

Pennsylvania Board of Probation and Parole

A Report on Board Initiatives to Strengthen
Decisionmaking Policy and Practice

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inside front cover

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Introduction

The Pennsylvania Board of Probation and Parole has completed a year-long project to insure that the Board's tools and policies:

1. reflect the most current thinking in the field regarding parole board decisionmaking, and
2. are aligned with the principle of evidence based practice.

With funding from the Pennsylvania Council on Crime and Delinquency, the Board engaged the services of two individuals with particular expertise in parole practice: James Austin, PhD, of the JFA Institute, and Peggy Burke, MPA, of the Center for Effective Public Policy. Working collaboratively with the entire Board, these individuals have overseen a thorough review of the Board's decisionmaking tools and practices. This review included:

1. a revalidation of the Board's risk assessment protocol, which was accomplished through data analysis of the administered LSIR on 16, 200 paroles to ascertain if it accurately measures the level of risk of Pennsylvania parolees.
2. an analysis of its decisional instrument as used in over 38,000 parole decisions made during 2005 and 2006,
3. a review of practices around the setting of parole conditions, and
4. a study of a cohort of 2,200 parolees released in 2005 and the actions taken by the Board in response to violations of parole.

This extensive data analysis, critique, and subsequent deliberations lead to the conclusion that the existing tools and practices of the Board are basically sound, assuring consistency and adherence to the central interests and goals of the Board for public safety. These practices incorporate key principles of evidence based practice including:

- use of a validated, empirically based protocol for assessment of risk and criminogenic need,
- focusing resources and interventions toward offenders with higher levels of risk, according to their assessed criminogenic needs;

- targeting fewer resources (programmatic and bed space) to offenders with lower risk levels; and
- enhancing intrinsic motivation by linking favorable parole consideration to completion of programming targeted to risk and need.

The work also identified a number of areas in which specific decisional refinements could strengthen practice further. These changes, which are described in this report, have now been adopted by the Board and are in the process of implementation.

Finally, in the interests of enhancing public confidence and understanding of its work, the Board has made the decision to publish information about its decisionmaking practice—its goals, objectives, risk assessment tool, and its decisional instrument. The Board will also seek the input of key stakeholders in the future as it periodically reviews, refines and revalidates its internal decisional instrument. This decision is consistent with widespread practice in the parole field that encourages paroling authorities to make public their policy framework for decisions. This can provide the public, victims, offenders, and the Board’s key criminal justice partners—prosecutors, the courts, and the Pennsylvania Department of Corrections—with a clearer understanding of, and greater confidence in, the principles and tools utilized by the Board to assure sound, consistent, yet individualized exercise of its discretion.

Context and Goals for the Initiative

The Pennsylvania Board of Probation and Parole has been engaged in a wide range of efforts to improve practice and to enhance public safety in all areas of its work. Focused in particular upon the Board’s release decisionmaking practice, this particular initiative was designed to:

- Assure that its approach to decisionmaking incorporates, to the greatest degree possible, the principles of evidence based practice;¹
- Assure that the Board’s decisional tools and practices are in line with current best practices in the parole field;

- Assure that the LSIR, the risk assessment used by the Department of Corrections and the Board, in its decisionmaking process, continues to provide valid and reliable assessment of the risk to reoffend;
- Explore the Board’s current assessment and decisional instruments to determine the degree to which they assist the Board to arrive at parole decisions, and the reasons for the decisions; and
- Explore the ways in which the Board’s current decisional tools and practices might be refined to generate—even more effectively—the outcomes the board is seeking in terms of public safety, risk reduction, effective use of resources, reduced recidivism and use of the principles of evidence based practice.

Activities

The Board began its work by engaging in a review of the literature and research on the principles of evidence based practice and effective correctional interventions, and the evolving role of paroling authorities nationwide in the important work of reducing recidivism and enhancing public safety. Members participated in a series of intensive seminars and policy discussions, designed and facilitated by Ms. Burke, exploring emerging parole decisional best practices, and thoroughly reviewing the Board’s own critical role within the criminal justice system in the Commonwealth.

At its direction, Dr. James Austin conducted a recidivism study, exploring the validity of the LSI-R as a tool to assess risk of re-offending among offenders in the Pennsylvania criminal justice system. More than 16,200 prisoners released between January 2004 and December 2005 with an LSI-R score were studied. (Recidivism was defined as return to DOC for an adjudicated violation or crime.) Once the analysis had been completed, Dr. Austin briefed all members of the Board, engaging in a full discussion of its implications. In addition, the Board invited Dr. Edward Latessa, of the University of Cincinnati, and a noted expert on the LSI-R and the research on evidence based practice, to review the study, identify its policy implications, and discuss them with Dr. Austin and the Board.

In addition, 38,340 parole decisions made during 2005 and 2006 were analyzed in great detail to explore the degree to which the Board’s decisions are consistent with its decisional instrument, the typical reasons for denial of parole, and the typical reasons for decisions that do not comport with the guidance of its instruments.

¹ See: The Crime and Justice Institute. 2004. *Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention*. Washington, DC: National Institute of Correction.

A cohort of 2005 releasees was tracked to understand the Board's decisionmaking patterns regarding violations of parole. Over 2,200 cases released to parole were studied, tracking those who received sanctions for violations and those who did not, and the degree to which offenders involved in violation behavior were revoked by the Board, once referred by the field.

In addition, a working group of staff and board members studied the Board's procedures for the setting of parole conditions. This work group, comprised of Board Members, Hearing Examiners, Field agents and District Directors analyzed the Board's condition setting practices relative to nationally recognized research based offender management best practices. Best practice empowers the supervising field parole agent to impose, modify and remove certain conditions of parole. The result of this work group review was the assignment of five special conditions of parole under the direct management of the supervising field agents, in addition to those conditions already under their management.

Findings

Risk Assessment Tool Validation

Dr. Austin, who had conducted a previous validation of the LSI-R in Pennsylvania in 2003, concluded that the overall LSI-R scale is valid for the Pennsylvania population—in fact his analysis completed in the spring of 2007 reflects a significant improvement from the previous analysis. Low, medium, high categories on the LSI-R scale sort those being considered for parole into groups with significantly different likelihood of recidivism. This provides the Board with one critical variable for its decisionmaking. In addition, one of the important features of the LSI-R is that, not only does it distinguish a level of risk, it also identifies areas of criminogenic need for each offender, i.e. those needs that are directly related to the risk of reoffending. This assessment of need, therefore, defines those areas for treatment, programming, intervention, and supervision that will be important to reduce the likelihood that an offender will engage in new criminal behavior once released to the community. Knowing that this tool is valid for the Pennsylvania population, the Board and the Department of Corrections can use this assessment to target resources to higher risk offenders, a critical principle of evidence-based practice.

In addition, the analysis allowed Dr. Austin to construct a second, static risk assessment tool that can be used to screen all offenders at admission to prison. This identifies those offenders who fall into a low risk group for whom further assessment and intensive programming will not be required to be considered a likely candidate for parole. Those scoring in the medium and high risk group can then be assessed using the (LSI-R) assessment and targeted for

programming to address their criminogenic needs. This will allow for even more effective use of resources as fewer programming resources are used for low risk offenders and can be redirected to higher risk offenders where there is likely to be more impact in terms of recidivism reduction.

Study of Parole Decisions

Dr. Austin's analysis revealed that, among the 38,340 decisions (made during 2005 and 2006) studied, there was an overall grant rate of 56%, relatively high from a national perspective. The study also found that the board's release decisionmaking tends to grant parole at higher rates to:

- Non-violent offenders (based on the instant offense);
- Low risk offenders most frequently, medium risk offenders next most frequently, and least frequently to high risk offenders;
- Offenders who are identified as "program compliant;" and
- Offenders with good institutional adjustment. Exhibit 1 provides an overview of the decisions from 2005 and 2006.

EXHIBIT 1

Pennsylvania Parole Board Decisions 2005-2006

Parole Decision	2005		2006	
	N=18,488	%	N=19,852	%
Parole & Re-parole	10,119	55%	11,203	56%
Contract Residence	3,164	17%	3,132	16%
Detainer	1,111	6%	1,220	6%
Other	18	0%	86	0%
Treatment	885	5%	885	4%
Approved plan	4,941	27%	5,880	30%
Refused	8,329	45%	8,649	44%
Review date set	6,818	37%	6,807	34%
Review pending program	2	0%	1	0%
Serve maximum	1,509	8%	1,841	9%

Source: Pennsylvania Parole Board Data Files

*Note: missing cases excluded

Review of the Board’s Decisional Tool

Design and Use of the Board’s Decisional Tool in Use through 2007

In order to provide context for the changes implemented by the Board early in 2008, the following section outlines the intent and structure of the Board’s “decisional instrument” that was in use through 2007.

Fundamental Decisional Principles

In essence, the decisional tool has been designed to provide a consistent protocol for reviewing each case considered for parole. As part of originally developing this decisional tool, the Board agreed upon several decisional principles and norms that were grounded in their statutory responsibility and served a primary concern for public safety. The Board’s decisional tool structures their decisions around these principles:

1. The Board defers to the sentencing court on the issue of appropriate punishment and operates with the understanding that if an offender serves a period of incarceration that is at least equal to the minimum term, but not beyond the expiration of sentence, then the interests of the Commonwealth and the victim of the crime in appropriate, proportional punishment are served.
2. Given that the sentencing court is the arbiter of just punishment, the Board’s major consideration in determining suitability for parole is community safety. In order to assure community safety the Board’s decisional instrument:
 - Assesses risk—using an empirically-based, valid risk assessment to understand the level of risk presented by an offender;
 - Expects and encourages offenders to engage in programming and treatment designed to reduce their identified risk and criminogenic needs in order to be considered good candidates for parole.
3. Because of the significant stakes involved in violent crime, the Board routinely scrutinizes violent offenses with a higher standard than non-violent crimes. For instance, a violent offender would typically be a less likely candidate for parole than a non-violent offender, even if assessed risk were similar, unless the offender had successfully participated in programming to reduce risk.

4. Notwithstanding any of the criteria listed above, the Board considers any offender who has engaged in serious institutional misconduct within the year leading up to his or her parole consideration as an unlikely candidate for parole. The Board maintains this posture both as a way to encourage order and safety within Pennsylvania’s correctional facilities and to recognize that offenders engaged in a pattern of misconduct are not focused or engaged in prosocial behavior changes. Any other posture could encourage actions that threaten the safety of staff and inmates of Pennsylvania’s correctional institutions.

Operationalizing the Principles to Guide Decisions—Establishing Threshold Categories of “Likely to Parole” and “Unlikely to Parole”

Beginning with these principles, the board then conducted careful deliberations to operationalize these principles so that they could be applied consistently to the large numbers of individual cases that come before the Board for parole consideration, sorting them into “likely to parole” and “unlikely to parole” categories based on these principles. They considered how each factor in isolation, and different combinations of factors would influence their decisions.

Institutional Misconduct. The Board concluded that serious institutional misconduct such as: crimes code violation, drug/alcohol offense, assaultive behavior, community corrections residency failure or pattern of institutional misconducts within the year prior to consideration for parole, would outweigh other considerations in their parole process. Therefore, the Board’s decisional tool assigned any offender guilty of serious institutional misconduct during the year preceding parole consideration to the “unlikely to parole” category.

Violence. The Board decided to identify each offender being considered for parole as either “violent” or “non-violent” based on the offense of conviction, and that violence would typically weigh against parole, unless an offender had been involved with required programming.

Compliance with Required Programs. The Board concluded that “compliance with required programs” should be an important factor in their decisionmaking. They concluded that it was such programming that prepared an individual for release to the community, potentially reducing assessed risk, and balancing out their concerns about the potentially more dire consequences of potential risk in a violent offender. Therefore, their decisional tool was designed to assign offenders to a “likely to parole category” **unless** they were “non-compliant with required programs” **and** were either:

- High risk (regardless of whether they had convicted of a violent or non-violent crime); or
- Medium risk or low risk, and had been convicted of a violent crime.

This approach placed great emphasis upon effective correctional programming, which was emerging from the research evidence as being associated with significant reductions in recidivism.

A protocol for assigning numerical weights to these factors was developed to generate the assignment to categories depicted in Exhibit 2.

EXHIBIT 2

Summary of “Likely to Parole” and “Unlikely to Parole”* Categories in Use during 2005/2006 Study of Parole Decisions*

Risk Level**	Violent/ Non-Violent Offense	Compliance with programs designed to reduce risk	Serious Institutional Misconduct in the Previous Year	Instrument Category
High, Medium or Low	V/NV	Lack of or Satisfactory Program Completion	Yes	Unlikely to parole
High	Violent	Lack of Program Completion	No	
High	Non-Violent	Lack of Program Completion	No	
Medium	Violent	Lack of Program Completion	No	
Low	Violent	Lack of Program Completion	No	Likely to parole
High	Violent	Satisfactory Program Completion	No	
High	Non-Violent	Satisfactory Program Completion	No	
Medium	Violent	Satisfactory Program Completion	No	
Medium	Non-Violent	Lack of or Satisfactory Program Completion	No	
Low	Violent	Satisfactory Program Completion	No	Likely to parole
Low	Non-Violent	Lack of or Satisfactory Program Completion	No	

*Parole is a privilege, not a right, and the Board has complete discretion in making its decisions to grant or to deny parole. The instrument provides a consistent method to consider and evaluate those factors of importance to the Board because of their relationship to community safety, and because of their legislative mandate to do so.

**Risk assessment is considered on two dimensions, 1) a general (validated) risk to reoffend scale, and 2) a specialized (validated) sex offender assessment instrument. Whichever assessment is higher, is used in the decision process.

Source: Pennsylvania Parole Board Date Files

*Note: missing cases excluded

The Board developed objective definitions of each case factor, allowing the Board to be consistent in terms of what factors it considered and how it evaluated the importance of those factors in individual cases. Following a set of sequential steps, the protocol takes a reviewer through decision-tree process which provides a basic assessment of whether an individual case would be a good candidate and “likely to parole” or not a good candidate for release and “unlikely to parole.”

Using this protocol, cases categorized as “unlikely to parole” included:

- Any offender who had engaged in serious institutional misconduct within the year prior to consideration for parole.
- All violent offenders, regardless of assessed risk, who had unacceptable program compliance;
- High risk, non-violent offenders who had unacceptable program compliance.

Also, using this protocol, cases categorized as “likely to parole,” provided they had no serious, institutional misconduct within the last year, included:

- Violent offenders at any risk level, who had compliance with required programs;
- Non-violent offenders, at any risk level, who had compliance with required programs;
- Low and medium risk level, non-violent offenders, without regard to program compliance.

Parole release in Pennsylvania, and everywhere in the United States where it is authorized, is considered a grace or privilege, rather than a right.² In designing its decisional tool, the Board was careful to specify that the tool is advisory in nature and was not intended to create an expectation or right to parole, or a liberty interest, in any instance. In keeping with that principle, then, the Board’s decisional tool identifies the basic factors in a case that provide initial guidance to the Board as to how its’ articulated principles would rate a case as likely or unlikely to parole.

² Greenholtz v. Inmaes of the Nebraska Penal and Correctional Complex, 442 U.S. 1(1979).

Identification of Individual Factors Impacting Parole Decisions

The “initial” decisional guidance is established based on the scoring of the four core weighted factors. Having these core common factors ensures that all offenders are compared consistently with one another and results in the “threshold” guidance. As previously indicated this “threshold” or preliminary guidance places the offenders in one of two categories: “likely to parole” or “unlikely to parole.” The Board then continues its case analysis by considering the balance of all relevant information and the existence of any other factors unique to the case. All of the factors—the core weighted factors, other individual factors, and other relevant information—are all used by the Board to establish the conditions of parole.

In designing the instrument and the documents that would track the process, the Board has identified the set of issues and information that are the typical reasons that may necessitate the Board’s override of the threshold guidance of “likely to parole” or “unlikely to parole.” An override results when the existence of these other individual factors indicates the offender’s continuing needs and risks or when there is an indication that the needs and risks have been mitigated to some degree. The factors include recommendations from the Department of Corrections, from a prosecutor, from a judge or from a victim. Other factors may reflect continuing criminal justice requirements (i.e., detainers from state, local, or federal authorities, other sentences, or terms of probation to follow incarceration). Another potential issue is the presence of Immigration and Customs Enforcement (ICE) detainers for deportation. Other factors relate to the offenders demonstrated internalization of programming, or intention to comply with parole conditions, or even stated willingness to comply with laws. This list of typical reasons for overriding the initial threshold guidance appears on the decisional instrument form. This provides a uniform, complete set of possible factors that are systematically considered and noted, as appropriate, in each case. When and if any of these individual factors are relevant, they are noted by the Board in the case record, and entered into the Board’s automated information system. This allows reasons to be tracked in individual cases, and across all cases for research and analysis purposes.

The Board’s Decisional Instrument in Practice—Compliance with the Instrument’s Guidance

As described earlier, the Board’s decisional tool separates parole candidates into two categories: “likely to parole” and “unlikely to parole.”

Despite the clear prerogative of the Board to view its decisional instrument as advisory in nature, this analysis—of all cases in two recent years—reveals a very high rate of agreement between the decisional instrument and the actual decisions of the Board. This analysis leads to two clear conclusions:

1. The Board’s decisional tool, and the criteria it embodies, are clear, grounded in evidence based practice, and designed primarily around the goal of enhancing public safety; and
2. In the vast majority—73%—of cases, the Board follows its own decisional tool in making its parole decisions. Dr. Austin’s analysis of almost 38,000 parole decisions made in 2005 and 2006 found that the Board’s decisions were consistent with the guidance of its decisional tools in 73% of cases (in 69% of “likely to parole” cases, and 88% of “unlikely to parole) cases. *Just one-quarter of the Board’s decisions are based upon individual, “non-weighted” factors listed on the Board’s vote sheets.*

EXHIBIT 3

Pennsylvania Parole Board Decisions by Decisional Instrument Recommendation 2005-2006

Parole Board Decision	N
Total Cases Heard	37,896
Likely to Parole	29,601
% of All Cases Heard	78%
Granted	20,353
% Of “Likely to Parole”	69%
Unlikely to Parole	8,294
% of All Cases Heard	22%
Refused	7,330
% of Unlikely to Parole	88%
Overall % of Concurrence with Decisional Guidelines	73%

Source: Pennsylvania Parole Board Date Files

Nonetheless, the analysis provided an opportunity for the Board to explore the typical reasons given for decisions that varied from the threshold classification of likely or unlikely to parole guidance of the decisional tool. They discussed opportunities to refine the decisional tool to operationalize and communicate, even more clearly, the Board’s principles. This will likely create a higher level of agreement between the decisional tool’s guidance and the Board’s decisions. In addition, given the Board’s intent to publish information about its decisionmaking practices, it would communicate clearly to offenders and others how they can enhance their likelihood of favorable parole consideration, through engaging in activities specifically designed to reduce their likelihood of re-offending.

Analysis of Variance from Decisional Instrument Guidance

The analysis of cases from 2005 and 2006 combined indicated that 98% of cases rated as “likely to parole”—but refused parole—were rated as “program compliant,” but the reasons given for denial of parole in the majority of those cases (58%) had to do with lack of participation and completion of institutional programs for inmates determined to require program completion, typically mid to high risk offenders. Clearly, the Board’s caution regarding these cases had to do with its concern about whether the offender’s risk had been adequately reduced by participation in appropriate programming. The Board, during this time period, had not differentiated the programmatic needs of low risk offenders in its initial scoring from the programmatic needs of mid to high risk offenders. This also seemed to indicate that the current definition of “program compliant” was too generic and therefore was interpreted inconsistently and could benefit from further clarification.

Further discussions, in particular about the risk principle of evidence based practice—that intensive programming not be targeted for low risk offenders—helped the Board come to a position that it would not require completion of programs among low risk offenders as a pre-requisite to be considered “likely to parole.” The decisional instrument was modified to weigh program participation and completion relative to the level of risk and nature of criminogenic need so that the instrument accurately applies the low risk principle.

Reasons for Decisions Another issue that came to be recognized as the board deliberated on its decisionmaking practice has to do with the Board’s past method of noting the reasons for its decisions. In conformance with Pennsylvania statute and case law, the Board provides reasons for each of its decisions. Based on the analysis of 38,000 decisions, it became clear that, in the vast majority of cases, the reasons for a decision to grant or deny parole are clearly imbedded in the Board’s decisional instrument—they relate to assessed risk level, presence of a violent offense, failure to comply with required programs, or serious institutional misconduct. However, if a Board member or hearing examiner notes that “risk” is the reason for a decision to deny parole, it was not easy to discern—absent a knowledge of the Board’s decisional instrument— whether this offender fell into the “unlikely to parole” category because of risk, and that was the reason to make a decision according to the decisional instrument; OR if the offender fell into the “likely to parole category” but that some other information about risk convinced the decisionmaker to deny parole. The planned publication of information about the Board’s decisional instrument will likely clarify this issue in the future.

Setting of Conditions Another important tool at the disposal of the Board is its ability to set conditions of parole. These conditions shape the way in which supervision is conducted, the types of interventions to which an offender will be referred, and provide opportunities to respond to violations in ways to further enhance community safety. In line with the principles of evidence-based practice, parole conditions should focus on areas of criminogenic need by

setting conditions that require participation in programming targeted to such needs. Reducing the number of conditions on low-risk offenders can also serve to guide resources away from low risk offenders, providing more emphasis and resources for high risk offenders.

As part of its year-long effort to refine its practices, the Board also devoted its attention to the setting of parole conditions, and the ways in which its practices could be more supportive of successful reentry to the community and completion of parole without reoffending. In the context of a full-Board seminar, members reviewed their special conditions of parole and considered how they might be reshaped to support recidivism reduction more directly. They concluded that they will target conditions of supervision according to risk level and criminogenic need. Under this approach lower risk offenders would require fewer conditions, and higher risk offenders’ conditions would be designed specifically to link offenders with programs and resources intended to reduce their assessed criminogenic needs.

In order to move in this direction, the Board commissioned a work group comprised of decision makers and field staff, to develop a new format for its conditions form. This format has been redesigned so that the criminogenic needs of higher risk offenders are automatically entered on the Board’s decision documents, drawn from the assessment of needs conducted as part of the LSI-R. In this way, those criminogenic needs can be prominently considered as the Board makes its decisions. Knowing what these domains of needs are, the Board can specifically shape their conditions and requirements for programming. By the same token, they can avoid setting numerous conditions that are unrelated to the domains of need, and can avoid setting numerous conditions for low-risk offenders. This focuses the attention of Board members on criminogenic needs and assists them in targeting or assigning conditions appropriate to the needs.

Revocation Decisionmaking In the context of the Board’s analysis of its release decisionmaking, and a preliminary review of data on violations and revocations, the Board came to reaffirm its position that its decision to revoke parole is every bit as important as its decision to grant parole, both in terms of public safety, and for the most effective use of resources.

The Board is planning to initiate further work to enhance the Board’s current sanctioning matrix to incorporate risk and offender stabilization as dimensions. Dr. John Kramer at the University of Pennsylvania has undertaken a significant study of responses to violations by field staff that will enhance the Board’s understanding of the degree to which it is being successful in managing those violators in the community who do not require revocation for purposes of community safety. That research will be quite helpful as the Board moves forward in the future to make further changes and improvement on the issue of violations and revocations.

The Board will seek funding to accomplish the refinement of its violation sanctioning matrix.

National Context

Two recent and critical developments on the national scene have created a greater appreciation for the importance of paroling authorities and their discretionary release responsibilities. First, the growing population of offenders reentering communities from prison nationwide—and the enhanced focus on offender reentry—is drawing attention to the role that paroling authorities can play in enhancing public safety through supporting successful reentry of offenders. Second, the growing body of research on evidence-based practice spotlights the tools at the disposal of paroling authorities—risk and needs assessment, creation of incentives for offenders to participate in risk reduction programming, and the targeting of both programmatic and incarcerative resources, by risk and need. Indeed, at least one noted scholar, Dr. Joan Petersilia, is calling for a reinstatement of discretionary parole in those states which have restricted its use.³ And some states are beginning to expand discretionary parole.⁴

It is very clear that paroling authorities in many states are heavily involved in efforts to enhance successful reentry and are making efforts to build policies that are consistent with evidence based practice. The use and validation of a dynamic risk and needs assessment such as the LSI-R certainly comports with guidance from the literature and practice. Using assessments of risk and needs, then, to target resources toward higher risk offenders and according to criminogenic needs is also becoming recognized as consistent with the research on effective correctional practice. In this sense, the Pennsylvania Board of Probation and Parole can be seen as part of a national movement to bring the strength of evidence to bear on their work, and on the challenges of reentry.

Beyond this, the structuring of discretion through the use of decisional tools—risk assessments, definition and weighting of specific factors, etc.—is considered best practice in the parole arena. In its *Handbook for New Parole Board Members*, published by the Association of Paroling Authorities International (APAI) in 2003, and funded by the National Institute of Corrections, structured “policy-driven, evidence-based” parole decisionmaking is identified as the optimal strategy for paroling authorities. In addition, virtually all paroling authorities who operate with structured discretion make their policies public—to clarify expectations for offenders, to provide a justifiable rationale for decisionmaking, to encourage consistency, and to create an environment for feedback and improvement. By making its decisional practices visible to offenders and to others in the process, the Board can further enhance the motivation of offenders to participate in the types of programming that are designed to reduce their risk and to prepare them to reenter the community successfully—without further offense and victimization.

³ Petersilia, Joan. 2003. *When Prisoners Come Home: Parole and Prisoner Reentry*. Oxford/New York: Oxford University Press.

⁴ Burke, Peggy and Michael Tonry. 2006. *Successful Transition and Reentry for Safer Communities: A Call to Action for Parole*. Silver Spring, MD: Center for Effective Public Policy, p. 25.

Conclusions

Based on this extensive analysis, expert consultation, and changes put into place by the Board, it is clear that the Pennsylvania Board of Probation and Parole has now developed a decision making approach that:

1. defers to the sentencing court on the issue of the “limits” of punishment;
2. focuses heavily upon community safety, risk reduction, and fairness as the goals of its decisionmaking,
3. incorporates all of the factors required by legislation;
4. utilizes good empirical research for the foundations of its risk assessment;
5. incorporates the principles of evidence based practice to accomplish its goals, in particular;
6. targets resources by risk and according to highest domains of criminogenic need [new with this latest refinement];
7. enhances intrinsic motivation by creating incentives for offender to engage in the very activities that will decrease their risk and enhance their likelihood of success,
8. can provide transparency to offenders, victims, and other stakeholders [new with this latest refinement];
9. structures discretion while still preserving parole as a privilege, rather than a right, and avoiding the establishment of a “liberty interest.”
10. provides a continuous link—through release decisionmaking, setting of conditions, and responses to violations—between the efforts of DOC and the Board to assure safe transition and reentry of offenders into the community.

Over a series of meetings, the analysis of the data on Board decisions was presented to the Board by Dr. Austin, accompanied by instructive seminars that identified the implications for further refinement of the decisional process. This enabled the Board to revisit and refine its principles, as a Board, and thereby refine the decisional instrument in light of the data analyses and current best practices in the parole field.

In order to more explicitly integrate the evidence-based principles of risk and need, the Board has taken steps to further enhance its practices. These steps include:

1. Adoption of revisions in its decisional instrument that serve to target interventions more directly toward higher risk offenders and to address their criminogenic needs. A major consideration of the Board is the degree to which offenders have undertaken efforts while incarcerated to reduce the risk of reoffending upon return to the community. The revision to the decisional instrument effectively requires that high risk offenders meet a higher standard in order to be considered “likely to parole.”
2. Violent, high risk offenders must have completed required programming in order to be deemed “likely to parole.” This comports with the evidence-based principle of need.
3. Medium and low-risk offenders, depending upon whether their offense was violent, must either participate, be waiting or willing to participate in order to be considered “likely to parole.”
4. Low risk offenders (with the exception of offenders convicted of 2nd and 3rd degree murder, multiple DUIs, domestic violence, and sex offenders) are not required to complete or participate in programs in order to be considered “likely to parole.”
5. Adoption of a new approach to setting of conditions. The conditions sheet is now formatted to focus upon the domains of criminogenic need, and will routinely indicate to Board members those domains of high need in high risk cases. This will enable board members to set conditions targeted specifically to risks and needs. This change will further enhance the Board’s use of the evidence-based principle of need.
6. The hearing examiner’s hearing report has been reformatted to highlight risk and needs to track the connection between risk and needs to their recommended decision; and
7. Continuation of a collaborative effort with the Pennsylvania Department of Corrections to enhance targeting by risk. It is cooperating in a practice of relying upon a static risk instrument used at prison admission to identify low risk offenders for whom further assessment and programming will not be required in order to be considered for parole.

Anticipated Outcomes

The intent of the Board’s effort over the last year has been to review and strengthen its policies, in light of evolving research and best practice. As a result of these actions, it is reasonable to anticipate:

1. A higher concurrence rate between the Board’s decisional instrument and its actual decisions;
2. Fewer low risk offenders denied parole for failure to complete programming;
3. Greater numbers of high risk offenders identified for interventions that specifically address their assessed criminogenic needs in anticipation of parole consideration;
4. Conditions of parole targeted more directly by risk and criminogenic need, reducing the likelihood of violation and revocation for non-compliance with conditions.
5. The Board’s publication of its decision principles, tools and practices should allow more dialogue and collaborative problem-solving with its criminal justice system partners. The Board anticipates periodically convening its partners for discussions that will lead to continuing improvements in its decision practices and in the Commonwealth’s system of justice.

These outcomes, if realized, should contribute directly to community safety in the Commonwealth by increasing successful transition from prison to the community and enhancing the likelihood of successful completion of parole.

Summary of “Likely to Parole” and “Unlikely to Parole”^{*} Categories^{*} Resulting from Changes Implemented by the PBPP January 2008

Risk Level ^{**}	Violent/ Non-Violent Offense	Institutional Programming	Serious Institutional Misconduct in the Previous Year	Threshold Category
High, Medium, or Low	V/NV	Completion of, Participation in, on waiting list for, or Unwilling to Participate in Required Program	Yes	Unlikely to parole
High ^{***}	Violent	Unwilling to participate in Required Program	No	Unlikely to parole
High ^{***}	Violent	Waiting List for Required Program	No	
High	Non-Violent	Unwilling to participate in Required Program	No	
Medium	Violent	Unwilling to participate in Required Program	No	
High ^{***}	Violent	Completion of Required Program	No	Likely to parole
High	Non-Violent	Completion of, Participation in, or on waiting list for Required Program	No	
Medium	Violent	Completion of, Participation in, or on waiting list for Required Program	No	
Medium	Non-Violent	Completion of, Participation in, on waiting list for, or Unwilling to Participate in Required Program	No	
Low	Violent	Completion of, Participation in, on waiting list for, or Unwilling to Participate in Required Program	No	
Low	Non-Violent	Completion of, Participation in, on waiting list for, or Unwilling to Participate in Required Program	No	

^{*}Parole is a privilege, not a right, and the Board has complete discretion in making its decisions to grant or to deny parole. The instrument provides a consistent method to consider and evaluate those factors of importance to the Board because of their relationship to community safety, and because of their legislative mandate to do so.

^{**}Risk assessment is considered on two dimensions, 1) a general (validated) risk to reoffend scale, and 2) a specialized (validated) sex offender assessment instrument. Whichever assessment is higher, is used in the decision process.

^{***}High risk, violent offenders are defined to include all sex offenders, multiple DUIs, murder II, murder III, and domestic violence.

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