

New Jersey State Parole Board



Myths and Realities of Parole

Dispelling common misconceptions

In my 30 years in the parole business, the word parole has taken on several different meanings. Sometimes the official definition of the word – parole – was very different from the actual practice of parole. Indeed, some have found the word and concept of parole to be both confusing and offensive to the ideals of justice for all and public safety.

In fact, there are many myths about parole and if these myths were dispelled, I believe that parole's public value would be obvious to everyone. It could, and perhaps should, be argued that without parole we – the public – would all be worse off.

Without parole, there would be no human review of an inmate prior to release from incarceration. In this regard, it is important to keep in mind that almost all inmates who enter prison or jail will return to live among us. A human review provides a professional parole board to make an assessment as to when and how an inmate should exit jail or prison. When release from prison is controlled in this manner, there is a greater likelihood that while incarcerated, the inmate will participate in treatment and educational programs in the hopes of earning the privilege of parole. To the extent that inmates rehabilitate themselves, we are all better off.

A reformed drug addict or alcoholic, or an educated more employable inmate is far less likely to victimize the public when they return home. Having inmates earn their release through participation in prison and community-based rehabilitation programs maximized public safety because parolee recidivism is reduced. Without such an experience, released inmates would commit more crimes and violate parole with greater frequency.

The purpose of this monograph is to foster a better understanding of what parole is and what it is not. I hope that the information provided is helpful and that it facilitates a better understanding by the public derived from a well-functioning professional parole release and supervision program.

Remember that parole is not early release from a punitive portion of a court-imposed sentence. Parole is a thoughtful way to manage the reentry of inmates into our communities so that we will all be as safe as we can be given the realities of an imperfect social existence.

Readers of this monograph are encouraged to discuss it with us. To do so, please contact me at:

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Sincerely,

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INTRODUCTION

The parole system in New Jersey is governed by the New Jersey State Parole Board. Empowered by the Parole Act of 1979 (N.J.S.A. 30:4-123.45 to 123.69) the Board is administered through the New Jersey Administrative Code (N.J.A.C. 10A:71-1 to 10A:71-8). However, the original Parole Act of 1948 still determines parole eligibility for inmates sentenced under the former 2A criminal statutes.

The law establishing the New Jersey State Parole Board provides for an autonomous authority housed for administrative purposes only within the Department of Corrections. The Board is exclusively charged with the responsibility for administering a parole system for all offenders sentenced to a term of incarceration in any state training school, correctional facility, state prison, and for offenders in a county correctional facility. It is vested with the power to issue warrants for the return to custody of parolees violating the trust of parole and command before it any information necessary to assure the credibility of its decisions.

In 2001, legislation was introduced and signed into law merging the paroling authority (New Jersey State Parole Board) with the supervision authority (Division of Parole). Prior to this act, the Division of Parole operated as a separate division under the Department of Corrections. The merger combines both components of the parole system as one unified agency. As a unified agency, policy determinations and procedural protocols are more easily implemented. The merger also ensures that the objectives of public safety remain paramount.

The Board has the continuing responsibility to impose and modify conditions of parole to reduce the risk of failure and to support successful community reintegration. When appropriate, it may discharge parolees from supervision due to their exceptional adjustment prior to the expiration of their maximum sentence. Additionally, the Board is delegated with the responsibility to receive and investigate applications for Executive Clemency and Pardons.

The significant discretionary authority vested by law in the Board is continuously scrutinized to assure adherence to due process and to provide for community protection. Concern for the victims of crime is expressed in the Board's effort to involve judges, prosecutors, and victims in the parole release decision process. This provides an opportunity for the development of pertinent information relevant to the final parole decision.

Parole is among the most controversial and misunderstood components of New Jersey's criminal justice system. This document is intended to help the reader better understand how parole works by addressing and dispelling a number of widely-held misconceptions and popular myths about parole. It will also demonstrate how parole contributes to public safety by appropriately transitioning offenders into the community.

MYTHS AND REALITIES

1. *Myth*

Parole reduces the sentence imposed by the courts.

REALITY

Parole does not reduce the sentence imposed by the courts.

Parole affects only the way in which a sentence will be served. It allows offenders to serve their sentences in the community under strict conditions of release and the supervision of a parole officer. If they abide by their conditions of release they will remain under sentence in the community until their sentence is completed in full.

Prior to being considered for parole consideration, offenders are required to complete the punitive portion of their sentence. By law, offenders sentenced to determinate terms are typically eligible for parole after serving one-third of their maximum sentence. Different parole eligibility

rules apply to offenders serving Life sentences, indeterminate sentences, or terms containing periods of parole ineligibility. The fact that offenders are eligible for parole, however, does not mean parole will be granted.

2. *Myth*

Parole is automatically granted when an inmate becomes eligible for parole consideration.

REALITY

Parole is not automatically granted when inmates become eligible.

Because an offender is eligible for parole does not mean it will be granted. In fact, the Board denies parole to approximately half of all inmates considered for parole release.

The Board retains absolute discretion in decisions to grant or deny release subject to the laws governing parole. Board decisions are based upon a myriad of factors, including but not limited to, the risk that the offender may present to society if released and determine if, and to what extent, that risk can be managed in the community. The protection of society is the overriding consideration in all release decisions.

3. *Myth*

Statutory release is the same as parole.

REALITY

Statutory release is not the same as parole.

Statutory release occurs automatically when an inmate completes the term imposed by the sentencing court. The term imposed is typically as a result of a plea bargain between the prosecutor and the defendant. These individuals are NOT released under parole supervision.

Parole, on the other hand, occurs prior to expiration of the term and is subject to a discretionary decision by the Board after a rigorous process of risk and needs assessment with the protection of society as the prime consideration.

4. *Myth*

There is no difference between probation and parole.

REALITY

Probation and parole are completely different.

Probation is a sentence imposed by a judge, usually instead of, but sometimes in addition to, a term of imprisonment. It allows the person to live in the community under the supervision of a probation officer. Probation is exclusively under the jurisdiction of the courts and is not used for offenders sentenced to a custodial term of more than 364 days.

The sentencing court does not impose parole. Parole release is granted or denied by the Board after a full and complete hearing of the inmate's case.

5. *Myth*

Offenders on parole are free to live their lives as they please.

REALITY

Offenders on parole are not free to live their lives as they please.

All offenders on parole must comply with all parole conditions specified by the Board or the supervising parole officer or face potential revocation proceedings. These conditions include, but are not limited to:

The requirement that the parolee:

1. Obey all laws and ordinances,
2. Report in person to the Parole Officer,
3. Notify the Parole Officer immediately after any arrest,
4. Obtain approval of the Parole Officer:
 - a. For any change in residence or employment location,
 - b. Before leaving the State,
5. Not own or possess any firearm,
6. Not own or possess any weapon,
7. Refrain from the use, possession or distribution of a controlled dangerous substance,
8. Make payment for court-imposed penalties,
9. Register with the appropriate law enforcement agency subject to the provisions of N.J.S.A. 2C7-2 (Megan's Law),
10. Refrain from behavior which results in the issuance of a final restraining order,
11. Waive extradition to the state of New Jersey from any jurisdiction in which they are apprehended and detained for violation of this parole status.

Also, the Board may impose conditions of parole specific to the needs of the parolee, such as: abstain from alcohol; participate in random drug and alcohol monitoring; avoid contact with their victims or children; refrain from associations with people involved in criminal activity; attend substance abuse treatment; attend mental health counseling; and abide by a curfew.

The Board maintains the authority to revoke the grant of parole and return the parolee to prison for serious and/or persistent violations of parole.

6. *Myth*

Sex offenders will eventually complete their entire prison term and be released to the community without any supervision.

REALITY

Regardless of when a sex offender's prison term expires, they will continue to be supervised under the strictest of parole supervision.

Since 1994, any person convicted of a predatory act involving a minor child is subject to the provisions of Megan's Law. One of the many provisions of Megan's Law requires that the offender be supervised under Community Supervision for Life (CSL).

Presently, violations of CSL result in a referral to the Prosecutor for criminal prosecution. In the near future, legislation may be introduced to allow the supervising parole officer to arrest and detain the violator thus ensuring greater community protection.

7. *Myth*

When making parole decisions, the Board considers such things as prison overcrowding, quotas, and the political climate about certain high-profile offenders.

REALITY

The first and foremost consideration of the Parole Board in all its decisions is the safety of the public.

The Parole Board is an independent administrative agency free from any political or bureaucratic interference or external pressures.

Board members assess each case individually in terms of risk and public safety. The Board's assessment of risk presented by a candidate for parole is based on these major criteria:

1. Criminal history;
 2. Prior opportunities on community supervision;
 3. Institutional behavior;
 4. The inmate's parole release plan regarding housing, employment, and education
8. *Myth*

Most of the offenders released on parole are returned to custody due to a conviction for a new crime.

REALITY

Most offenders released on parole are not returned to custody for new criminal convictions.

In the year 2000, there were 3,535 decisions to revoke parole. Less than 10% of those decisions were for new criminal convictions. Although violations of parole do occur, the number of parolees who meet the terms and conditions of their release provides impressive evidence of the effectiveness of the parole system in New Jersey.

9. *Myth*

Society would be better protected if criminals remained in prison until the end of their sentence.

REALITY

The vast majority of offenders sentenced to a term of imprisonment are ultimately released to the community at some point in time. Evidence clearly shows that a gradual, controlled, and supervised release is the most effective way of ensuring public safety.

Research over the years has shown that parolees are more likely to become productive law-abiding citizens when they have been returned to the community through parole or other forms of conditional release than when they stayed in prison until the end of their sentence.

10. Myth

An individual sentenced to Life will be released on parole.

REALITY

An individual sentenced to Life must serve a minimum of 30 years before being considered for parole.

Not all lifers will be granted parole. Some may never be released on parole because they continue to represent too great a risk to re-offend.

If granted parole they will, for the rest of their lives, remain subject to the conditions of parole and the supervision of a parole officer. Parole may be revoked and offenders returned to prison at any time if they violate the conditions of parole or commit a new offense.

11. Myth

The State Parole Board decisions are made in secret and not available to the public.

REALITY

Parole hearings and the information generated are deemed confidential; however, parole decisions are not confidential and are a matter of public record.

12. Myth

Victims do not have a role in the parole review process and their views are not taken into account.

REALITY

Victims or their families have a significant role in the parole review process.

The Board recognizes the interests of victims in receiving information about offenders, providing information in the decision-making process and attending victim input hearings.

Victims may also remain in contact with the Board while the offender is under sentence and provide any additional information they believe should be considered. It may be a critical factor in those decisions where the physical security of the victim may be at risk.

Since 1984, thousands of victims have taken advantage of the opportunity to have their voices heard in the parole process.

13. Myth

Board Members are political patronage appointments with no experience in the field of criminal justice.

REALITY

Board Members are nominated by the Governor with the advice and consent of the Senate from qualified persons with training or experience in law, sociology, criminal justice, juvenile justice, or related branches of the social sciences.

The New Jersey State Parole Board is composed of a Chairman and 13 Associate Board Members who serve staggered terms and devote their full time to the duties of the Board.