and soon incapacitation and "just deserts" replaced rehabilitation as the primary goal of American prisons.

With that changed focus, the indeterminate sentencing and parole release came under serious attack, and calls for "abolishing parole" were heard in state after state. In 1976, Maine became the first state to eliminate parole. The following year, California and Indiana joined Maine in establishing determinate sentencing legislation and abolishing discretionary parole release. As noted, by the end of 1998, 14 states had abolished discretionary parole release for all inmates. Additionally, in 21

states parole authorities are operating under what might be called a sundown provision, in that they have discretion over a small or diminished parole eligible population. Today, just fifteen states have given their parole

boards full authority to release inmates through a discretionary process (see Table 1).

Likewise, at the federal level, the Comprehensive Crime Control

Table 1 – Status of Parole Release in the U.S., 1998

	Parole Board Has Full Release Powers	Parole Board Has Limited Release Powers	If Parole Board Powers Are Limited, Crimes Ineligible for Discretionary Release	Discretionary Parole Abolished (Year Abolished)
Alabama	✓			
Alaska		✓		
Arizona				✓ (1994)
Arkansas		✓		
California		✓	Only for indeterminate life sentence	
Colorado	✓			
Connecticut		✓	Murders, capital felonies	
Delaware				✓ (1990)
Florida		✓	Certain capital/life felonies	
Georgia		✓	Several felonies	
Hawaii		✓	Punish. by life w/o parole	
Idaho	✓			
Illinois				✓ (1978)
Indiana				✓ (1977)
Iowa		✓	Murder 1, kidnap, sex abuse	
Kansas				✓ (1993)
Kentucky	✓			
Louisiana		✓	Several felonies	
Maine				✓ (1975)
Maryland		✓	Violent, or death pen. sought	
Massachusetts		✓	Murder 1	
Michigan		✓	Murder 1, 650+ g. cocaine	
Minnesota				✓ (1980)
Mississippi				✓ (1995)
Missouri		✓	Several felonies	
Montana	✓			
Nebraska		✓	Murder-1/life, kidnap/life	
Nevada	✓			
New Hampshire		✓	Murder 1	
New Jersey	✓			
New Mexico				✓ (1979)
New York		✓	"violent felony offenders"	
North Carolina				✓ (1994)
North Dakota	✓			
Ohio				✓ (1996)
Oklahoma	✓			
Oregon				✓ (1989)
Pennsylvania	✓			
Rhode Island	✓			
South Carolina	✓			
South Dakota		✓	None with life sentence	
Tennessee		✓	Murder 1/life, rapes	
Texas		✓	None of death row	
Utah	✓			
Vermont	✓			
Virginia				✓ (1995)
Washington				✓ (1984)
West Virginia		✓	No life without mercy	
Wisconsin		✓	No life without parole	*
Wyoming	✓			
Total	15	21		14
U.S. Parole				✓ (1984)

* Wisconsin abolished discretionary parole release in 1999 to go into effect on January 1, 2000 for crimes committed on or after that date.
 Note: This information is from *Status Report on Parole, 1996, Results from an NIC Survey (1997)*, and updated with information from Ditton and Wilson, 1999.

Act of 1984 created the U.S. Sentencing Commission. That legislation abolished the U.S. Parole Commission, and parole was phased out from the federal criminal justice system in 1997. Offenders sentenced to federal prison, while no longer eligible for parole release, are now required to serve a defined term of "supervised release" following release from prison (Adams and Roth 1998).

One of the presumed effects of eliminating parole or limiting its use is to increase the length of prison term served. After all, parole release is widely regarded as "letting them out early." Time served in prison has increased in recent years, but it is attributed to the implementation of Truth-in-Sentencing Laws rather than the abolition of parole boards. BJS data reveal no obvious relationship between type of release (mandatory vs. parole board) and actual length of time spent in prison prior to release. For all offense types combined the mean (average) time served in prison for those released from state prison in 1996 through "discretionary" (parole) methods was 25 months served; whereas for those released "mandatorily," the average (mean) time served in prison was 24 months (Ditton and Wilson 1999). Allen Beck, Chief of Corrections Statistics at the BJS, recently observed that ending parole by itself "has had no real impact on time served" (Butterfield 1999:11).

Offenders are, however, spending greater amounts of time in prison and on parole. These longer time periods may make it more difficult for offenders to maintain family contacts and other social supports, thereby contributing to their social isolation upon release. As Table 2 shows, the average (mean) time served among released state prisoners for all types of offenders has increased from an average of 20 months 1985 to 25 months in 1996. The median prison term served has increased from 14 months in 1985 to 15 months in 1996. Similarly, the length of time on parole supervision (for those successfully discharged) has increased, from an average of 19 months in 1985 to 23 months in 1996. The average time on parole for "unsuccessful exits" was 19 months in 1985 and 21 months in 1996 (Bureau of Justice Statistics 1998).

Even in states that did not formally abolish parole or restrict its use to certain serious offenses, the sentencing reform movement produced a significant diminution of parole boards' discretionary authority to release. Mandatory minimum sentencing policies now exist in every state and the federal government, and 24 states have enacted "Three Strikes, You're Out" laws that require extremely long minimum terms for certain repeat offenders (National Conference of State Legislatures 1996).

Perhaps most significantly, 27 states and the District of Columbia have established "truth-in-sentencing" laws, under which people convicted of selected violent crimes must serve at least 85 percent of the announced prison sentence. To satisfy the 85 percent test (in order to qualify for federal funds for prison construction), states have limited the

powers of parole boards to set release dates, or of prison managers to award good time and gain time (time off for good behavior or for participation in work or treatment programs), or both. Truth-in-sentencing laws not only effectively eliminate parole but also most "good time." (Ditton and Wilson 1999)

Even in the 15 jurisdictions that give parole authorities discretion to release, most of them utilize formal risk prediction instruments (or parole guidelines) to assist in parole decision-making (Runda, Rhine and Wetter 1994). Parole guidelines are usually actuarial devices, which objectively predict the risk of recidivism based on crime and offender background information. The guidelines produce a "seriousness" score for each individual by summing points assigned for various background characteristics (higher scores mean greater risk). Inmates with the least serious crime and the lowest probability of reoffending (statistically) would then be the first to be released and so forth. The use of such objective instruments helps to reduce the disparity in parole release decision-making, and has been shown to be more accurate than release decisions based on the case study or individualized method (Holt 1998). One half of U.S. jurisdictions now utilize formal risk assessment instruments in relation to parole release (Runda, Rhine and Wetter 1994).

III. A Profile of Parolees in the U.S.

A. Numbers of Parolees under Supervision

While discretionary parole release has declined, parole supervision remains in almost every state. And, as the size of the prison populations has risen, so too has the parole population. BJS reports that, at yearend 1997, there were 685,033 adults on parole in the U.S. Persons on parole represented 12 percent of the total 5.7 million persons who were incarcerated or on community supervision ("under correctional control") at yearend 1997 (Bureau of Justice Statistics 1998).

The growth in parole populations has slowed considerably in recent years, increasing just 1.3 percent in 1997, after growing 24 percent between 1990-1992. This is the smallest growth of any of the correctional populations and likely reflects a short-term lull in the growth of the parole population, primarily as a consequence of an increase in the average length of prison term being served as a result of truth-in-sentencing policies (Ditton and Wilson 1999).

Nearly a third (31.2 percent) of all persons on parole in the U.S. were in Texas or California. Texas led the nation with 109,437 adults on parole in 1997, followed by California with 104,409. In 1997, however, the parole population in Texas declined by 2.8 percent, while the California population increased by 4.9 percent. The District of Columbia has, by far, the greatest number of its resident population on parole supervision. In 1997, nearly 1.7 percent of all its residents were on parole supervision, compared to a national average of .03 percent (Bureau of Justice Statistics 1998).

B. Selected Characteristics of Parolees

As noted earlier, there is little available information on the characteristics of persons on parole. BJS reports some basic characteristics of those entering parole as part of its *National Corrections Reporting Program* series. In 1997, similar to other correctional populations, males constitute most of the parolee population (89 percent), although

Table 2: Time Served in Prison, Jail and on Parole, All Offense Types Combined, in months

	1985	1990	1996
Time Served in Jail Average (Mean)	6	6	5
Time Served in Prison Average (Mean)	20	22	25
Time Served on Parole	19	22	23
Total Months	44	50	53

Source: Data from the Bureau of Justice Statistic, *National Corrections Reporting Program*, 1985, 1990, 1996. Includes only offenders with a sentence of more than 1 year released for the first time on the current sentence. Time served on parole is for "successful" exits.

the percentage of female parolees increased from 8 percent in 1990 to 11 percent in 1997. The median age of the parolee population was 34 years, and the median education level was 11th grade, although 13 percent of parolees had an education level of below the 8th grade and an additional 45 percent, between the 9th and 11th grade level) (Bureau of Justice Statistics 1997). These characteristics have remained fairly constant since the early 1980s.

The only parolee characteristic that has changed in recent years appears to be conviction crime. In 1988 30 percent of first entries to parole were convicted of violence, but in 1997 that figure had dropped to 24 percent. In 1985 just 12 percent of those persons released to parole were convicted of drug crimes, whereas in 1997 that was true for 35 percent of first releases to parole (Beck 1999). Today more than a third of all entrants to parole are convicted of drug related crimes (see Table 3).

Individual states sometimes publish descriptions of their parolees. For example, a recent report by the California Parole and Community Services Division reported the following (California Department of Corrections 1997):

- 85 percent of parolees were chronic substance abusers;
- 10 percent are homeless, but homelessness is as high as 30 to 50 percent in San Francisco and Los Angeles;
- 70-90 percent of all parolees were unemployed;
- 50 percent are functionally illiterate. Over half of all parolees read below the sixth grade level and therefore, could not fill out job applications or compete in the job market;
- 18 percent have some sort of psychiatric problem

IV. The Reentry Process and Parole Supervision

A. Administration of Parole Field Services

As noted earlier, parole consists of two parts: *parole boards* that have the authority to decide when to release prisoners and *parole field services* whose parole officers supervise offenders after their release. The major criticisms of parole release (e.g., lack of professionalism, unwarranted discretion and ineffectiveness) were also leveled at field supervision and caused major changes and reforms there as well.

One of the first and continuing reforms in parole field services have been to make them more independent of parole boards. Since the mid-1960s, states have increasingly moved parole field services away from being an arm of the parole board and into a separate agency. According to the American Correctional Association, the parole field service agency is housed under a separate agency in 41 states, usually in the state's department of corrections. Parole boards have responsibility for supervising parolees in only ten states (American Correctional Association, 1995).

Regardless of their administrative relationship, parole board directives heavily influence how parole agents carry out their duties and responsibilities. When setting the conditions of release, parole boards are in fact prescribing the goals it expects parole agents to pursue in the period of supervision. A 1997 survey by the Association of Paroling Authorities International shows that most parole boards are responsible for ordering community service, restitution, supervision fees, sex offender registration and treatment program participation (Association of Paroling

Authorities International 1998). In addition, some parole boards also mandate drug testing, intensified supervision and participation in victim mediation programs.

In all states, the decision to revoke parole ultimately rests with the parole board. As such, parole boards set implicit and explicit criteria about which types of parole violations will warrant return to prison and, as such, heavily influence the types of behavior parole officers monitor and record. If, for example, failing a drug test is not a violation that will result in revocation to prison or any serious consequence by the parole board, parole agents will not administer drug tests as frequently since no consequence can be guaranteed (McCleary 1992). In this way, parole boards and parole field services are functionally interdependent.

B. Offender's Need for Services and Conditions of Parole Supervision

Persons released from prison face a multitude of difficulties in trying to successfully reenter the outside community. They remain largely uneducated, unskilled, and usually without solid family support systems—and now they have the added burden of a prison record and the distrust and fear that inevitably results. If they are African American and under age thirty, they join the largest group of unemployed in the

Table 3: Conviction Offenses of Persons Entering Parole, Selected Years

Most serious offense	First entries to parole supervision*				
	1988	1990	1992	1994	1996
All offenses	100%	100%	100%	100%	100%
Violent offenses	30.1	25.2	25.5	23.5	23.6
Homicide	3.8	3.0	2.7	2.3	2.1
Sexual assault	5.4	4.2	4.2	4.4	4.3
Robbery	13.7	11.2	10.7	8.7	8.9
Assault	6.3	5.8	6.6	6.9	6.0
Other violent	0.9	1.0	1.0	1.2	1.4
Property offenses	42.2	37.2	32.7	33.3	31.0
Burglary	20.8	17.5	14.8	14.5	12.9
Larceny/theft	10.2	9.6	8.4	8.5	8.1
Motor vehicle theft	2.9	2.7	2.7	3.1	2.7
Fraud	5.1	4.6	3.9	4.2	4.3
Other property	3.2	2.8	2.9	3.0	3.0
Drug offenses	19.2	28.2	31.1	31.6	34.7
Possession	6.0	8.6	8.2	7.0	10.0
Trafficking	10.4	15.6	19.3	19.5	19.5
Other	2.8	4.0	3.6	5.1	5.2
Public-order offense	7.1	8.1	9.8	10.5	10.0
Weapons	1.9	1.8	2.2	2.4	2.7
DWI/DUI	—	3.0	3.7	3.5	3.2
Other public-order	—	3.3	3.9	4.6	4.2
Other offenses	1.4	1.3	1.2	1.1	0.6

Source: Bureau of Justice Statistics, *National Corrections Reporting Program*, 1988, 1990, 1992. Unpublished data for 1994 and 1996.

* Based on parole entries who were released for the first time on the current offense and who had a maximum sentence of more than 1 year.

— Not available

country, with the added handicap of former convict status (Clear and Cole 1997). As Irwin and Austin write: "Any imprisonment reduces the opportunities of felons, most of whom had relatively few opportunities to begin with." (Irwin and Austin 1994:133)

Research has shown that parolees want the same things as the rest of us, although most believe they will not succeed (Richards 1995). Most aspire to a relatively modest, stable, conventional life after prison. "When I get out, I want to have my kids with me and have a good job so I can support them (Irwin and Austin 1994:126).

The public too would like them to succeed. But what assistance are parolees given as they re-enter our communities? Sadly, while inmates' need for services and assistance has increased, parole in some (if not most) states has retreated from its historical mission to provide counseling, job training, and housing assistance.

An excellent ethnographic study of parole officers in California concludes that while "rehabilitation" remains in parole's rhetoric, as a practical matter, parole services are almost entirely focused on control-oriented activities (Lynch 1998). Agents have constructed the prototypical parolee as someone who generally chooses to maintain an involvement with crime, who needs no more than an attitude adjustment in order to get on the right track, and who does not need the agent to provide intervention and services to facilitate reform. As Lynch observes: "In this way, while parole may talk of the need and capability for reform among their clientele, the agency can absolve itself of the responsibility to provide it" (Lynch 1998:857). Even when traditional rehabilitative tools are available to agents (e.g., drug treatment and counseling) they "are treated as rehabilitative in discourse, but are often used for coercive control in practice" (Lynch 1998:860).

Services and Parole Conditions. Of course, what help parolees receive differs vastly depending on the state and jurisdiction in which they are being supervised. But as states put more and more of their fiscal resources into building prisons, fewer resources are available for parole services. And, as noted earlier, the public has become less tolerant and forgiving of past criminal transgressions, as well as more fearful of particular offenders (e.g., sex offenders). This sentiment has translated into both stricter requirements for release and stricter supervision as well as revocation procedures once released.

In California, for example, there are few services for parolees. There are only 200 shelter beds in the state for more than 10,000 homeless parolees, four mental health clinics for 18,000 psychiatric cases, and 750 beds in treatment programs for 85,000 drug and alcohol abusers (Little Hoover Commission 1998). Under the terms of their parole, offenders are often subjected to periodic drug tests. But they are rarely offered any opportunity to get drug treatment. Of the approximately 130,000 substance abusers in California's prisons, only 3,000 are receiving treatment behind bars. And of the 132,000 inmates released last year in California, just 8,000 received any kind of pre-release program to help

"At least 1,200 inmates every year go from a secure housing unit at a Level 4 prison—an isolation unit, designed to hold the most violent and dangerous inmates in the system—right onto the street. One day these predatory inmates are locked in their cells for 23 hours at a time and fed all their meals through a slot in the door, and the next day they're out of prison, riding a bus home."

-Schlosser 1998:51

23 hours at a time and fed all their meals through a slot in the door, and the next day they're out of prison, riding a bus home. (Schlosser 1998:51)

The national picture is almost as disturbing. The Office of National Drug Control Policy (ONDCP) recently reported that 70-85 percent of state prison inmates need substance abuse treatment, however, just 13 percent will receive any kind of treatment while incarcerated (McCaffrey 1998).

All parolees are required to sign an agreement to abide by certain regulations. Conditions can generally be grouped into standard conditions applicable to all parolees and special conditions that are tailored to particular offenders. Special conditions for substance abusers, for example, usually include periodic drug testing. Standard conditions are similar throughout most jurisdictions, and violating them can result in a return to prison. Common standard parole conditions are:

- Report to the parole agent within 24 hours of release
- Not carry weapons
- Report changes of address and employment
- Not travel more than 50 miles from home or leave the county for more than 48 hours without prior approval from the parole agent
- Obey all parole agent instructions
- Seek and maintain employment, or participate in education/work training
- Not commit crimes
- Submit to search by the police and parole officers.

Some argue that we have created unrealistic parole conditions. Boards were asked in 1988 to indicate from a list of 14 items, which were standard parole conditions in their state. The most common, of course, was "obey all laws." However, 78 percent required "gainful employment" as a standard condition, 61 percent "no association with persons of criminal records," 53 percent "pay all fines and restitution," and 47 percent "support family and all dependents," none of which can consistently be met by most parolees (Rhine et al. 1991). Increasingly, the most common condition for probationers and parolees is drug testing. It is estimated that more than one-third of all community correctional clients have court-ordered drug testing conditions (Camp and Camp 1997).

them cope with life on the outside. As was recently reported:

Inmates are simply released from prison each year in California, given nothing more than \$200 and a bus ticket back to the county where they were convicted. At least 1,200 inmates every year go from a secure housing unit at a Level 4 prison—an isolation unit, designed to hold the most violent and dangerous inmates in the system—right onto the street. One day these predatory inmates are locked in their cells for

 Jobs  Cars  Real Estate  Maine Yellow Pages  Facebook  Twitter  Blogs

TUESDAY, JULY 2, 2013

[News](#) [Sports](#) [Politics](#) [Business](#) [Opinion](#) [Life & Culture](#) [Obituarie](#)

[Save This Story](#) [E-mail This Story](#) [Print This Story](#) [Large T](#)

March 13

Greg Kesich: There's a better alternative to building new prisons

Maine should bring back a system that helped people make their way back after serving their time.

Here's an idea that could save the state \$100 million.

Instead of borrowing that much to rebuild and expand a state prison in Windham, as requested in the governor's budget, we could make do with what we have. We might even be able to shut a prison down.

All we'd have to do is bring back parole.

The image of a prisoner going before a board of citizens to ask for an early release is such a common part of our culture that most Mainers, who have no contact with the criminal justice system, don't even know we did away with it long ago.

In 1976, Maine became the first state in the country to get rid of parole and replace it with the law-and-order fad of the time, "determinate sentences," where the judge sets a fixed length of time for the prison term at the time of the sentencing. Other states, including California, soon followed.

Now, many of these same states are wondering what Maine got them into.

The problem is that rather than letting prison officials and parole boards decide who belongs in prison and who is ready for another chance at life in society after they've done some time, the decision is left to a judge, who is expected to look into the future and make a guess about when an inmate might be ready for release before the cell door shuts.

The judge has to decide on sentencing day which aggravated-assault felon will be ready to get out in three years, and which one is going to need 10. It also assumes that the burglar poses less of a threat to society than someone convicted of manslaughter, when just the opposite may be true.

Determinate sentencing came into vogue at a time when rising crime rates and prison riots forged a rare left-right coalition. Conservatives liked the way judges meant what they said when they handed down a sentence. Liberals felt that the system would be less subject to racial discrimination than ones run by parole boards in some states.

So they remade the system and like polyester leisure suits and The Osmond Brothers, determinate sentencing is one of those ideas from the '70s that hasn't aged well.

Here in 2013, corrections is the third most expensive part of state government, after education and health and human services. Crime is declining, but the population behind bars gets bigger every year. It costs about \$30,000 a year to incarcerate someone.

The state could pay a student's tuition, room and board at the University of Maine for every inmate successfully reintegrated and still save money.

Bringing back parole is behind a bill submitted by state Sen. John Tuttle, D-Sanford, who got the idea from a group of people in his district who practice a volunteer ministry in the prisons. They have convinced him that not enough is being done to prepare people for life in society.

"The current system doesn't seem to be working," Tuttle said Tuesday. "If we were to work with people and encourage them to have some kind of training, to have hope, it would be better than giving them \$50 and a pat on the back and sending them out on the street."

Tuttle's bill would allow a prisoner to go before a parole board after serving half of his sentence. The board would determine if there was a "reasonable possibility that the person would live and remain at liberty without violating the law."

Once paroled, the former inmate would still be in the custody of the prison system and could be subject to conditions such as a curfew or a prohibition against alcohol use. The parolee would have to have a job and a community sponsor who would help him keep on track.

If the parolee violates conditions, he could be sent to jail. If he commits a crime, he could be returned to prison for the rest of his sentence by the parole board -- no trial necessary.

Tuttle introduced a similar bill that was defeated in 2011. That one was retroactive, creating potential constitutional problems because it changed existing sentences.

This bill would affect sentences only for convictions after Oct. 1, 2013.

People who want to talk tough on crime and say we should throw away the key on these offenders will find a bill like this to be easy prey.

But even they have to acknowledge that nearly every person who enters a prison under the current system walks out one day.

Don't we want them motivated to earn their freedom and ready to do what it takes to stay free?

Before we build a new prison, maybe we should take a good look and decide if everyone behind bars really has to be there.

Greg Kesich is the editorial page editor. He can be contacted at 791-6481 or at:

gkesich@pressherald.com

Were you interviewed for this story? If so, please fill out our accuracy form

Send question/comment to the editors

Recommend

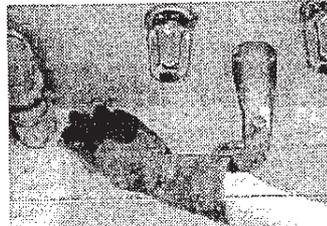
34 people recommend this.

Tweet 6

You May Like



Julia Roberts' Amazingly Luxurious Malibu Mansion



How much does it cost to hire a house cleaner?



The Best Runway Looks Miranda Kerr

by Ta



BOARD OF PARDONS AND PAROLE

STEVE BULLOCK, GOVERNOR

FERN JOHNSON
EXECUTIVE DIRECTOR

STATE OF MONTANA

(406) 846-1404
FAX (406) 846-3512

1002 Hollenbeck Road
DEER LODGE, MONTANA 59722

June 19, 2013

Montana Board of Pardons and Parole
1002 Hollenbeck Rd.
Deer lodge, MT 59722

To Whom It May Concern:

This past Legislative Session, Senate Joint Resolution No. 3 was passed to study the operations of the Montana Board of Pardons and Parole. This bill was introduced by Senator Terry Murphy at the request of the Law and Justice Interim Committee.

The Law and Justice Interim Committee based their decision to study the Board on testimony during the 2011-2012 interim from "persons with loved ones appearing before the Board", friends and family members of inmates who had been denied parole. The study will include: the philosophy of the board; the statutes and rules administered by the Board; the degree to which the Board has prevented or contributed to the need for additional prison beds; **the effect of the possible elimination of the Board**; and other aspects of the Board's administration as appropriate.

As you know, the Board of Pardons and Parole serves all the citizens of Montana and works with multiple collaborating agencies around the state. The Board and staff feel that it is imperative not only to consider a select group of individuals (friends and family members of inmates) during the study but the perspectives of all individuals regarding the operations of the Board. Therefore; we are requesting feedback from Judges, County Attorneys, Defense Attorneys, Probation and Parole Officers, Law Enforcement, Victims, Victim Advocates, Public Defenders, Community Corrections Program Managers and essentially any Montana citizen that would like to voice their opinion regarding the experiences encountered when working with or dealing with the Montana Board of Pardons and Parole. We are hoping to be able to present this valuable feedback to the Interim Study Committee prior to the commencement of the study.

Thank you for taking time out of your busy schedule to read this letter. We appreciate your time, and look forward to hearing from you by July 3, 2013 as the first Law & Justice meeting is scheduled July 10, 2013. Please send your response via email to Julie Thomas or in the mail to our office. Your opinion is extremely valuable to us so please do not hesitate to contact our office if you have any comments, questions or concerns regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike McKee".

Mike McKee, Chairman
BOARD OF PARDONS AND PAROLE

Slaughter, Christine (BOPP)

From: Angeline Fox <afox@co.yellowstone.mt.gov>
Sent: Tuesday, July 09, 2013 4:41 PM
To: Slaughter, Christine (BOPP)
Subject: RE: parole hearings

To Whom it may concern:

In my opinion, the Board of Pardons and Parole serves a very important purpose in Montana. This is often a victim's last or first chance to inform the defendant and others how the crime has left them after some time has passed, after the case is closed, after they have had to deal with life and its many changes because of the crime. Many victims rely on an appearance before the Board as a form of closure to the crimes that were committed against them. In Montana, where only a quarter of an inmate's sentence entitles an offender to possible release, this is often not seen as true justice for the crimes that were committed. The Board serves as a vital entity that helps keep all the information of an inmate's conduct while incarcerated, their attitude at the parole hearing and towards authority figures, the opinions of the prosecutor offices and family and associates of both the victims and inmates in one place. This makes it possible to make an educated determination as to whether or not the appropriate amount of punishment and rehabilitation have been acquired by the inmate. I have observed numerous parole hearings. While my office appears as a few each month, we don't oppose parole on every inmate and we do not oppose parole just because we have nothing better to do. The prosecutors in my office oppose parole when an inmate has not made strides to perform well in the prison system, has not taken the initiative to learn how to be a productive member of society, and when cases are especially heinous that they feel sufficient time has not yet been served for the crime that was committed. Obviously, parole should not be an entitlement to inmates, it should be a goal. A goal is something that an individual strives and works toward and is not something that is just given regardless of one's effort. The Board of Pardons and Parole is an unbiased group of people that work well together in making decisions on whether an inmate will be released or if they will need to reappear at a later date. Thank you for your time.

Sincerely,

Angie Fox

Victim/Witness Coordinator

Yellowstone County Attorney's Office

Johnson, Fern Osler

From: Thomas, Julie
Sent: Monday, July 08, 2013 3:39 PM
To: Johnson, Fern Osler
Subject: FW: BOPP Feedback

More feedback letters.

From: Taylor, Daniel
Sent: Friday, July 05, 2013 2:54 PM
To: Thomas, Julie
Subject: BOPP Feedback

Per the request for feedback on upcoming Interim Study Committee meeting:

The Montana Board of Pardons and Parole has been an invaluable asset in assisting Probation/Parole officers in supervising Parolees in the community. It's interesting that "persons with loved ones appearing before the Board" would want such a review/study. What about persons with loved ones in the community, who rely on the BOPP and Dept. of Corrections to protect them from those who have committed crimes and pose a risk to community safety? I believe the BOPP as an independent body, has done an outstanding job since it's inception in 18__ , in granting parole to those who earned it, and denied those who didn't, that pose an unacceptable risk to the community.

Additionally, the BOPP provides guidance and consultation to Probation/Parole officers who must respond to Parolees who violate their conditions of Parole, in order to make an informed decision on community/treatment placements, or a return to the Board for disposition. Without this guidance, many P&P officers would be left to make these decisions on their own. From my own experience, the BOPP makes every effort to parole and place offenders under community supervision, and in some cases, grant parole to those who aren't successful in the community. Regardless, the BOPP provides an essential service to all Montana citizens, by looking out for the best interests of both the offender and the community. To leave this function to chance, or to some legislator/politician, would be a huge disservice to all of us.

Respectfully Submitted,

Daniel M. Taylor, POII
Department of Corrections
Adult Probation and Parole, Region IV
2615 4th Ave. South
Billings, MT 59101
(406) 896-5406



PLEASE REFRAIN FROM SENDING ME ANY NON-WORK RELATED EMAILS
AS I AM RESPONSIBLE FOR ANY AND ALL MESSAGES RECEIVED ON THIS COMPUTER.

To Whom It May Concern;

I was the Institutional Probation and Parole Officer for the Montana Womens Prison for the past four years. My experience with the Montana Board of Pardons and Parole has always been positive. I have personally watched the Parole board listen to victims as well as supporters of the inmates. The Parole Board has looked at all aspects of the Offenders lives including their successes and the impact, positive or negative, they may have in returning to the community. The staff at the Board of Pardons and Parole are easy to work with and are willing to look at each situation individually. Because of this case by case discretion, I believe the Board of Pardons and Parole has kept the Montana communities safe as well as returned Offenders back into the community where they are productive and law abiding citizens. It would be a step back in the concept of re-entry if we were to remove the Board of Pardon and Parole. Imagine if there was a first time Offender who got the same time in an institution as a fifth time Offender and were unable to earn their way out of prison. In looking at other states and the evidence based research, all we would be teaching our felons is how to be better felons.

As a Probation and Parole Officer I am in full support of keeping the Montana Board of Pardons and Parole intact as it helps reduce recidivism and provides the Offenders of Montana an incentive to earn their way out of prison through clear conduct, programming and their desire to be a productive member of society.

Sincerely,

Jennie Hansen

State Probation and Parole Officer

Billings, MT

Slaughter, Christine (BOPP)

Subject:

FW: Feedback

From: Ed Corrigan [mailto:corrigan@flathead.mt.gov]

Sent: Tuesday, July 09, 2013 11:19 AM

To: Slaughter, Christine (BOPP)

Subject: RE: Feedback

Good morning Christine:

This is the first time I have seen this e-mail and I do want to take this opportunity to present some input.

Over the course of my career (29 years or so), I have had the opportunity to appear before the Board on many occasions. I cannot think of a single case during which the Board members were anything but well informed and professional in their handling of the cases before them and in their dealings with the inmates seeking parole and their families. I have also been impressed with their commitment to reach decisions which are not only fair to the inmates, but also receptive to the concerns of law enforcement and the victims appearing before them.

In my opinion, concerns about the Board contributing to the need for additional prison beds is misplaced and short sighted. The Board's primary focus must be on whether the inmates appearing before them have taken the appropriate steps towards rehabilitation and whether they can be safely returned to a community setting. In those cases where the Board concludes an inmate is not ready for release, they must, of course, deny the request for parole regardless of whether that decision means a "bed" is unavailable to another prisoner.

Eliminating the Board is again, in my opinion, short sighted. Unless parole is eliminated as well, someone must review inmate requests for parole and determine whether granting parole is appropriate given the nature of the inmate's crime(s), his or her criminal history, whether he or she can be safely released, and the wishes of victims. The Board serves that purpose.

In my experience, the Board has served the needs of inmates and society admirably.

Please do not hesitate to let me know if you need something further from this office.

Ed Corrigan
Flathead County Attorney

VICTIM ASSISTANCE PROGRAM

Gallatin County Attorney's Office

615 So. 16th, Room 313, Bozeman, MT. 59715

Fax: (406) 582-2077

Marty Lambert, County Attorney

(406) 582-3745

Jan Brownell, Program Director

(406) 582-2075

Stacy Wesen, Victim Advocate

(406) 582-2067

Kathy Coles, Victim Advocate

(406) 582-2076

Korie Diehl, Victim Advocate

(406) 582-2098

July 3, 2013

Dear Law and Justice Interim Committee,

As the Victim Assistance Program Director for Gallatin County, it has been my honor to assist thousands of victims of violent crime over the last 15 years. The aftermath of a violent crime can be devastating for victims. All too often, their lives are negatively impacted forever.

Victims have an important role in the criminal justice system. They deserve to be treated fairly and their input should be considered with dignity and respect. A sentencing judge often hears directly from the victim during testimony or through a victim impact statement. The sentencing judge has the duty to consider the defendants' circumstances as well as the feelings and wishes of the victim. The judge is then able to render a sentence based on the totality of circumstances, including degree of harm done.

The Board of Pardons and Parole has the same obligation to treat victims fairly and consider the input of the victim with dignity and respect. Victims' right to input does not end upon conviction, victims are entitled to continued input in post-conviction matters. In my experience, victims find it very comforting to know that the Board of Pardons and Parole will consider their input. The Board, and their staff, have always treated Gallatin County victims of violent crime with the utmost respect and courtesy. They have made accommodations so victims feel safe, as well as comfortable, while exercising their right to be heard. We have had victims submit letters to the Board, attend hearings in person and attend hearings via vision net.

I believe that the Board of Pardons and Parole is a critical component of the Criminal Justice System. Offenders must be held accountable and the **totality** of circumstances must be considered at every juncture in the system, not just at the local level during sentencing. The Board of Pardons and Parole fulfills this role admirably. I believe that eliminating the Board of Pardons and Parole would be an enormous injustice to the citizens of Montana and would contribute to silencing the voices of victims in post-conviction matters.

Sincerely,

Jan Brownell

Victim Assistance Program Director



**DEPARTMENT OF CORRECTIONS
COMMUNITY CORRECTIONS**

51 West Granite Street
Butte, MT 59701

Phone: (406) 723-8911 ext.200 Fax: (406) 723-7347

Ted P. Bury

Probation & Parole Officer

July 02, 2013

State of Montana Legislative Branch
Law and Justice Interim Committee
Helena, MT 59620

Committee Members,

My career in Law Enforcement/ Corrections started in September of 1985. In my tenure, I have worked with Montana Board of Pardons and Parole in numerous situations. I worked almost daily with the Montana Board and Pardons and Parole Staff as an Institutional Probation and Parole Officer at Montana State Prison from October 1999 to September 2004. During that time, I witnessed the dedication in which the Board of Pardons and Parole served all the citizens of Montana while still maintaining a very high level of Public Safety and Trust, the cornerstone of any justice system. In all my dealings with the Board of Pardons and Parole, I saw the Board and its staff continually addresses the needs of convicted offenders, their families, and yet still respects the wishes and needs of victims of crimes.

I firmly believe that Montana Board of Pardons and Parole is an extremely important and vital part of the ongoing changes that Community Corrections will continue to face in the future. The Board's philosophy of Offender accountability, rehabilitation, and protection of Public Safety and Trust, clearly represent the best interest of the citizens of the State of Montana.

Please call if you have any questions.

Sincerely,

Ted P. Bury

Leaver, Cathy

From: Spaulding, Randal
Sent: Wednesday, June 19, 2013 3:17 PM
To: Leaver, Cathy
Subject: RE: Feedback Letter - time sensitive response requested

In the absence of any specific information from the families of inmates, this sounds like a solution looking for a problem! I have experienced no negative dealings with the board or otherwise. Nor have I heard any complaints from the families of inmates or others. If overcrowding is the concern, there seem to be a whole host of variables which could account for that aside from the actions of the board. The fact is, restorative justice does not work for every inmate. As I often tell offenders, "you have the keys to the jail cell in your pocket, what you do with them is up to you." Their success and/or failure is directly correlated to their motivation (or lack thereof) to change. Some, fortunately not most, simply need to be locked up for the safety and security of the community.

Judge Spaulding

From: Leaver, Cathy

Sent: Wednesday, June 19, 2013 9:04 AM

To: Andy Malby - Belgrade News; Blaine County Attorney; Blauer, Denny; Brown, Holly; Brown, John C.; Carbon Co. Attorney; Carbon County Person; Chief of Police - Miles City; Chief Ryan Oster - Hamilton; Cindi Petrusaitis - Ravalli County; Custer Co. Attorney; Cut Bank Police Department; Dawson County Victim notification; Dayton, Ray; Deschamps, Dusty; Dunn, Kelly; Eslick, Amanda; Flathead Co. Sheriff; H Stahl; Haynes, Jim; Hogan, Georgette; J Dewey - Beaverhead Co. Sheriff; J Wall; Kathy Coles - Gallatin Co. Victim notification; Lake Co. Sheriff's Office; Larry Epstein; LeeAnna Brooks - Lewis & Clark; Lincoln Co. Attorney - Bernie Cassidy; Lincoln Co. Sheriff's office; Marcia Chrestenson; McKinnon, Laurie; Newman, Brad; Nicole Griffith - Victim Witness; Olson, Robert; Phillips, Wayne; Pondera Co. Attorney; Ravalli County - Victim Advocate; Ricland Co. - Amanda; Sanders County; Sergeant Steve Snavely's - Hamilton; Sharon Little - Lewis & Clark; Shelly Gleich - Lewis & Clark; Sheryl Carr; Sibley, David; Bidegaray, Kathy; Contact DOJ; Diane Walker - Billings; Dorothy McCarter; Dutton, Leo; Fagg, Russell; Fergus Co. Attorney - Tom Meissner; Flathead Co. Attorney's office; Granite County Sheriff; Gustafson, Ingrid; Hill Co. Attorney; Hill Co. Secretary; Hill Co. Sheriff's Office; Jennifer Clark - Missoula Co.; Jones, Blair; King, Kathryn; Lake Co. Attorney's Office; Lake Co. Attorney's Office; Lake County Attorney - (4-2009); Micu, Mike; Moore, Bev; Petroleum Co. Attorney; Richland Sheriff; Roosevelt Co. Attorney; Roosevelt Co. Attorney; Rosebud Co. Attorney; Rosebud Co. COP; Rosebud Co. Sheriff; Salvagni, Mike; Sandefur, Dirk; Sandy Thompson - victim witness; Sheridan Co. Attorney; Sherlock, Jeffrey; Silver Bow Co. Attorney; Silver Bow Sheriff; Simonton, Richard; Spaulding, Randal; Stillwater Co. Attorney; Stillwater Co. Sheriff; Swandal, Nels; Sweetgrass Co. Attorney; Sweetgrass Co. Sheriff; Tabolt, Brett; Teton Co. Attorney; Todd, Gregory; Toole Co. Attorney; Toole Co. Sheriff; Treasure Co. Sheriff; Tucker, Loren; Valley Co. Attorney; Valley Co. Sheriff; VanSetten, Keith; Warner, John; Watters, Susan; Wheatland Co. Attorney; Wheatland Co. Attorney (3-2009); Wibaux Co. Attorney; Yellowstone Co.; Yellowstone Co. Sheriff's Office; Yellowstone Police Department; Ana-D.L. Sheriff; Anderson, Craig; Beaverhead Co. Attorney; Beaverhead Co. COP; Beaverhead Sheriff's Secretary; Big Horn Co. Sheriff; Blaine Co. COP; Blaine Co. Sheriff's Office; Broadwater County Attorney; Carbon Co. Police Department; Cascade Co. Attorney; Cascade Co. COP; Cascade Co. Sheriff; Cascade Co. Victim notification; Choteau Co. Attorney; Choteau Co. COP; Choteau Co. Sheriff; Christopher, Deborah Kim; Crime Victim Compensation Program; Crime Victim Compensation Program; Crime victim program - restitution officer; Custer Co. Sheriff; Cybulski, David; Daniels Co. Attorney; Dawson Co. Attorney; Day, Gary; Falcon Co. Attorney; Falcon Co. Sheriff; Fergus Co. Attorney; Fergus Co. Police Department; Fergus Co. Sheriff; Flathead Co. Attorney; Flathead Co. COP; Gallatin Co. Attorney; Gallatin Co. Police Dept; Gallatin Co. Sheriff; Gallatin Detective; Gallatin Investigation division; Garfield Co. Sheriff; Glacier Co. Attorney; Glacier Co. Attorney (Deputy Bill Hunt); Glacier Co. Sheriff's Office; Golden Valley Co. Attorney; Golden Valley Sheriff; Granite Co. Attorney; Granite Co. Sheriff; Hansen, Jay; Ludwig, Brenda; Michaels, Alan; Becky Shay; Blain, John; Boucher, Dan; Considine, Mardelle; Custer Co. Victim/Witness; Duane Qualls, victim & witness assistant; Egan, Lynne; Gretchen Schillinger; Harkin, Douglas; Hegel, Joe; Hill Co. Attorney; Hill Co. COP; Hill Co. Police; Hill Co. Sheriff's office; Hopwood, Hugh; Jan Brownell - Gallatin Co.; Jefferson Co. Attorney; Jefferson Co. Sheriff; Judith Basin Co Attorney; K Hanson; Karen Lavender - Park Co. Victim Witness; Knisely, MaryJane; Krueger, Kurt; L&C Co. Attorney; L&C Co. COP; Lake Co. Attorney; Lake Co. Attorney's Office; Lake Co. Detectives; Lake Co. Detectives; Lake Co. Sheriff's Office; Langton, Jeffrey; Larson, John (Court); Laslovich, Jesse; Liberty Co Sheriff; Liberty Co. Attorney; Linnea Forseth, Yellowstone Co. Victim/witness; Lyndsey Babcock - Gallatin Co. Attorney's off; M. Aquilar Yellowstone Co.; Macek, Julie; Madison Co. Attorney; Marilyn Forman;

McCone Co. Sheriff; McKeon, John; McKittrick, Thomas; McLean, Edward; McMeekin, Mike; Meagher Co. Sheriff; Mineral Co. Attorney; Missoula Co. Attorney; Missoula Co. Sheriff; Missoula Co. Sheriff, Carl Ibsen; Neill, Kenneth; Park Co. Attorney; Park Co. Judge; Petroleum Co. Sheriff; Phillips Co. Attorney; Polson Police Chief, Doug Chase; Pondera Co. COP; Pondera Co. Sheriff; Powder River Co. Attorney; Powell Co. Sheriff; Prairie Co. Attorney; Prezeau, Michael; Ravalli Co. Attorney; Ravalli Co. COP; Ravalli Co. Sheriff; Ravalli County Attorney's office; Rice, Dan; Richland Police Department; Roosevelt Co. Attorney; Roosevelt Co. Attorney; Schenk, David; Sheriff (Prairie County); Smith, Lewis; Townsend, Karen; Yellowstone Co. Attorney

Subject: FW: Feedback Letter - time sensitive response requested

From: Slaughter, Christine (BOPP)
Sent: Wednesday, June 19, 2013 9:00 AM
To: Leaver, Cathy
Cc: Thomas, Julie; Shone, Meaghan
Subject: Feedback Letter

Christine Slaughter

Montana Board of Pardons and Parole
1002 Hollenbeck Road
Deer Lodge, MT 59722
406-846-1404

Information from ESET NOD32 Antivirus, version of virus signature database 8467 (20130619)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Information from ESET NOD32 Antivirus, version of virus signature database 8468 (20130619)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Information from ESET NOD32 Antivirus, version of virus signature database 8468 (20130619)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Leaver, Cathy

From: Kelley, Don
Sent: Wednesday, June 19, 2013 9:19 AM
To: Leaver, Cathy
Subject: feedback

It has been my experience with the BOPP over the last 25 years the it operates in the best interest of the community and the State of Montana. I have attended many hearings before the BOPP both as an officer and as an IPPO at Montana State Prison. I consistently find myself in awe of the professionalism and ethics in how they present themselves to the public and the Offenders. I have not always agreed with the decisions of the Board however; I do feel that they consistently take the needs of the Offender and the rights of the community and victims into consideration for all dispositions. I do not feel that elimination of the BOPP would be in the best interest of the State of Montana.

Do not go gentle into that good night. Rage, rage against the dying of the light - Dylan Thomas

*People are more easily led than driven.
-David Harold Fink*

KENNETH D. PETERSON

ATTORNEY AT LAW

424 48th Street West • BILLINGS, MONTANA 59106 • PHONE: (406) 534-2376 • (406) 591-2608 (Cell) • Email kenneth59@bresnan.net

28 June 2013

JULIE THOMAS
BOARD OF PARDONS AND PAROLE

1002 Hollenbeck Road
Deer Lodge, MT 59727

In re: Board

Dear Julie:

Thank you for the opportunity to weigh in on this very important issue. I think this matter has surfaced at this time because of the input and pressure put on certain members of the Law and Justice Committee by persons who have relatives behind bars for crimes they have been convicted of. As you are probably know I was a member of the committee after the 2011 session. I think I was able to derail the same idea in that session. Some of the Committee Members are particularly susceptible to the outside influences and choose to believe whatever they are told without getting any input from the other side. I believe I always encouraged members of the Committee to attend a Parole Board hearing or hearings and visit with the administrative officials. I think very often they do not want to hear the other side and just wish to proceed to get the complainers off their backs.

As you are aware I served on the Board and served as Chairman. I was always impressed with the quality of persons and the work that the Board did including the administrative members. Each member of the Board was conscientious and concerned first for the protection of the citizens of Montana and then for the rehabilitation of the person coming before the Board. The Board always wanted to get the person out into an appropriate setting so that he or she could get back into society as a contributing member. They were always given the benefit of the doubt as long as society was being protected. The Board always acted independently of the Department of Corrections and also independently of the Administrative Staff although it listened carefully to all persons who had any input on the persons rehabilitation including all family, friends and representatives.

It would be a terrible disservice to the persons who are to come before the Board to eliminate the Board. It is truly an independent Board that acts as a buffer between the citizens of the State of Montan and gives a great opportunity to the inmates to get back out into society with substantial opportunity to be successful after serving 25% of their sentence. Most of those who came before the Board when I was Chairman appreciated the opportunity to be

JULIE THOMAS
BOARD OF PARDONS AND PAROLE
28 June 2013
page 2

rehabilitated and return to society on the terms laid down by the Board. The alternative is that you have the Department of Corrections administration making the decision as to whether or not they should be released prior to serving their full sentence or requiring the inmate to serve the sentence to the end without the possibility of Parole. In my opinion that benefits neither society or the inmate. Persons who have the qualifications to serve on the Board and have the experience provide a great opportunity to evaluate both. I have had the opportunity to work with inmates in the past and I know that you become very close to them and develop confidence that they will succeed when that is not really the case. Those persons who work closely with an inmate have no opportunity to evaluate what society needs and how it needs to be protected. The Board is in the position to evaluate all aspects. There is no politics with the Board. The only Politics occurs with the appointing authority, [Governor] and I never saw an appointee who was not conscientious in fulfilling his or her duties regardless of past party affiliation.

Eliminating the Board of Pardons and Parole would do a great disservice to the people of the State of Montana including the inmates who are subject to parole. Everyone needs to understand that persons on parole continue to be under supervision for the term of their parole they are not just released.

As former Chairman, I believe the Board performs a vital function and to change or eliminate it would be a serious mistake.

Any questions feel free to call.

Thank you for helping the Politicians to understand all sides of this issue and that there is really no issue.

Very truly yours,

KENNETH D. PETERSON

Kenneth D. Peterson

KDP/ntc

Thomas, Julie

From: Yuhas, Claris
Sent: Wednesday, June 26, 2013 8:38 AM
To: Thomas, Julie
Subject: RE: BOP

I strongly oppose Senate Joint Resolution No. 3 introduced by Senator Terry Murphy which may possibly result in the elimination of the Board of Pardons and Parole. I believe that the Board is an integral part of our justice system and a protector of victim's concerns. At the same time it is a fair evaluator of offender's application for pardon or parole. I hope the study will validate the important function of the Board of Pardons and Parole.



Treasure State Correctional Training Center

James Cameron IPPO/TSCTC

STATE OF MONTANA

(406) 846-1320, Ext. 2100
Fax: (406) 846-2969

1100 Conley Lake Road
Deer Lodge, MT 59722

TO: Montana Board of Pardons and Parole
FROM: James Cameron, IPPO/TSCTC
SUBJECT: Interim Committee Study on the Possible Elimination of the Montana Board of Pardons and Parole

Ladies and Gentlemen:

The Board has designated certain factors as important when considering a person for parole. They will determine the following:

1. If the inmate can be released without being a detriment to him/herself or community.
2. If the best interests of society are furthered.
3. If the inmate is able and willing to fulfill the obligations of a law-abiding citizen.
4. If continued correctional treatment would substantially enhance the inmate's capacity to lead a law abiding life.

The Board will not parole an inmate if there is a substantial reason to believe the inmate will engage in further criminal conduct or will not conform to specific conditions of parole.

At what time did the BOPP have to base the criteria for releasing an offender on Parole based on the wants and desires of the convicted felony offender's family or friends? Does the Interim Committee believe that the victims and the community should completely disregard their safety, and the criminogenic behaviors that lead to the inmate's incarceration?

In most cases the inmate was sentenced on a Plea Agreement that was decided before a Pre-sentence Investigation was requested, and all of the history of the offender was not thoroughly reviewed. Once the sentencing is done the Courts has no concern about the institutional conduct of an inmate. If an offender were out within the community and set a fire, spit on a police officer, assaulted another member of the community, he/she would be subject to a revocation based on laws and conduct violations. Within the prison system there are sanctions, fines, and confinement restrictions for those whom commit institutional infractions. Some of the inmates do not care about the institutional consequences, and use their disruptive actions for their personal amusement. The only time these disruptive inmates are concerned about consequences is when they are Parole Eligible, if even then. The Board reviews the behavior of the inmates, evaluates treatment compliance ordered by the courts or MSP staff, contacts the victims of the crime, notifies the County Attorney's Office of the Sentencing Court, reviews recommendations given

by MSP Staff, thoroughly looks at past behaviors if previously on community supervision, and then considers the factors when recommending Parole.

I have stated my thoughts on the Study to be conducted, which may be in conflict with some within The Department of Corrections. I do not believe that Public Safety should be compromised, and it would be by the abolishment of the BOARD. Without mandatory minimum sentences or set terms of incarceration, there is no way to facilitate the release of offenders from the institutions. The major contributing factor for the release of offenders would become a fiscal matter, if there were no BOARD.

Thank you,

James Cameron IPPO/TSCTC

Thomas, Julie

From: Kautzmann, LaVonne
Sent: Monday, June 24, 2013 10:54 AM
To: Thomas, Julie
Subject: FW: Feedback Letter
Attachments: Feedback Letter.pdf

Hey Julie,

As an IPPO who deals directly with the Board hearings I feel it is imperative that we continue to have a Board review the files of inmates and determine what is appropriate for the next phase of their lives prior to expiration of the inmate's sentence. They take in to account the inmate's crime(s), conduct in prison or prior parole, treatment they have completed or need to complete, VICTIMS, safety of the community (which does include the inmate), ability to be a productive member of society and chance to successfully complete parole. They have the ability to require an inmate complete SOP I & II prior to release and this then increases the opportunity for the inmate to move up the waiting list and receive treatment sooner so they can be released. It also increases the inmate's chances to be successful in the community.

There are instances where I have sent out PRC packets to the centers prior and the inmate has been denied but once they receive a Board endorsement, he is then accepted. Without a Board to make the decision if someone should be released prior to expiration of the sentence, if all inmates were released after serving only $\frac{1}{4}$ of their sentence, I think many communities would be placed at risk.

The Board has knowledgeable members who take all information in to account prior to making their decisions. Inmates have an opportunity to appear before the Board and can present information and explain why they feel they should be released. The Board does listen to the inmate and does take the information presented into account when they make their decision. I have been present when this had an effect on the decision. As has been stated many times, an inmate can look bad on paper but when he has a chance to speak, can be a good candidate for PRC.

I would hope the Law and Justice Interim Committee would take more stock in what victims have to say and how they are affected when the offender of their crime is released early than in the inmate's families. The Board does an excellent job in this area. Board members are supposed to be unbiased so only base their decisions on the information presented.

LaVonne Kautzmann
IPPO - DCCF

440 Colorado Blvd
Glendive MT 59330

(406) 345-1216
FAX# (406) 345-1239

Monday - Thursday

From: Leaver, Cathy

Sent: Wednesday, June 19, 2013 9:07 AM

To: COR P&P Offices All; Allan Anderson - Took Vickie's place; Chris Richer; Kara Meier; Melissa Kelly - Director; Shyree Henderson; Amy Tenney; Devin McGee; Jack Furshong; Joe Fowler; Kayla Beadle; Shawn Frederick; Tammy Rowling; Tyler Gordon; Brenda Demers; David Booth; Joanne; Karen Conley; Kathy Pitkanen; Laura Evenson; Matt Pea; Mike; Mike Scott; Noah; Patty Schaak; Rhonda Vermeulen; Roxi; Shannon; Tara; Teresa ; Annie Bahm; Ashley Hunter; Christine Nicklay; Craig Daymude; David; Marc Johnson; Ashley Gregoire; Becky Roll; Bill Peterson; Brady Cogdill; Craig Thomas; Darla McCarthy; Francis Honsharuk; Jay Grant; Jim Joyce; Joe McCarthy; Linda Sommer; M. Holverson; Mark Dennehy; mcurran; Meg Bristol; Mike Bauer; Mike Schmidt

Subject: FW: Feedback Letter

From: Slaughter, Christine (BOPP)

Sent: Wednesday, June 19, 2013 9:00 AM

To: Leaver, Cathy

Cc: Thomas, Julie; Shone, Meaghan

Subject: Feedback Letter

Christine Slaughter

Montana Board of Pardons and Parole
1002 Hollenbeck Road
Deer Lodge, MT 59722
406-846-1404

Thomas, Julie

From: Flint, Janice
Sent: Wednesday, June 19, 2013 4:22 PM
To: Thomas, Julie
Subject: Letter of Support

To Whom It May Concern,

I have been employed as a Probation Officer for 4 ½ years in Montana. I spent 20 years working for a prison system in another state and have experience interacting with other parole boards. I was amazed at how approachable this board has been. They have been informative, helpful and responsive to questions or concerns. I have always left with the impression that my opinion or input was valued by them. I can't imagine that any other entity would be treated differently.

The Parole Board is the only group that has the ability to objectively consider a potential return to the community for an inmate. They weigh the opinions of **everyone** involved. No other collection of opinions is without a personal agenda. To lose that oversight and prematurely release inmates would be a shame that could endanger communities, traumatize families and ultimately result in a step backwards for the offender.

Sincerely,

Janice Flint
Montana Probation & Parole, Polson
830 Shoreline Drive
Polson, MT 59860
406-883-4629 x206
fax 406-883-1288

Johnson, Fern Osler

Subject: FW: Feedback Letter

From: Alex Vukovich [mailto:avukovich@cccscorp.com]

Sent: Tuesday, August 13, 2013 4:39 PM

To: Johnson, Fern Osler

Subject: FW: Feedback Letter

To Whom it May Concern:

As Administrator of the WATCH and CCPW Programs - I cannot tell you how much I respect - rely on and appreciate the work of the BOPP. It is the BOPP which works 'hand in hand' with our WATCH and Connections Programs - our WATCH II Program and the KNIGHTS Program - the first of its kind in the Country. As Administrator - I rely on the endorsements as well as the referrals of the BOPP - I 'trust' their opinions and 'require' their guidance. I simply cannot imagine Montana without the BOPP. In so many ways - they are on the 'front lines' of Corrections - they are a 'claming' and 'guiding' voice in our criminal system. Good is the enemy of great - without the BOPP - Corrections in Montana will be in absence of a powerful guiding force to the entire community.

Respectfully-

Alex Vukovich
Administrator - WATCH/Connections West
406.693.2272 x1004

"Be Humble - Be Grateful - Live Simply - Expect Less - Give More!"

COMMUNITY, COUNSELING AND CORRECTIONAL SERVICES, INC.

Corporate Office Building
471 East Mercury Street
Butte, Montana 59701

phone: (406) 782-0417 fax: (406) 782-6964

email: corporate@ccscorp.com website: www.ccscorp.com

Board of Directors: Joe Murphy, President • Connie Kenney, Vice-President • Jim Graham, Secretary
Fred Stradinger, Treasurer • Don Peoples, Board Member • Pat Fleming, Board Member
Wayne Harper, Board Member • Kathy Fasso, Board Member • Father Tom Haffey, Board Member

Corporate Staff: Mike Thatcher, CEO • Steve McArthur, Director Community Correctional Programs
Perry Hawbaker, CFO • Colleen O'Leary, Director Human Resources • Dave Boyd, Director
Treatment Programs & Services • Jack McCormick, Director Secure Facilities, Juvenile Programs &
IT Services Ryan Lynch Director of Development & Administration

Bismarck Transition Center
Kevin Arthaud, Adm.
2001 Lee Avenue
Bismarck, ND 58504
701-222-3440 Fax 701-222-3599

Butte Pre-Release Center
Women's Transitional Center
Jay Grant, Adm.
58-68 W. Broadway
Butte, MT 59701
BPRC 406-782-2316
WTC 406-782-6446 Fax 406-723-1170

Connections Corrections Program
Dave Boyd, Adm.
111 W. Broadway
Butte, MT 59701
406-782-6626 Fax 406-782-6676

Discovery House
Carole Kovacich, Adm.
800 S. Main Street
Anaconda, MT 59711
406-563-3842 Fax 406-563-2451

Re-Entry Facility
Melissa Kelly, Adm.
675 S. 16 Street
Bozeman, MT 59715
406-994-0300 Fax 406-994-0306

Martin Hall Juvenile Detention Facility
P.O. Box 670
Medical Lake, WA 99022
509-299-7733 Fax 509-299-1447

Nexus Program
P.O. Box 1200
Lewistown, MT 59457
406-535-6660 Fax 406-535-6665

RYO Correctional Facility
Travis Hettick, Adm.
360 Galen Street
Deer Lodge, MT 59722
406-693-9975 Fax 406-693-9988

START Program
George Strutzel, Adm.
801 MT Hwy 48
Anaconda, MT 59711
406-563-7002 Fax 406-563-5069

WATCh Program
Alex Vukovich, Adm.
Box G
Warm Springs, MT 59756
406-693-2272 Fax 406-693-2276

WATCh East
n, Adm.
7 de Street
Glendive, MT 59330
406-377-6001 Fax 406-377-6004

September 11, 2013

Law and Justice Interim Committee
Legislative Services Division
P.O. Box 201706
Helena, Montana 59620-1706

RE: *SJR 3 -Study of the Board of Pardons and Parole*

Dear Committee Members,

We are writing in regard to the above referenced study of the Parole Board. We administer a 160-bed male pre-release facility located in Butte, Montana, a 60-bed Women's Transitional Center that is co-located in the same facilities as the male center, and the Gallatin County Re-Entry Program, a 40-bed facility that is situated on property owned by Gallatin County in Bozeman, Montana.

Over the course of our careers we have had the opportunity to work closely with the Board staff as well as the Board members. There has not been one occasion where the Board was not objective, well informed and evenhanded in dealing with the residents being considered for release. The Board has also been very receptive to the concerns of law enforcement, victims, and those of us working in community corrections. We not only rely on the Board's guidance and their deliberate efforts to offer incentives that motivate residents to change their behaviors, but their assistance in helping maintain a safe and secure environment in our programs by holding residents accountable. We have worked together to successfully transition thousands of offenders who have become contributing members of society. Additionally, we have collaborated with the Board on appropriate placements for parolees who fail to follow community supervision conditions.

Clearly the volunteer Parole Board members do a thankless job for little or no compensation. We cannot imagine a system that would be more cost effective and objective in making the decision on whether the residents have taken the appropriate steps towards rehabilitation and whether they can be safely returned to the community and under what conditions. Someone will always have to make critical decisions regarding the timing of release given the nature of the crime(s), the person's criminal history, institutional performance, community supervision history and the wishes of victims and law enforcement. In our opinion, a volunteer citizen Board with no vested interests is best suited for this very critical role within the corrections system.

Respectfully,

Jay Grant
Administrator
Butte Pre- Release Center and Women's Transition Center

Mellissa Kelly, Licensed Addiction Counselor #1005
Administrator
Gallatin County Re-Entry Program