Myths & Facts: *Parole Decision Making*

	Myths…	**…and Facts**
1.	Releasing Authorities only grant parole to offenders who express remorse for their crimes.	Simply being remorseful is insufficient for parole to be granted. Other important factors include criminal risk, type of offense, program completion, and quality of release plan.
2.	Lifers can never receive parole.	For many jurisdictions, statutes do provide for parole release under very stringent circumstances (i.e., considering time served, community response, risk to re-offend, and quality of release plan)
3.	Sex offenders never receive parole	Not all sex offenders are equal in terms of risk to re-offend; rates of sexual re-offending are typically quite low for most sex offenders. Treatment programming and community planning to manage risk may make parole release of some sex offenders viable without appreciably increasing public safety concerns.
4.	There is no appeal process regarding parole decisions.	Such appeals are not related to the adjudicated sentence. Rather they require Releasing Authorities to be transparent regarding their reasons for a decision. Provision of an appeal process is consistent with due process and accountability, although the courts have consistently ruled that inmates do not have due process right to parole.
5.	Releasing Authorities only consider the seriousness of the current crime when making a decision.	Seriousness of the current crime is not a particularly strong predictor of future criminal behavior. Criminal history is a more reliable and useful predictor of future re-offending. Typically, Releasing Authorities utilize valid risk assessment instruments as part of their decision process.
6.	Victim impact statements and political concerns will veto a positive parole decision.	While victim and community concerns are increasingly embedded in decision guidelines and legal statute, such information does not necessarily veto parole release or negate a positive decision.
7.	Parole decisions must be unanimous.	Except in cases where only a single vote is required, parole decisions typically require a consensus of Board members. In some jurisdictions, senior politicians may hold veto authority, making the decision process less independent.
8.	Parolees do not have enough conditions to follow while on parole.	Research has demonstrated that over the years the number of parole conditions has increased, which may be a contributing factor in current high rates of technical violations and re-imprisonment. Increasingly, Releasing Authorities are reducing the number of conditions, assigning only those that are required to manage public safety concerns and are suitable for the individual parolee.
9.	Parole is only granted to low risk offenders.	Risk of re-offending is but one of many criteria considered by Releasing Authorities in terms of suitability for release. In the same manner that not all higher-risk cases are refused parole, not all low risk offenders are considered appropriate for release.
10.	Parole Board members are free to make their decisions any way they wish.	While there is a level of autonomy, increasingly legislation provides guidelines, decision factors, and grids to inform decisions. Training by NIC, NPRC and APAI encourages structured decision approaches, informed by research, to reflect transparent and accountable decisions.

Introduction

Increasingly, the public is concerned about the degree of transparency and accountability regarding how parole decisions are made. Accordingly, parole and parole decision-making has been the subject of recent critical media exposure (The Marshal Project, https://www.themarshallproject.org/2015/07/10/life-without-parole), but also realistic portrayals and documentaries (Wyoming, 2016). It is against this backdrop that Releasing Authorities must situate their efforts, striving to inform the public of the goal to judiciously consider public safety when making decisions regarding the timing and conditions of release. Encouragingly, most Paroling Authorities are making information available online to inform the public, offenders, victims, and family members (here is the Texas example http://www.tdcj.state.tx.us/bpp/publications/PIT_english.indd%2008-22-2008.pdf). The number of parole decisions per year are far from trivial. Bureau of Justice Statistics (2015) reports the adult parole population increased by about 1,600 offenders (up 0.2%) between yearend 2013 and 2014, to an estimated 856,900 offenders at yearend 2014. The reincarceration rate among parolees at risk of violating their conditions of supervision remained stable at about 9% in 2013 and 2014.

Grant rates vary considerably across paroling authorities. Many report grant rates in the range of 40%-60%, but there are clear outliers, especially given certain legislation regarding cases for whom parole eligibility is granted. Minimally, with a grant rate of 50%, this means 1.5 million decisions (a combination of interviews and file-based decisions) in the U.S. alone. This equals 109 decisions per day for the 52 state Releasing Authorities and 1 federal board. In Canada, the Board rendered 21,881 decisions in 2014/15. Of these, 46% were decisions related to discretionary release (day/full parole), while statutory release decisions (parole conditions) accounted for 44% of PBC decisions. Nonetheless, the Marshall project (2015) quotes one Board member as making 100 (file-based) decisions per day, raising questions regarding both capacity and due diligence.

A review of 2 large surveys of Paroling Authorities (Kinnevy and Caplan, 2008; Robina - Ruhland, Rhine, Robey, & Mitchell, 2016) provides important context and details regarding the parole process, especially in the U.S. The Kinnevy and Caplan (2008) survey had a response rate of 87.7%, with 47 of 50 U.S. jurisdictions, four U.S. Federal and six non-U.S. Releasing Authorities participating. The Robina (2016) survey had a response rate of 90% with 45 out of 50 U.S. jurisdictions responding.

Just The Facts

1. Surveys of Board members indicate that factors such as criminal risk estimates, type of offense, program completion, institutional behavior, and quality of release plan are more strongly weighted when determining to grant release (Caplan, 2007; Kinnevy and Caplan, 2008).
2. Although this may vary by jurisdiction, not all offenders serving indeterminate sentences or Life sentences, die while incarcerated. Depending on the specifics of the case and time served, these offenders may be released to the community on parole. In Canada, such offenders remain on parole for life.
3. Sexual offenders are heterogeneous in terms of motivation (rapists, extrafamilial child molesters, incest offenders, and possession of child porn cases) and risk of sexual re-offending (sexual recidivism by group - extrafamilial CM boy victim (23%), rapists (14%), extrafamilial CM girl victim (9%), and incest (6%), Child pornography cases (2%) (Harris & Hanson, 2004; Graf & Dittmann (2011). Hence, Paroling Authorities using evidence-base factors could release some sex offenders, notably those who are lower risk and who have successfully completed programming and have a viable release plan.
4. U.S. courts have consistently ruled that inmates do not have a due process right to parole (i.e., parole is not presumptive but earned). The Robina (2016) survey addresses the issue of offender appeals. Of 37 RAs survey, only 11 States permit no appeal or reconsideration of their decision. Some jurisdictions; however, have a formal appeal process. Some paroling authorities, such as Canada, permit offenders to appeal a denial decision. In 2014/15, the Parole Board of Canada Appeal Division rendered 688 decisions on 531 cases, modifying the decision in 68 appeal cases which resulted in a new hearing ordered in 32 cases, a new review ordered in 25 cases, a new in-office review ordered in nine cases, and a modified special condition in two cases.
5. Type of offense is not an optimal method for estimating risk of re-offending and is typically not included (or has minimal weight) in risk instruments intended to predict offender recidivism (Mills, Kroner, & Morgan, 2011; Serin & Lowenkamp, 2015). Nonetheless, among the top 20 factors reported in the Robina survey (2016), nature and severity of current offense are ranked most important. Other top 10 ranked factors include prior criminal history, inmate disciplinary record, empirically based risk assessment to reoffend, prison program participation, empirically based risk assessment of need, previous parole adjustment, victim input and psychological reports. For an overview of validated risk scales used in the U.S. see Demarais & Singh (2013). https://csgjusticecenter.org/reentry/publications/risk-assessment-instruments-validated-and-implemented-in-correctional-settings-in-the-united-states/

6. Kinnevy and Caplan's (2008) APAI survey highlights the importance of victim information in decision making. Of 47 respondents, 93.6% of jurisdictions allowed some form of victim input; 80.9% of these jurisdictions *require* victim input for release in cases involving sexual or violence offenses; and, 40% of the jurisdictions reported that victim input was 'very influential' in their release decision. More recently, the Robina Institute (2016), surveyed 40 RAs and noted that victim input was considered by 95% of respondents; and 70% consider such input as confidential (Ruhland et al., Robina Institute of Criminal Law and Criminal Justice, *The Continuing Leverage of Releasing Authorities: Findings from a National Survey* 28-29 (2016) http://robinainstitute.umn.edu/publications/continuing-leverage-releasing-authorities-findings-national-survey).
7. Kinnevy and Caplan's (2008) APAI survey reported that in 70% of U.S. jurisdictions, a panel conducts interviews, with most being a panel of three, or a panel of two with the third as a tie-breaker. The Robina survey (2016) notes that across offense categories, 3 or 4 Panel members are most common. About 10% of respondents require 5 voting Panel members. It does not appear to be the case that more serious offenses (e.g., violence, sexual) require more votes than property or drug offenses.
8. Previous research has been done examining the breadth of standard parole conditions being placed on offenders (Travis & Stacey, 2008) and have concluded that the number is too many (127 separate conditions, mean of 18.6). Some criminal justice experts have postulated that parole conditions which are too numerous may serve as roadblocks to community reintegration efforts (Petersilia, 2001; Travis & Stacey, 2008). There is variation among conditions according to offense category, with sex offenders being assigned more conditions than violent, drug, and property offenders (Wardrop & Serin, 2016). Best practice suggests linking conditions to criminogenic needs and graduating number of conditions to risk.
9. The definition of low risk offenders is somewhat vague. Recently Hanson and colleagues have proposed a five level risk strategy, whereby risk is determined by the base (failure) rate of a subgroup of offenders (Justice Center, Council of State Governments. (2014). *A common language for risk assessment: Experts convene in Washington.* http://csgjusticecenter.org/reentry/posts/a-common-language-for-risk-assessments-experts-convene-in-washington/. Given the parole grant rates of greater than 40% for many jurisdictions, it is clear that some offenders who are not low risk are paroled. A best practice guideline from the NPRC is to link parole conditions to risk level. http://nationalparoleresourcecenter.org/action-guide-management-and-release-of-low-risk-offenders/

10. The Robina Institute (Ruhland, Rhine, Robey, & Mitchell, 2016) survey indicates that 90% of respondents (RAs) report using structured decision-making tools such as risk assessment instruments and parole decision guidelines (44%), although concerns by RAs regarding limitations on discretion continue to be important (45%).

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