

What Factors Affect Parole: A Review of Empirical Research

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AS AMERICAN CRIMINAL justice policies and practices became more punitive in the 1970s, parole board discretion was simultaneously limited or eliminated (Caplan, 2006). Much of the empirical research on parole release decisions during this time was conducted in an effort to create objective, actuarial models and guidelines for determining releases from prison (Carroll, Weiner, Coates, Galegher, & Alibrio, 1982; Cullen & Gilbert, 1982; Gottfredson & Wilkins, 1978; Krajick, 1978; Von Hirsch & Hanrahan, 1979; Walker, 1993). These models were supposed to be immune from subjective or indiscriminate feelings towards inmates by parole board members.

However, a detailed review of the empirical literature on parole release decision-making suggests that despite guidelines, parole release decisions remained irregularly applied and were primarily a function of institutional behavior, crime severity, criminal history, incarceration length, mental illness, and victim input. There are some recent publications on parole release decision-making (e.g. Morgan & Smith, 2005b; Petersilia, 2001; Turpin-Petrosino, 1999; West-Smith, Pogrebin, & Poole, 2000); however, much of the relevant research is more than 20 years old (e.g., Carroll, 1978; Gottfredson & Ballard, 1966; Scott, 1974). The timing of these studies is important because parole policies and practices at both the federal and state levels have changed significantly over the past two decades (Gottfredson, 1979; Gottschalk, 2006; McCoy & McManimon, 2003; Travis & Lawrence, 2002; Travis, Keegan, Cadora, Solomon, & Swartz, 2003; Turpin-Petrosino, 1999; West-Smith et al., 2000). Even the structure of parole boards themselves can be an overriding factor in release decisions (Caplan & Paparozzi, 2005; West-Smith, et al., 2000). For example, during Pogrebin, Poole, and Regoli's 1986 study of parole decision making in Colorado, at least two board members made the majority of release decisions; in 2000, only one board member in Colorado was required to decide parole release (West-Smith, et al., 2000). With only one decision-maker, parole is more dependent on the individual board member's education, background, and philosophy (Caplan & Paparozzi 2005; West-Smith, et al., 2000). Despite the nuances of parole board policies or structures, a review of parole decision-making literature to date reveals that parole release decisions are primarily a function of institutional behavior, crime severity, criminal history, incarceration length, mental illness, and victim input.

Institutional Behavior

Many empirical studies on parole board decision-making found institutional conduct to be significantly associated with release decisions (Carroll & Burke, 1990; Carroll, et al., 1982; Conley & Zimmerman, 1982; Gottfredson, 1979; Hoffman, 1972; Talarico, 1988; Winfree, Ballard, Sellers, & Roberg, 1990). Gottfredson (1979) considered the influence of institutional behavior when he explored whether and to what extent the United States Board of Parole reduced judicial disparity in incarceration length for adult federal prisoners released on parole between 1970 and 1972. He found that the parole board substantially reduced the time actually served in prison from the maximum judicially set sentence length, and that parole boards do modify sentencing decisions on the basis of institutional behavior. It should be noted that Gottfredson collected his data before the implementation of new guidelines by the United States Parole Commission and, therefore, his results do not reflect current federal practices. However, the operation of the federal parole commission at the time of his analysis was similar to the then-current operation of many state parole boards (Gottfredson, 1979).

Carroll and colleagues (1982) assessed what case information parole interviewers used when deciding parole release. They obtained data on Pennsylvania parole cases interviewed between October 1977 and May 1978. The first source of data about their sample consisted of a two-page questionnaire filled out immediately after each interview by a parole interviewer. It incorporated over 70 items and drew upon factors identified as important through previous research on parole decisions, discussions among the researchers and the board, the authors' experience with designing a post-hearing questionnaire for parole revocation hearings, and a pilot study. Some items on the questionnaire requested objective case facts, while most items solicited ratings of subjective judgments. The second source of data was case files that parole interviewers had available prior to and during interviews with inmates. These files were coded on over 100 variables. All available board decisions for these cases (e.g., parole granted or denied) were also obtained, producing a total sample size of 743 cases, 84.7 percent of which were granted parole.

This data identified institutional behavior as the single most important variable predicting release (Carroll et al., 1982). Institutional behavior was used to make judgments about risk of future crime, risk of future dangerousness, and prognosis for supervision and rehabilitation. Carroll, et al. (1982) further identified five broad categories of crime causes that were identified by parole interviewers as important when deciding parole releases: a) personal dispositions, b) drugs, c) alcohol, d) money, and e) environment. Inmates whose crimes were believed to be caused by the first three categories consistently received less favorable prognoses for supervision and rehabilitation and were less likely to be released on parole. Conley and Zimmerman (1982), Talarico (1988), Winfree, Ballard, Sellers, and Roberg (1990), and Proctor (1999) also found that institutional conduct and predictions of future conduct were among the strongest factors associated with parole release and revocation in Oklahoma, Connecticut, Texas, and Nebraska respectively. Carroll and Burke (1990) concluded nearly a decade after Carroll, et al. (1982) that Pennsylvania parole board officials are concerned primarily with prison conduct, sentence length, program participation, and predictions of future conduct, which they base on past criminal record.

Research by West-Smith, Pogrebin, and Poole (2000) sought to advance the work on parole decision-making by interviewing inmates who were eligible for parole but had been denied. Inmates were led to believe that good institutional behavior and participation in treatment and educational programs, when combined with completion of their minimum sentence, would result in parole release at their first eligibility date. This impression was obtained by inmates from a combination of both formal and informal sources of information they acquired while in prison. In contrast to inmate expectations, West-Smith, et al. (2000) found that instead of good institutional behavior being a major consideration for release, only misbehavior and noncompliance with required treatment programs were taken into account by parole board members and served as reasons to deny parole.

Proctor (1999) cited earlier research on parole decision-making and argued that it may be

misleading to suggest that parole decisions are solely a function of board members' perceptions about inmate conduct and responsibility. For example, one major limitation of prior research was the assumption that everyone who had a parole hearing qualified for parole. Proctor (1999) cited Nebraska as an example: The Nebraska parole board is required to see every offender at least once a year, regardless of whether the inmate is qualified to be paroled (Proctor, 1999). "For states that have similar policies," Proctor (1999, p. 196) explained, "it seems reasonable to suggest that many inmates are denied parole simply because they are not qualified." Since studying parole board decisions that include ineligible offenders could bias the results by artificially inflating the numbers of inmates not granted parole, actual denials may be far less common than institutional records would indicate. To test this hypothesis, Proctor (1999) analyzed a sample of 361 Nebraska inmates who were selected from a sampling frame of 2,626 parole board reviews conducted during the 1993 to 1994 fiscal year. Board reviews are similar to a screening process in Nebraska that determines whether an inmate is eligible for parole and should, therefore, be given a full board hearing to determine his or her release. Inmates in the sample were both qualified and unqualified for parole consideration.

Proctor (1999) expected that release decisions at the parole board review would be primarily a function of parole eligibility factors; his analysis confirmed this. As the proportion of length of sentence served increased by 25 percent, the corresponding change in the odds of being granted a full parole board hearing decreased by 25 percent as well. In results similar to prior research, Proctor (1999) also found that institutional recommendations by prison staff had the most significant influence on parole board reviewers deliberating whether to grant or deny inmates a full parole board hearing. Criminal history and education level were also found to be significant factors (Proctor, 1999).

The relative insignificance of crime severity when deciding parole release is notable in several of the above studies (e.g., Conley & Zimmerman, 1982; Talarico, 1988; Winfree, Ballard, Sellers, & Roberg, 1990). Gottfredson and Wilkins (1978) found that in states that specify minimum sentences, the release decision of parole boards is different from that in states with no minimum sentences—where parole boards often "set time" like a judge. At the time of the Carroll, et al. (1982) study, for example, 80 percent of Pennsylvania inmates were released at their first parole hearing, because the parole board considered the judge's minimum sentence to be punishment for the crime. The parole board only denied parole for institutional misconduct, dangerousness, or rehabilitative purposes, but not for punishment. In contrast, Carroll and Burke (1990) found that Wisconsin parole board members place greater weight on punishment-relevant issues, such as crime seriousness and prior record, when deciding parole release. Carroll and Burke (1990, p. 329) explained that "[t]his is consistent with the lack of minimum sentences in Wisconsin."

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Crime Severity, Criminal History, and Incarceration Length

The New Jersey Parole Act of 1979 attempted to limit parole discretion through presumptive parole—mandating release upon first eligibility unless the parole board found preponderant evidence of future recidivism (Turpin-Petrosino, 1999). Turpin-Petrosino (1999) conducted a study to determine if parole board decision-making complied with this 1979 law, and whether factors such as plea bargaining, aggravation, or type of crime affected these decisions. She utilized an experimental design of four types of simulated parole cases that were randomly assigned to 10 parole hearing officers over a 12-month period. Type 1 cases included neither plea bargaining nor aggravating factors; type 2 cases included plea bargaining, but no aggravating factors; type 3 cases included both plea bargaining and aggravating factors; and type 4 cases included aggravating factors but no plea bargaining.

Results indicated that the type of crime for which an inmate was incarcerated was the most influential factor in parole release decisions, while the presence or absence of plea bargaining had no effect (Turpin-Petrosino, 1999). According to the restrictions of the 1979 parole act, the

type of crime itself should not influence decision behavior. However, Turpin-Petrosino (1999) found a significant difference between violent and nonviolent crime categories. For example, odds favored parole release in the nonviolent crime categories of drugs and burglaries, and odds favored parole denial in violent crime categories of robbery, assault, and sexual assault. “A sexual assault conviction practically guaranteed parole denial,” stated Turpin-Petrosino (p. 328), “regardless of crime particulars, institutional record, or defendant factors.”

Furthermore, cases rated “too severe” in sentence length produced odds favoring parole release, while cases rated “too lenient” produced odds that favored parole denial (Turpin-Petrosino, 1999, p. 328). Based on her results, Turpin-Petrosino suggested that New Jersey parole hearing officers applied a correction in cases where the crime and sentence received were perceived as incongruent. This is consistent with findings from other studies by Shin (1973), Gottfredson (1979), Carroll and Burke (1990), and Kassebaum, Davidson-Coronado, Porsch, Arai, Perrone, and Allen (2001).

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Mental Illness

Several studies have found mental illness to have a negative effect on an inmate’s chances for parole release (e.g., Carroll, et al., 1982; Feder, 1994; Hannah-Moffat, 2004; Turpin-Petrosino, 1999). Carroll, et al. (1982) found that older inmates were generally rated (or perceived to be) more mentally disturbed, which negatively influenced judgments about usefulness of counseling progress, prognosis for supervision, and parole release. Hannah-Moffat (2004) found that board members interpret knowledge of a woman’s mental health as relevant to determinations of violence, and that women who had been diagnosed with a mental disorder were significantly less likely to be released on parole compared to men. Feder (1994) concluded that inmates without a history of psychiatric hospitalization while incarcerated were 30 times more likely to be granted parole than inmates with a history of psychiatric hospitalization, when controlling for a number of factors, including race, prison infractions, prior imprisonments and violence of offense.

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Victim Input

Parsonage, Bernat and Helfgott (1994), Smith, Watkins and Morgan (1997), Proctor (1999), and Morgan and Smith (2005a) are the only researchers who have directly and empirically studied the influence of outside victims on parole release decisions. In their Pennsylvania pilot study, Parsonage et al. (1994) stratified parole-eligible inmates into two groups: 1) cases in which victims provided input, and 2) cases in which victim input was not provided. Offense, offender, and parole eligibility-related data variables were extracted from parole administrative files following a random sample of 100 cases from each of these two groups. Four variables were found to be highly significant in explaining the board’s actions to refuse parole, with victim input having the greatest effect (Parsonage et al., 1994). The other significant variables were: unfavorable factor score for institutional performance, the presence of victim injury, and the number of the inmate’s prior convictions. Race was the only demographic characteristic of the offender which was significantly different among the input and non-input groups; the majority of offenders with input were white (70 percent), while the plurality of offenders without input were black (47 percent). A discriminate analysis of victim variables found that the victim’s gender and the victim’s expressed opposition to parole of the inmate were significantly related to parole board decisions. Overall, the findings revealed that victim input has a significant impact on parole release decisions, despite controlling for the influences of victim characteristics, offender characteristics, and parole predictions based on the parole board’s guidelines scores.

A sample size of only 200 inmates precluded Parsonage et al. (1994) from assessing the extent to which different types of victim input affected parole release decisions, because there was not enough variability of victim input types and frequencies. For example, there were not enough cases in which only oral or only written testimonies were given, because victims who provided

oral testimony often submitted written testimony as well. In 1997, Smith, Watkins, and Morgan attempted to compensate for the limitations of the study by Parsonage et al. (1994) by selecting a larger sample and controlling for more variables (Smith et al., 1997). In their study, records of parole hearings for violent offenders in Alabama were examined for the period June 1, 1993 through May 31, 1994. Due to the serious nature of violent offenses, Smith et al. believed that victims or their families would be more likely to appear at hearings and provide input. Therefore, the analysis was limited to parole hearings for 316 offenders convicted of violent crimes in which injury occurred and in which victims were notified of their right to appear or present evidence before the parole board.

Smith et al. (1997) found that the percentage of parole denials increased as the number of letters contesting parole increased, and that the victim's attendance at a parole hearing had a greater effect on the parole board than a letter-writing campaign. Written communication to the parole board supporting an offender's release had little effect, and offenders had a slightly better chance of parole if neither victim nor offender attended a parole hearing than if both were represented there. McLeod (1989) also found general agreement among parole board administrators that victim appearances to parole board hearings had more of an affect on release decisions than written statements. McLeod's study was based on written records and telephone interviews with parole board administrators in U.S. states. In 2005, Morgan and Smith slightly re-conceptualized and reanalyzed the data used by Smith et al. (1997) and concluded that as victim participation increased, parole denials also increased.

Research by Smith et al. (1997), Morgan and Smith (2005a), and McLeod (1989) move beyond previous research by increasing their sample sizes, by more substantially examining the relationship between oral and written communications to the parole board, by noting the quantity of letters submitted by victims or their representatives, and by assessing the relative importance of offender versus victim participation. Proctor (1999) expanded further upon prior victim input research by sampling a disproportionately stratified sample by gender in order to obtain adequate representation of females. Consistent with researchers before him, Proctor found that inmates were four times less likely to be granted parole if public opposition was present at the parole hearing. He also found education to be a significant positive factor for board members when determining parole release, even when controlling for victim opposition to an inmate's parole (Proctor, 1999).

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Discussion

A review of the empirical literature on parole release decision-making highlights four important points regarding this topic. First, much of the scholarly research on parole release decision-making is more than 20 years old and may be irrelevant to contemporary parole board policies and practices in U.S. states with discretionary parole release. Second, institutional behavior, incarceration length, crime severity, criminal history, mental illness, and victim input are among the most influential factors affecting parole release for parole-eligible inmates. Furthermore, victim input against parole release remains highly significant in explaining the denial of parole for parole-eligible inmates when controlling for other significantly influential factors. Regarding victim input, however, the external validity of these studies is limited due to their sampling designs. For example, non-violent inmates, input from non-victims, and input in favor of parole release are understudied. And finally, an inmate's education, gender, and age may also have a significant influence on parole release dispositions.

This review of empirical research is intended to improve understanding of the dynamics of parole release decision-making and to inform initiatives to make parole processes more effective and efficient by, for example, encouraging evaluations and detailed assessments of current parole practices in the United States. West-Smith et al. (2000) warned that when the factors inmates believe affect release decisions are different from the factors that parole boards consider, inmates will not only be confused and angry, but will be less likely to conform to requirements for institutional control. "Each parole case that is deferred or set back becomes another story, duly

embellished,” wrote West-Smith et al. (2000, p. 9), “that makes its rounds throughout the prison population, fueling suspicion, resentment, and fear of an unbridled discretionary system of power, control, and punishment.” Future research and evaluation regarding parole release decision- making at a general policy level can result in a more transparent and equitable system for both victims and inmates.

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