

# Denial of Parole: An Inmate Perspective

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**LIKE MANY OTHER** discretionary decisions made about inmates (e.g., classification, housing, treatment, discipline, etc.), those involving parole are rather complex. Parole board members typically review an extensive array of information sources in arriving at their decisions, and empirical research has shown a wide variation in the decision-making process. The bulk of research on parole decision-making dates from the mid 1960s to the mid 1980s (e.g., Gottfredson & Ballard, 1966; Rogers & Hayner, 1968; Hoffman, 1972; Wilkins & Gottfredson, 1973; Scott, 1974; Carroll & Mondrick, 1976; Heinz et al., 1976; Talarico, 1976; Garber & Maslach, 1977; Sacks, 1977; Carroll et al., 1982; Conley & Zimmerman, 1982; Lombardi, 1984). Virtually all of this research focuses on the discretion exercised by parole board members and the factors that affect their decisions to grant or deny parole. Surprisingly, only one study, conducted over 20 years ago, has examined the inmate's perspective on the parole decision-making process (Cole & Logan, 1977). The present study seeks to advance the work on parole decision-making from the point of view of those inmates who have had their release on parole denied.

Inmates denied parole have often been dissatisfied with what they consider arbitrary and inequitable features of the parole hearing process. While those denied parole are naturally likely to disagree with that decision, much of the lack of acceptance for parole decisions may well relate to lack of understanding. Even inmates who have an opportunity to present their case through a personal interview are sent out of the room while discussions of the case take place (being recalled

only to hear the ultimate decision and a summary of the reasons for it). This common practice protects the confidentiality of individual board members' actions; however, it precludes the inmate from hearing the discussions of the case, evaluations of strengths and weaknesses, or prognosis for success or failure. More importantly, this practice fails to provide guidance in terms of how to improve subsequent chances for successful parole consideration. A common criticism of parole hearings has been that they produce little information relevant to an inmate's parole readiness (Morris, 1974; Fogel, 1975; Cole & Logan, 1977); thus, it is unlikely that those denied parole understand the basis for the decision or attach a sense of justice to it.

## Parole Boards

The 1973 Supreme Court decision in *Scarpa v. United States Board of Parole* established the foundation for parole as an "act of grace." Parole is legally considered a privilege rather than a right; therefore, the decision to grant or deny it is "almost unreviewable" (Hier, 1973, p. 435). In fact, when federal courts have been petitioned to intervene and challenge parole board actions, the decisions of parole boards have prevailed (see *Menechino v. Oswald*, 1970; *Tarleton v. Clark*, 1971). While subsequent Court rulings have established minimal due process rights in prison disciplinary proceedings (*Wolff v. McDonnell*, 1974) and in parole revocation hearings (*Morrissey v. Brewer*, 1972), the parole hearing itself is still exempt from due process rights. Yet in *Greenholtz v. Nebraska* (1979) and *Board of Pardons v. Allen* (1987), the Su-

preme Court held that, although there is no constitutional right to parole, state statutes may create a protected liberty interest where a state's parole system entitles inmates to parole if they meet certain conditions. Under such circumstances, the state has created a presumption that inmates who meet specific requirements will be granted parole. Although the existence of a parole system does not by itself give rise to an expectation of parole, states may create that expectation or presumption by the wording of their statutes. For example, in both *Greenholtz* and *Allen*, the Supreme Court emphasized that the statutory language—the use of the word "shall" rather than "may"—creates the presumption that parole will be granted if certain conditions are met. However, if the statute is general, giving broad discretion to the parole board, no liberty interest is created and due process is not required. In Colorado, as in most other states with parole systems, the decision to grant parole before the inmate's mandatory release date is vested entirely within the discretion of the parole board. The legislatively-set broad guidelines for parole decision-making allow maximum exercise of discretion with minimal oversight.

In Colorado, the structure of parole board hearings depends on the seriousness of the inmate's offense. A full board review is required for all cases involving a violent crime or for inmates with a history of violence. A quorum for a full board review is defined as four of the seven parole board members and a decision to grant parole requires four affirmative votes. However, two parole board members conduct the initial hearing and submit their recommendation to a full board re-

view. Single board members hear nonviolent cases. The board member considers the inmate's parole application, interviews the inmate, makes the release decision, and decides the conditions of parole. The personal interview may be face-to-face or by telephone. If the decision is to grant parole, an additional board member's signature is required. Given the variety of backgrounds and experiences board members bring to the job, individual interpretation and application of the broad statutory guidelines can make parole decision-making appear idiosyncratic.

In their 1986 study of parole decision-making in Colorado, Pogrebin and his colleagues (1986) concluded from their observations that the "overriding factor in parole decisions was not the relative merits of the inmate's case, but the structure of the board itself" (p. 153). At the time of their study, at least two board members rather than the current single board member made the majority of decisions. One may speculate that with only one decision-maker the decision to grant or deny parole is now even more dependent on the individual board member's background and philosophy.

#### *Normalization and Routinization*

Sudnow's (1965) classic study of the processes of normalization and routinization in the public defender's office offers insights into the decision-making processes in parole board hearings. Like Sudnow's public defender, who works as an employee of the court system with the judge and prosecutor and whose interests include the smooth functioning of the court system, the parole board member in Colorado works with the prison administration, caseworkers, and other prison personnel. Public defenders must represent all defendants assigned to them and attempt to give the defendants the impression they are receiving individualized representation. However, public defenders often determine the plea bargain acceptable to the prosecutor and judge, based on the defendant's prior and current criminal activities, prior to the first meeting with the defendant (Sudnow, 1965).

The parole board theoretically offers individual consideration of the inmate's rehabilitation and the likelihood of future offending when deciding whether or not to release an inmate. However, the parole board, like the public defender, places a great deal of emphasis on the inmate's prior and current criminal record. The tremendous volume of cases

handled by the public defender necessitates the establishment of "normal crime" categories, defined by type and location of crime and characteristics of the defendant and victim, which permit the public defender to quickly and easily determine an appropriate and acceptable sentence. Such normalization and routinization facilitate the rapid flow of cases and the smooth functioning of the court system. Similarly, a two-year study of 5,000 parole decisions in Colorado in the early 1980s demonstrated that the parole board heard far too many cases to allow for individualized judgments (Pogrebin et al., 1986, p. 149).

Observations of parole hearings illustrate the rapid flow of cases and collaboration with other prison personnel. Typically, the case manager, in a brief meeting with the parole board member, discusses the inmate, his prior criminal history, current offense, institutional behavior, compliance with treatment programs, progress and current attitude, and makes a release or deferral recommendation to the parole board member prior to the inmate interview. The inmate and family members, if present, are then brought into the hearing room. The parole board member asks the inmate to describe his prior and current crimes, his motivation for those crimes, and the circumstances that led to the current offense. Typical inmate responses are that he was "stupid," "drunk," or "not thinking right." Inquiries by the parole board about the programs the inmate has completed are not the norm; however, the inmate is often asked how he thinks the victim would view his release. The inmate typically tries to bring up the progress he has made by explaining how much he has learned while institutionalized and talks about the programs he completed and what he learned from them. A final statement by the inmate allows him to express remorse for the pain he has caused others and to vow he will not get into another situation where he will be tempted to commit crimes. Family members are then given time to make a statement, after which the inmate and family leave the hearing room. A brief discussion between the parole board member and the case manager is followed by the recommendation to grant or defer parole. A common reason given for a deferral is "not enough time served." If parole is granted, the parole board member sets the conditions for parole.

"Normal" cases are disposed of very quickly. The time from the case manager's initial presentation of the case to the start of the next case is typically ten to fifteen min-

utes. Atypical cases require a longer discussion with the case manager before and after the inmate interview. Atypical cases also can involve input from other prison personnel (e.g., a therapist), rather than just the case manager. Those inmates who do not fit the norm, either through their background or the nature of their crime, are given special attention. The parole board member does not need to question the inmate to discover if the case is atypical since the case manager will inform him if there is anything unusual about the inmate or his situation.

During the hearing, the board member asks first about the prior and current crimes and what the inmate thinks were the causal factors that led to the commission of the crimes. Based on his observations of public defenders, Sudnow (1965) concludes, "It is not the particular offenses for which he is charged that are crucial, but the constellation of prior offenses and the sequential pattern they take" (p. 264). Like the public defender who attempts to classify the case into a familiar type of crime by looking at the circumstances of prior and current offenses, the parole board member also considers the criminal offense history and concentrates on causal factors that led the inmate to commit the crimes. It is also important for the board member that the inmate recognize the patterns of his behavior, state the reasons why he committed his prior and current crimes, and accept responsibility for them. The inmate, in contrast, generally wants to describe what he has learned while incarcerated and talk about the classes and programs he has completed. The interview exchange thus reveals two divergent perceptions of what factors should be emphasized in the decision-making process. In Sudnow's (1965) description of a jury trial involving a public defender, "the onlooker comes away with the sense of having witnessed not a trial at all, but a set of motions, a perfunctorily carried off event" (p. 274). In a similar manner, the observer at a parole board hearing has the impression of having witnessed a scripted, staged performance.

As a result of their journey through the criminal justice system, individual inmates in a prison have been typed and classified by a series of criminal justice professionals. The compilation of prior decisions forms the parole board member's framework for his or her perception of the inmate. The parole board member, with the help of previous decision-

makers and through normalization and routinization, "knows" what type of person the inmate is. As Heinz et al. (1976) point out, "a system premised on the individualization of justice unavoidably conflicts with a caseload that demands simple decision rules.... To process their caseloads, parole boards find it necessary to develop a routine, to look for one or two or a few factors that will decide their cases for them" (p. 18). With or without the aid of parole prediction tools to help in their decision, parole board members feel confident they understand the inmate and his situation; therefore, their decisions are more often based on personal intuition than structured guidelines.

## Theoretical Framework

Based on a combination of both formal and informal sources of information they acquire while in prison, inmates believe that satisfactory institutional behavior and completion of required treatment and educational programs, when combined with adequate time served, will result in their release on parole. They also believe that passing their parole eligibility date denotes sufficient institutional time. Denial of parole, when the stated prerequisites for parole have been met, leads to inmate anger and frustration. As stories of parole denials spread throughout the DOC population, inmates are convinced that the parole board is abusing its discretion to continue confinement when it is no longer mandated.

### *Control of Institutional Behavior*

The majority of inmates appearing before the parole board have a fairly good record of institutional behavior (Dawson, 1978). Inmates are led to believe that reduction in sentence length is possible through good behavior (Emshoff & Davidson, 1987). Adjustment to prison rules and regulations is not sufficient reason for release on parole; however, it comprises a minimum requirement for parole and poor adjustment is a reason to deny parole (Dawson, 1978). Preparation for a parole hearing would be a waste of both the prisoner's and the case manager's time and effort if the inmate's behavior were not adequate to justify release.

Research suggests that good behavior while incarcerated does not necessarily mean that an inmate will successfully adapt to the community and be law-abiding following a favorable early-release decision (Haesler, 1992; Metchik, 1992). In addition, Emshoff and Davidson (1987) note that good time credit is not an effective deterrent for disruptive behav-

ior. Inmates who are most immature may be those most successful at adjusting to the abnormal environment of prison; inmates who resist conformity to rules may be those best suited for survival on the outside (Talarico, 1976). However, institutional control of inmate behavior is a crucial factor for the maintenance of order and security among large and diverse prison populations, and the use of good time credit has traditionally been viewed as an effective behavioral control mechanism (Dawson, 1978). Inmates are led to believe that good institutional behavior is an important criterion for release, but it is secondary to the background characteristics of the inmate. Rather than good behavior being a major consideration for release, as inmates are told, only misbehavior is taken into account and serves as a reason to deny parole.

Inmates are also told by their case manager and other prison personnel that they must complete certain programs to be paroled. Colorado's statutory parole guidelines list an inmate's progress in self-improvement and treatment programs as a component to be assessed in the release decision (Colorado Department of Public Safety, 1994). However, the completion of educational or treatment programs by the inmate is more often considered a factor in judging the inmate's institutional adjustment, i.e., his ability to conform to program rules and regimen. Requiring inmates to participate in prison programs may be more important for institutional control than for the rehabilitation of the inmate. Observations of federal parole hearings suggest that the inmate's institutional behavior and program participation are given little importance in release decisions (Heinz et al., 1976). Noncompliance with required treatment programs or poor institutional behavior may be reasons to deny parole, but completion of treatment programs and good institutional behavior are not sufficient reasons to grant parole.

### *Release Decision Variables*

Parole board members and inmates use contrasting sets of variables each group considers fundamental to the release decision. Inmates believe that completion of treatment requirements and good institutional behavior are primary criteria the parole board considers when making a release decision. Inmates also feel strongly that an adequate parole plan and demonstration that their families need their financial and emotional support should contribute to a decision to release on parole.

In contrast, the parole board first considers the inmate's current and prior offenses and incarcerations. Parole board members also determine if the inmate's time served is commensurate with what they perceive as adequate punishment. If it is not, the inmate's institutional behavior, progress in treatment, family circumstances and parole plan will not outweigh the perceived need for punishment. Inmates, believing they understand how the system works, become angry and frustrated when parole is denied after they have met all the stated conditions for release.

Unwritten norms and individualized discretion govern parole board decision-making; thus, the resulting decisions become predictable only in retrospect as patterns in granting or denying parole emerge over time. For example, one of the difficulties Pogrebin et al. (1986) encountered in their study of parole board hearings in Colorado was developing a written policy based on previous case decisions:

This method requires that a parole board be convinced that there exists a hidden policy in its individual decisions.... [M]ost parole board members initially will deny that they use any parole policy as such... [and] will claim that each case is treated on its own merits.... [However] parole decisions begin to fit a pattern in which decisions are based on what has been decided previously in similar situations (p. 149).

## Method

In October of 1997, Colorado-CURE (Citizens United for Rehabilitation of Errants), a Colorado non-profit prisoner advocacy group, solicited information through its quarterly newsletter from inmates (who were members of the organization) regarding parole board hearings that resulted in a "set-back," i.e., parole deferral. Inmates were asked to send copies of their appeals and the response they received from the parole board to Colorado-CURE. One hundred and eighty inmates responded to the request for information with letters ranging in length from very brief one- or two-paragraph descriptions of parole board hearings to multiple page diatribes listing not only parole board issues, but complaints about prison conditions, prison staff, and the criminal justice system in general. Fifty-two letters were eliminated from the study because they did not directly address the individual inmate's own parole hearing. One hundred and twenty-eight inmate letters were analyzed; one hundred and twenty-five from

male and three from female inmates. Some letters contained one specific complaint about the parole board, but most inmates listed at least two complaints. Several appeals also contained letters written to the parole board by family members on the inmate's behalf. Two hundred and eighty-five complaints were identified and classified into thirteen categories utilizing content analysis, which "translates frequency of occurrence of certain symbols into summary judgments and comparisons of content of the discourse" (Starosta, 1984, p. 185). Content analytical techniques provide the means to document, classify, and interpret the communication of meaning, allowing for inferential judgments from objective identification of the characteristics of messages (Holsti, 1969). In addition, parole board hearings, including the preliminary presentation by the case manager and the discussion after the inmate interview, were observed over a three-month period in 1998. These observations were made to provide a context for understanding the nature of the hearing process from the inmate's perspective and to document the substantive matter of parole deliberations.

The purpose of the present study is not to explore the method the parole board uses to reach its release decisions; rather, our interest is to examine the content of the written complaints of inmates in response to their being denied parole.

**TABLE 1**

*Frequency of Complaints and Percentage of Inmates Having Complaint*

Nature of Complaint	Frequency of complaints	Percentage of inmates with complaint
1. Inadequate time served, yet beyond P.E.D.	61	48%
2. Completed required programs	45	35%
3. Denied despite parole plan	35	27%
4. Board composition and behavior	27	21%
5. Longer setbacks after parole violation	26	20%
6. Family need for inmate support ignored	22	17%
7. Case manager not helpful	17	13%
8. New sex offender laws applied retroactively	16	12%
9. Required classes not available	11	9%
10. Few inmates paroled on same day	7	5%
11. Appeals not considered on individual basis	6	4%
12. Miscellaneous	12	9%
	N=285	N=128

## Findings

Table 1 presents the frequency of complaints regarding parole denial and the percentage of inmates having each complaint. Those complaints relating to parole hearings following a return to prison for a parole violation and those complaints regarding sex offender laws will not be addressed in the following discussion. Parole revocation hearings are governed by different administrative rules and are subject to more rigorous due process requirements and are thus beyond the scope of the current study. In addition, sex offender sentencing laws in Colorado have evolved through dramatic changes in legislation over the past several years and a great deal of confusion exists regarding which inmates are eligible for parole, when they are eligible, and what conditions can be imposed when inmates are paroled. Future analysis of sex offender laws is necessary to clarify this complex situation. We now turn to an examination of the remaining categories of inmate complaints concerning parole denial.

### *Inadequate Time Served*

Forty-eight percent of the inmates reported "inadequate time served" as a reason given for parole deferment. Their attempt to understand the "time served" component in the board's decision is exemplified by the following accounts:

...if you don't meet their [the parole board's] time criteria you are "not" eligible. Their time criteria is way more severe than statute.... [The risk assessment] also says, if you meet their time amounts and score 14 or less on the assessment you "shall" receive parole. This does not happen. The board is an entity with entirely too much power....

\* \* \*

I don't understand how your P.E.D. [parole eligibility date] can come up and they can say you don't have enough time in.

\* \* \*

If the court wanted me to have more time, it could have aggravated my case with as much as eight years. Now the parole board is making itself a court!

\* \* \*

...I [was] set back again for six months with the reason being, not enough time spent in prison. I've done 5 calendar years, I'm two years past my PED, this is my first and only felony of my life, I've never been to prison, it's a non-violent offense, it's not a crime of recidivism, I do not earn a livelihood from this crime or any criminal activity. So what is their problem?

\* \* \*

[Enclosed] is a copy of my recent deferral for parole, citing the infamous "Not enough time served" excuse. This is the third time they've used this reason to set me back, lacking a viable one.

These responses of the inmates to the "inadequate time served" reason for parole deferral demonstrate that they believe the parole board uses a different set of criteria than the official ones for release decisions. Inmates do not understand that the "time served" justification for parole deferral relates directly to the perception by the parole board member of what is an acceptable punishment for their crime. They believe the parole board is looking for a reason to deny parole and uses "time served" when no other legitimate reason can be found.

### *Completed Required Programs*

Thirty-five percent of the inmates complained that their parole was deferred despite completing all required treatment and educational programs. Related complaints, expressed by 9 percent of the inmates, were the lack of mandatory classes and the long waiting lists for required classes. The following excerpts from inmate letters reflect this complaint:

When I first met with them [the parole board] I received a 10 month setback to complete the classes I was taking (at my own request). But was told once I completed it and again met the board I was assured of a release.... Upon finishing these classes I met the board again [a year later].... I noticed that none of my 7 certificates to date were in the file and only a partial section of the court file was in view. I tried to speak up that I was only the 5th or 6th person to complete the 64 week class and tell about the fact that I carry a 4.0 in work plus have never had a COPD conviction or a write-up. He silenced me and said that meant nothing.... I later was told I had been given another one year setback!!!

\* \* \*

They gave me a six month setback because they want me to take another A.R.P. class.... [I]t was my first time down [first parole hearing], and I have taken A.R.P. already twice.... I have also taken... Independent Living Skills, Job Search, Alternatives to Violence, workshops and training in nonviolence, Advanced Training for Alternatives to Violence Project,

mental health classes conducted by addiction recovery programs. I also chair the camp's A.A. meetings every week and just received my two year coin. I have also completed cognitive behavioral core curriculum....

\* \* \*

I'm one of the Colorado inmates that's been shipped to Minnesota.... I went before the parole board [in Colorado]... and they set me back a year, claiming that I needed to complete the mental health classes.... Then Colorado sends me to Minnesota where they don't even offer the mental classes that the board stated I needed to complete.

Inmates view completion of required programs as proof that they have made an effort to rehabilitate themselves and express frustration when the parole board does not recognize their efforts. The completion of classes was usually listed with other criteria the inmates viewed as important for their release on parole.

### *Parole Denied Despite Parole Plan*

Deferral of parole even though a parole plan had been submitted was a complaint listed by 27 percent of inmates. It is interesting to note that this complaint never appeared as a solo concern, but was always linked to other issues. These inmates seem to believe that a strong parole plan alone will not be sufficient to gain release and that the parole plan must be combined with good institutional behavior and the completion of required classes. Even when all required criteria are met, parole was often deferred. The frustration of accomplishing all of the requirements yet still being deferred is expressed in the following excerpts:

...I was denied for the third time by the D.O.C. parole board even though I have completed all recommended classes (Alcohol Ed. I and II, Relapse Prevention, Cognitive Skills and Basic Mental Health). I have a place to parole to [mother's house], a good job and a very strong support group consisting of family and friends....To the present date I have served 75% of my 3-year sentence.

\* \* \*

I had everything I needed to make parole, i.e. an approved plan, job, adequate time served.... [The parole board member] listed "release" on my paperwork, but

"release denied" on my MRD (mandatory release date).

\* \* \*

[After having problems with a previous address for the parole plan]...my parents and family...were assured...that all I needed to do is put together an alternative address. I managed to qualify for and arrange to lease a new low-income apartment at a new complex.... My family was helping with this. I also saw to it that I was preapproved at [a shelter in Denver], a parole office approved address, so that I could go there for a night or two if needed while I rented and had my own apartment approved by the parole office. My family expected me home, and I had hoped to be home and assisting them, too. I arranged employment from here, and looked forward to again being a supportive father and son.... I received a one-year setback! I was devastated, and my family is too. We are still trying to understand all of this.... I am...angry at seeing so many sources of support, employment, and other opportunities that I worked so hard at putting together now be lost.

Preparing an adequate parole plan requires effort on the part of both the inmate and the case manager. When a parole plan is coupled with completion of all required treatment and educational programs and good institutional behavior, the inmate is at a loss to understand how the parole board can deny parole. Inmates often expressed frustration that the plans they made for parole might not be available the next time they are eligible for parole. "Inadequate time served" is often the stated reason for parole deferral in these cases and does not indicate to the inmate changes he needs to make in order to be paroled in the future.

### *Parole Board Composition and Behavior*

Twenty-one percent of the inmates complained about the composition of the parole board or about the attitude parole board members displayed toward the inmate and his or her family. Several inmates expressed concern that at the majority of hearings, only one parole board member is present and the outcome of an inmate's case might depend on the background of the parole board member hearing the case:

The man [parole board member] usually comes alone, and he talks to the women

worse than any verbal abuser I have ever heard. He says horrible things to them about how bad they are and usually reduces them to tears. Then he says they are "too emotionally unstable to be paroled!" If they stand up for themselves, they have "an attitude that he can't parole." If they refuse to react to his cruel proddings, they are "too cold and unfeeling." No way to win!! Why in the *world* do we have ex-policemen on the parole board?? Cops always want to throw away the key on all criminals, no matter what. Surely that could be argued...as conflict of interest!

\* \* \*

As I was sitting in the parole hearing for me I was asked some pretty weird questions. Like while I was assaulting my victim was I having sex with my wife also. My answer was yes. Then this man [the parole board member] says, "Sounds like you had the best of both worlds, huh?" I was taken back by this comment and wonder why in the world this guy would think that this was the best of any world.

\* \* \*

My hearing was more of an inquisition than a hearing for parole. All of the questions asked of me were asked with the intent to set me back and not the intent of finding reasons to parole me. It was my belief that when a person became parole eligible the purpose was to put them out, if possible. My hearing officer did nothing but look for reasons to set me back.

Inmates often expressed the view that the parole board members conducting their hearings did not want to listen to their stories. However, if parole board members have generally reached a decision prior to interviewing the inmate, as indicated by the routinization of the hearing process, it is logical that the board member would attempt to limit the inmate's presentation. In addition, if board members have already determined that parole will be deferred, one would expect the questions to focus on reasons to deny parole. One inmate stated, "I believe that the parole board member that held my hearing abused his discretion. I had the distinct feeling that he had already decided to set me back before I even stepped into the room."

### *Family's Need for Inmate's Support*

Many inmates criticized the parole board for failing to take into account their families' financial, physical, and emotional needs. Seventeen percent of the inmates expressed this concern, and several included copies of letters written by family members asking the board to grant parole. The primary concerns were support for elderly parents and dependent young children:

My mom has Lou Gehrig's disease.... [S]he can't walk and it has spread to her arms and shoulders.... [No] one will be there during the day to care for her. The disease is fast moving.... My mom is trying to get me home to care for her.... I am a non-violent first time offender. I have served 8 years on a 15. I have been before the parole board 5 times and denied each time.... (I got 6, 6, 9, 6, 12 month setbacks in that order). Why I'm being denied I'm unsure. I've asked the board and wasn't told much. I've completed all my programs, college, have a job out there, therapy all set up, and a good parole plan.

\* \* \*

I have everything going for me in the community. I have a full-time job. I have a 2 year-old son that needs me. I have a mother that is elderly and needs my help. This is all over an ounce of marijuana from [1994] and a walk-away from my own house. I have over 18 months in on an 18 month sentence.

\* \* \*

[My 85-year-old mother] has no one. Her doctor also wrote [to the chair of the parole board] as well as other family members, including my son. All begging for my release. She *needs* me!! I wish you could [see]...how hard I have worked since I have been in prison.... Being good and trying hard does not count for much in here.... This is my 5th year on an 8 year sentence.

The parole board does not consider a dependent family as a primary reason to release an inmate on parole; however, inmates regard their families' needs as very important and are upset that such highly personal and emotionally charged circumstances are given short shrift during their parole hearing. And if they believe they have met the conditions established for release, inmates do not understand why the parole board would not allow them to return home to help support a family.

### *Case Manager Not Helpful*

Thirteen percent of the inmates expressed frustration with their case manager, with a few accusing the case manager of actually hurting their chances to make parole. Although the inmate was not present during the case manager's presentation to the board member, many inmates declared satisfaction with their case manager and felt that the board did not listen to the case manager's recommendation. Since the present study focuses on inmate complaints, the following excerpts document the nature of the dissatisfaction inmates expressed concerning their case managers:

[The case manager] has a habit of ordering inmates to waive their parole hearings. Many inmates are angry and do not know where to turn because they feel it is their right to attend their parole hearings.... [He] forces most all of his caseload to waive their parole hearing. That is not right! ...How and why is this man allowed to do this? I would not like my name mentioned because I fear the consequences I will pay.... [T]his man is my case manager and I have not seen the parole board yet.

\* \* \*

I have not had any writeups whatsoever and I have been taking some drug and alcohol classes since I have been back [parole revoked for a dirty U.A.]. I had a real strong parole plan that I thought that my case manager submitted but he never bothered to. I was planning on going to live with my father who I never asked for anything in my life and he was willing to help me with a good job and a good place to live. My father had also wrote to [the chair of the parole board] and asked if I could be paroled to him so he can help me change my life around.

\* \* \*

[Some] case managers are not trained properly and do not know what they are doing. Paperwork is seldom done properly or on time. Others are downright mean and work *against* the very people they are to help. Our liberty depends on these people, and we have no one else to turn to when they turn against us.

Inmates realize they must at least have a favorable recommendation by the case manager if they are to have any chance for parole. Yet they generally view the case manager as a

“marginal advocate,” often going through the motions of representing their interests but not really supporting or believing in them. Case managers after all are employees of the Department of Corrections, and their primary loyalties are seen by inmates to attach to their employer and “the system.”

### *Few Inmates Paroled the Same Day*

Five percent of the inmates related in their letters that very few inmates were paroled on a given hearing day, leading them to suspect that the parole board typically denies release to the vast majority of inmates who come up for a hearing.

I just received a letter...and she told me that 2 out of 24 made parole from [a Colorado women's facility].... [Also] out of 27 guys on the ISP non-res program from [a community corrections facility] only 4 made parole!! ...What is going on here?! These guys [on ISP] are already on parole for all intents and purposes.

\* \* \*

Went [before parole board] in June '97. 89 went. 2 made it (mandatory).

\* \* \*

I realize they're not letting very many people go on parole or to community. It's not politically correct to parole anyone. Now that Walsenburg is opening, I'm sure they will parole even less people. I have talked to 14 people that seen the Board this week. 2 setbacks....

Inmates circulate such stories and cite them as evidence that the parole board is only interested in keeping prisoners locked up. Many inmates express their belief that the parole board is trying to guarantee that all the prisons are filled to capacity.

### *Appeals Not Considered on an Individual Basis*

Although Colorado-CURE asked inmates to send copies of their appeal and the response to the appeal, the majority of inmates mailed copies of their appeal before they received the response. Thus, it is not surprising that only four percent of the inmates discussed the apparent uniformity of appeal decisions. The standard form letter from the chair of the parole board, included by those who stated this complaint, reads as follows:

I have reviewed your letter..., along with your file, and find the Board acted within its statutory discretion. Consequently, the decision of the Board stands.

Word of the appeals circulates among the general prison population and between prisons via letters to other inmates. Inmates suggest that the form letters are evidence that the parole board is not willing to review cases and reconsider decisions made by individual board members.

I finally got their response. They are basically sending everyone the same form letter. I was told by someone else that it [is] what they were doing and sure enough that is what they are doing.

\* \* \*

After receiving the denial of my appeal, I spoke with a fellow convict about his dilemma, which prompted him to show me a copy of his girlfriend's denial of her appeal.... It seems that [she] was given an unethical three (3) year setback, even though she has now completed 3/4 of her sentence. And she too received a carbon copy response from the [chair of the parole board's] office. It should be crystal clear that these files are *not* being reviewed as is stated in [the] responses, because if they had been, these decisions would surely seem questionable at best.

## **Conclusion**

The nature of the written complaints reflects the belief among many inmates that the parole board in Colorado is using criteria for release decisions that are hidden from inmates and their families. A parole board decision, made without public scrutiny by members who have no personal knowledge of the inmate, depends on the evaluation of the likelihood of recidivism by others in the criminal justice system. While guidelines and assessment tools have been developed to help with the decision-making process in Colorado, it is unclear the extent to which they are used. Release decisions by the parole board appear to be largely subjective and to follow latent norms that emerge over time. The emphasis on past and current crimes indicates that inmates—regardless of their institutional adjustment or progress in treatment, vocational, or educational programs—will continue to be denied parole until they have been sufficiently

punished for their crimes. As one inmate lamented in his letter of complaint,

When the inmate has an approved parole plan, a job waiting and high expectations for the future and then is set back a year..., he begins to die a slow death. They *very often* use the reason: *Not enough time served* to set people back. If I don't have enough time served, why am I seeing the parole board? Or they will say: *Needs Continued Correctional Treatment*. If I have maintained a perfect disciplinary record and conformed to the rules, what more correctional treatment do I need.... I had a parole plan and a job in May when I seen the Board. I was set back one year. I will see them in March.... I will have no job and nowhere to live.... The Colorado Dept. of Corrections does not rehabilitate inmates. That is solely up to the inmate. What they do is cause hate and bitterness and discontent.

Findings of this study indicate that the factors inmates believe affect release decisions are different from the factors the parole board considers and thus suggest why inmates fail to understand why their parole is deferred despite compliance with the prerequisites imposed upon them. As evidenced by the above examples, inmates are not only confused and angry when they believe parole should be granted, they begin to question whether or not it is worth the effort if they are only going to “kill their numbers” (i.e., serve the full sentence). The prison grapevine and the flow of information among the entire Department of Corrections inmate population allow such stories and theories to spread. Prison officials should be concerned that if inmates feel compliance with prison rules and regulations is pointless, they will be less likely to conform to the administration's requirements for institutional control. Currently, inmates who are turned down for parole see themselves as victims, unfairly denied what they perceive they have earned and deserve. Each parole eligible case that is deferred or set back becomes another story, duly embellished, that makes its rounds throughout the prison population, fueling suspicion, resentment, and fear of an unbridled discretionary system of power, control, and punishment.

Inmates denied parole are entitled to a subsequent hearing usually within one calendar year. But the uncertainty of never know-

ing precisely when one will be released can create considerable tension and frustration in prison. While discretionary release leaves them in limbo, it is the unpredictability of release decisions that is demoralizing. As we have found, this process has resulted in bitter complaints from inmates. Perhaps the late Justice Hugo Black of the U.S. Supreme Court best summarized the view of many inmates toward the parole board:

In the course of my reading—by no means confined to law—I have reviewed many of the world's religions. The tenets of many faiths hold the deity to be a trinity. Seemingly, the parole boards by whatever names designated in the various states have in too many instances sought to enlarge this to include themselves as members (Quoted in Mitford, 1973, p. 216).

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