

**THE PAROLE PROCESS FROM A SOUTH AFRICAN PERSPECTIVE**

By

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Dedicated to my late father, JM Louw, who will  
always be an inspiration throughout my life.

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## SUMMARY

**TITLE** : The Parole Process from a South African Perspective  
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The transformation of the Department of Correctional Services into an institution of rehabilitation and the promotion of corrections as a societal responsibility brought a new dimension to the release policy of South Africa. A new Correctional Services Act 111 of 1998 came into effect and the Department of Correctional Services published a White Paper on Corrections during 2005.

The idealistic correctional goal of protecting the community while rehabilitating the offender has served as a reason for conducting research into the parole process from a South African perspective. The qualitative aim of the study is to explore parole as a phenomenon and to describe the process involved in successfully reintegrating an offender into the community.

The significant role that Correctional Supervision and Parole Boards play in the parole process and the emphasis they place on community safety, the interest of the victim and the rehabilitation and control of offenders as part of their mission statement are highlighted in the study.

**KEY TERMS:** Case Management Committee, community corrections, correctional centre, Correctional Supervision and Parole Board, determinate sentence, offender, parole, parolee, profile report, recidivism, rehabilitation, restorative justice, social reintegration, victim, White Paper on Corrections 2005

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# CHAPTER 1

## THE RESEARCH

### 1.1 INTRODUCTION

Prison overcrowding in correctional centres is still one of the largest and most challenging problems facing South Africa today. The problem of offender overcrowding remains the most important influence on the Department of Correctional Services' costs and performance, especially in relation to rehabilitation (Department of Correctional Services, 2005a:74). The Department of Correctional Services embarked on a special remissions programme in 2005/06, which resulted in the release of at least 31 865 offenders from correctional centres and about 33 972 from community corrections (Department of Correctional Services, 2006:14). Despite the overall reduction in the offender population, numerous correctional centres were still badly overcrowded. While some correctional centres had less than 100% occupation, 161 exceeded 100%, with 72 having more than 150%, including 38 with more than 175% (Fagan, 2006:17). Van Zyl Smit (Fagan, 2006:21) argues that only two things cause prison overcrowding: people sentenced for periods that are too long, and people not released in good time. The problems caused by overcrowding do not create an effective and conducive environment for rehabilitation or enhance the successful reintegration of offenders into the community.

Amnesties and/or programmes for special remission of sentences are only short-term solutions to the problem of overcrowding. On the other hand, parole as a treatment programme, administered correctly, can be implemented as a long-term strategy goal by the Department of Correctional Services.

The most common question asked about parole is "Does it work?", and by "work" most mean do offenders granted parole refrain from further crime or reduce their recidivism. Recidivism is currently the primary outcome measure for parole, as it is for all correctional programmes (Petersilia, 1998:169). According to Muntingh (Dissel & Ellis, 2002:5), estimates of offenders in South Africa that reoffend after their release are in the region of 85% to 94%. Consequently, high priority is placed on the rehabilitation of offenders.

The focus on rehabilitation is a fundamental shift in respect of corrections philosophy in South Africa. The safe and humane custody of offenders was always seen as the primary task without emphasis being placed on their development. In October 2004, the new Correctional Services Act 111 of 1998 was implemented in full. And after that the White Paper on Corrections was also published in 2005 by the Department of Correctional Services. This brought a new dimension to the release policy of the Department of Correctional Services and the rehabilitation of offenders was put at the centre of all the Department's activities.

The White Paper on Corrections in South Africa (Department of Correctional Services, 2005b:71) stipulates that the Department of Correctional Services is responsible for facilitating the correction of offending behaviour in a secure, safe and humane environment in order to achieve rehabilitation and the avoidance of recidivism. The White Paper on Corrections embodies a long-term strategic policy and operational framework that recognises corrections as a societal responsibility. The transformation of the Department of Correctional Services into an institution of rehabilitation and the promotion of corrections as a societal responsibility are seen as strategic issues. This will ensure, through delivery of appropriate programmes, that offenders who leave correctional centres have appropriate attitudes and competencies enabling them to integrate successfully back into society as law-abiding and productive citizens (Department of Correctional Services, 2005b:10).

Social reintegration is seen as the most challenging aspect of rehabilitation, and effective reintegration can be critical to combating recidivism. The Department of Correctional Services maintains that parole, as a conditional release, will contribute to social reintegration, promoting community responsibility for corrections and restoring damaged relationships (Department of Correctional Services, 2005b:23). The term "after care" was previously used to describe these services, but has been changed to "social reintegration" to ensure the comprehensive synergy of services from admission, throughout the sentence plan up to and including the release and integration of offenders into society (Department of Correctional Services, 2006:12).

Parole, as a method of conditional release, can be used to reintegrate offenders into the community under controlled circumstances. This is an important mechanism to return those offenders, of whom there is a reasonable expectation that they will not relapse into crime, back to the community. On the one hand, the emphasis is on the selection of suitable candidates and on the other, on the establishment and functioning of effective supervision (Neser, 1993:353).

Who is to be paroled is a question that has vital importance in corrections today. The parole selection process has serious implications on the effectiveness, perhaps even the survival, of the entire parole system (Cromwell & Del Carmen, 1999:218).

## **1.2 THE RATIONALE OF THE INVESTIGATION**

The term “rationale”, according to Gerber and Alberts (1984:27), refers to the logical statement of reasons on which the investigation is based. The rationale may also serve as the basis for formulating the aims of the investigation. This investigation is based on new legislation that came into operation and how it affected South Africa’s parole policy.

In the past, government established 50 decentralised parole boards with the primary objective of considering the placement of sentenced offenders on parole or correctional supervision. The recommendations made by these boards were submitted to the Minister or Commissioner of Correctional Services for a decision. The system of parole, however, was accused of not being transparent and lacking independence in decision-making. This led to new legislation being introduced in 1998, namely the Correctional Services Act 111 of 1998, which came into full effect during August 2004. In October 2004, the President proclaimed the remaining section of the Correctional Services Act to effect implementation of the new Correctional Supervision and Parole Boards and various sections regulating conditions of incarceration of offenders (Department of Correctional Services, 2005a:29).

The Minister of Correctional Services, in terms of the new legislation, appointed 52 new and independent Correctional Supervision and Parole Boards to serve the entire country. A key objective of the Department of Correctional Services, according to the White Paper on Corrections (Department of Correctional Services, 2005b:88), is to make a meaningful contribution to the promotion of the community’s responsibility for correction. Therefore, the parole policy allows for respectable and credible members of communities to chair the Correctional Supervision and Parole Boards, which have been allocated decision-making authority.

Furthermore, for the first time in the history of South Africa, victims or complainants can now make representations to the board and may even be permitted to attend sessions or hearings of the board. In addition, the legislation makes provision for two additional community members

and for representatives from the Department of Justice and the South African Police Service to participate in parole decisions. It also allows the direct and valued involvement of family and friends of an offender and provides offenders with the right to make representations to the board (Department of Correctional Services, 2005b:23).

Although there is now a “new” Act for Correctional Services, this did not mean that the “old” Correctional Services Act 8 of 1959 was automatically replaced (Manzini, 2004:1). This implies that all offenders sentenced prior to the promulgation of the new legislation (1 October 2004) will be dealt with in accordance with the release policy as applied in the former Act.

During a Correctional Services Portfolio Committee meeting that was held on 29 May 2007, the chairperson, Mr Bloem, highlighted the importance of reviewing South Africa’s parole policy and said: “It should not have a fit-one-fit-all approach.” A parole policy should be tailored according to the gravity of the crime committed (Correctional Services Portfolio Committee, 2007:1). An investigation or research into the effectiveness of the parole process from a South African perspective is vital for the Department of Correctional Services.

### **1.3 MOTIVATION FOR THE CHOICE OF TOPIC**

The motivation for this study is based on the researcher’s personal interests and basic knowledge of parole supervision as a research topic. As an experienced senior correctional official of the Department of Correctional Services, the researcher had previously held the post of Secretary: Correctional Supervision and Parole Board and was directly involved in the decision whether to grant or deny an offender parole. He was also involved during the transitional period when the new Correctional Supervision and Parole Boards were established.

Currently he is a chairperson of a Case Management Committee whose main function is to make recommendations for parole placement to the Correctional Supervision and Parole Board by submitting a profile report of an offender. The researcher is well aware of the process and consequence of parole decision-making and the difficulties or problems these committees or boards have to endure for the right decisions to be made to successfully reintegrate an offender into the community.

## 1.4 AIM AND PURPOSE OF THE STUDY

Research is needed to review South Africa's parole policy and to stress the significance of the parole process. Parole can be described as a process because the approval of parole is a culmination of several events and factors involved after an offender is convicted of a crime (Jones, 2004:9).

The main purpose of the study is to investigate and describe the process of parole that effectively leads to an offender being placed out on conditional parole under supervision within the community.

The process of parole involves three elements in order to be an effective rehabilitation and control mechanism. Firstly, it starts with the preparation of offenders for parole placement, followed by the selection/criteria and granting of parole, and ends with the supervision of parolees in the community (Nxumalo, 1997:58).

From a South African perspective, the process of parole starts with the Case Management Committee's recommendation and preparation of a profile report (G326) of offenders who, in terms of the Correctional Services Act 111 of 1998, qualify to be considered for parole placement. The profile report is then submitted to the Correctional Supervision and Parole Board, which has the authority to make a decision whether an offender is suitable to be placed out on parole. If approved, based on information available during the hearing, the offender is conditionally placed out into the community under the supervision and control of the community corrections office until his sentence or parole period expires.

Therefore, the administration of the parole process is a sequence of three very important stages or events, namely:

- Case Management Committee – recommendation;
- Correctional Supervision and Parole Board – approval and revocation; and
- Community corrections – supervision.

“Wrong” parole decisions concerning offenders who are not rehabilitated, only to relieve overcrowding, can lead to recidivism, and again exacerbate the problem of overcrowding. The

Correctional Supervision and Parole Boards play a vital role in the parole process and it is of the utmost importance that community members sitting on these boards have the necessary skills and training to assist them in making the right parole decisions. The bulk of parole decision-making focuses almost exclusively on the discretion of Correctional Supervision and Parole Board members and the factors that affect their decision to grant or deny parole (West-Smith, Pogrebin & Poole, 2003:348).

The researcher aims to provide a better sense of South Africa's parole process or policy and to investigate and advance the work on parole decision-making by considering the Correctional Supervision and Parole Boards' perspective, specifically the viewpoint of community members.

Lastly, the researcher aims to make the community aware of their role in corrections and what is required for an offender to be placed on parole. The community must be made aware that parole as a treatment programme is not the end of a sentence, but an extension of the offender's sentence under supervision within the community.

The research will lay the foundation for future studies in:

- The victim-offender relationship;
- The impact of victim or complainant participation in parole decision-making;
- Treatment programmes that specifically focus on the rehabilitation of offenders;
- Parole supervision in reducing recidivism; and
- Parole decision-making from the perspective of offenders (parolees).

## **1.5 DELIMITATION OF THE STUDY**

The study is aimed at investigating parole as a phenomenon and to describe the process involved in successfully placing an offender on parole within the community.

The role played by the Case Management Committee (recommendation) and more specifically the Correctional Supervision and Parole Boards (decision) is the focus of the study.

The role of the victim and correctional supervision and parole review boards is highlighted in the parole process and special reference is made to concepts such as restorative justice.

In terms of legislation, the emphasis is placed on sections 38, 42, 52, 57, 59 to 68 and 73 to 77 of the Correctional Services Act 111 of 1998.

Recommendations for parole placement in respect of prisoners with sentences of 12 months or less are, in terms of section 42(2)(e) of the Correctional Services Act 111 of 1998, submitted by the Case Management Committee to the area manager or head of a correctional centre for a decision (Republic of South Africa, 1998:44). The Correctional Supervision and Parole Board, after having considered a profile report on a prisoner serving a determinate sentence exceeding 12 months' imprisonment, is responsible for the approval of parole placement. This study is only applicable to male offenders, who were sentenced after the promulgation of the new Correctional Services Act 111 of 1998, in other words, after 1 October 2004, with a determinate sentence exceeding 12 months' imprisonment. Accordingly, only the masculine pronoun is used for references to offenders in most instances.

During 2007, proposed amendments to the Correctional Services Act 111 of 1998 were submitted in order to align the legislation with the White Paper on Corrections of 2005. The Portfolio Committee on Correctional Services adopted the Correctional Services Amendment Bill (B32 of 2007) on 6 May 2008 and the Bill was subsequently adopted by Parliament on 15 May 2008. Currently no date has been fixed for when the Correctional Services Amendment Act will come into operation, as it still awaits signature by the President before becoming law (Correctional Services Portfolio Committee, 2008; Dissel, 2008:1; Republic of South Africa, 2007).

## **1.6 THE RESEARCH APPROACH**

### **1.6.1 The Research Design**

A research design is similar to a detailed plan that specifies how data should be collected and analysed (Luyt, 1999:17). According to Mouton and Marais (1990:33), rational decision-making during the research process is synonymous with a research design.

### **1.6.1.1 A Qualitative Research Approach**

Dantzker and Hunter (2000:75) define qualitative research as the non-numerical examination and interpretation of observations for the purpose of discovering underlying meanings and patterns of relationships. Marshall and Rossmann (Collins, Du Plooy, Grobbelaar, Puttergill, Terreblanche, Van Eeden, Van Rensburg & Wigston, 2000:90) identify the following types of research that can be used within a qualitative framework:

- Research that cannot be done by means of an experiment for practical and ethical reasons;
- Research that makes in-depth inquiries into complexities and processes;
- Research that tries to find out and explore why the current policy and practice do not work; and
- Research about unknown phenomena.

The focus of attention in this qualitative investigation is on the perceptions and experiences of the participants. Qualitative research raises the primordial question “What’s going on here?” (Locke, Spirduso & Silverman, 1993:99). Qualitative research is the utilisation of observational techniques and/or the analysis of documents as the primary means of learning about persons or groups and their characteristics (Champion, 2002:135).

The researcher follows a qualitative approach for this study by using primarily qualitative methods of data collection such as a literature study and semi-structured interviews.

### **1.6.1.2 Descriptive Research**

The aim of the researcher is to explore parole as a phenomenon and to describe the process involved for the Correctional Supervision and Parole Boards to place an offender on parole effectively. Descriptive and exploratory research often overlaps; a topic should first be explored before it can be described.

According to Neuman (1997:20), descriptive research is aimed at:



- Providing an accurate profile of a group;
- Describing a process, mechanism or relationship;
- Giving a verbal or numeric picture (e.g. percentages);
- Generating information that will stimulate new possible explanations;
- Providing basic background information or context; and
- Explaining specific sequences, phases or steps.

What is parole supervision? How does it work? What does it do? These are just three of the types of questions answered when conducting research for the purpose of describing. The basic purpose is to be able to describe specific aspects or elements of the topic. This type of research is generally informative in nature and is based on something we are already aware of, but know little about (Dantzker & Hunter, 2000:45). The researcher simply describes what he sees, hears or reads with regard to the various elements or components of parole. Exploratory research investigates the “what” of the matter, but seldom gives a final answer, and in descriptive research we try to determine “how” and “why” the phenomenon came into being and also everybody that was involved (Collins et al., 2000:93).

### **1.6.2 Research Problem**

Typical of qualitative research, it does not start with a specific problem – the approach of such a study is to find a problem or a hypothesis to be tested (Welman & Kruger, 2001:12). In general, the formulation of a hypothesis often applies to experimental research and should only be formulated when necessary (Smit, c1993:24). To conceptualise a research problem means to identify a general topic (parole) for study, to specify a particular dimension of the topic (process of parole placement) for more intensive examination, and then to pose several pointed questions that will guide the researcher’s inquiry (Champion, 2002:3).

Descriptive questions demand answers about behaviour or events in a setting or situation (Holloway, c1997:138). Derived from the aim, the following descriptive questions were formulated for the study:

- What are the main factors that can influence the Correctional Supervision and Parole Boards’ decision for parole?
- What are the barriers that can hamper parole success?

- How can the Correctional Supervision and Parole Boards best decide whom to release and when to release an offender on parole?
- To what extent are offenders equipped with the necessary tools to deal with their reintegration into the community?
- How can the Correctional Supervision and Parole Boards determine the risk to the community, to the victim and the risk of reoffending when placing an offender on parole?
- How much impact does victim participation have on the Correctional Supervision and Parole Boards' parole decision-making?

### 1.6.3 Data Collecting Methods

Before we can discover patterns for various phenomena or any event we wish to explain, we must acquire large amounts of descriptive information about these phenomena (Champion, 2002:139). In descriptive research, text (recorded words rather than numbers) is the most common form of data (Locke et al., 1993:100). The researcher used data collecting methods to collect qualitative data. These methods included:

- **A literature study;** and
- **Semi-structured interviews.**

According to Collins et al. (2000:173), collecting and using existing data have three advantages:

- The method is unobtrusive;
- The method is practical (takes less time and costs less); and
- The accuracy of measurements (reliability and validity) can be confirmed.

Thus, from a theoretical perspective the researcher used existing data found in written documents, such as books, professional journals, newsletters, government documents, reports, newspapers as well as information from the internet. A thorough literature study is an indispensable component of any research.

In-depth interviewing, but in a semi-structured manner, was also used as a data collecting tool. Semi-structured interviews entail asking pre-established closed and open-ended questions of

every participant (Bailey, c1987:190; Dantzker & Hunter, 2000:78). The Correctional Supervision and Parole Boards form an important part of the parole process, and semi-structured interviews were conducted with the chair or vice-chairpersons of these boards. In other words, these community board members were asked the same questions. In semi-structured interviews the interviewer can go beyond the responses for a broader understanding of the answers. This is known as “probing for more detail”. Probing may consist of asking for more explanation of an answer that has been given or following up with an additional question/s depending on the answers given (Dantzker & Hunter, 2000:78). According to Welman and Kruger (2001:161), such probes may vary from “Why?” to “Could you elaborate on this?”

#### **1.6.4 Population and Sampling**

A sample of eight Correctional Supervision and Parole Boards, within the Gauteng region, was drawn out of a population of 52 boards. The participants for the qualitative study were selected by means of **non-probability sampling** by making use of the **purposive or judgemental sampling** technique.

Non-probability sampling is appropriate where the researcher’s aim is to generate theory and a wider understanding of a phenomenon, in this case the parole process. Purposive or judgemental sampling (also referred to as theoretical sampling) is when the researcher selects a sample that can be judged to be representative of the total population. This judgement is made on the basis of available information or the researcher’s knowledge about the population (Collins et al., 2000:158). A major factor of purposive sampling, according to Dantzker and Hunter (2000:141), is accessibility to units or individuals that are part of the target population. The selection is based on the researcher’s knowledge of the topic, the target population and accessibility.

The researcher, as already mentioned, is a member of Correctional Services (accessibility). He has excellent knowledge of the topic (parole supervision) as he previously formed part of the Correctional Supervision and Parole Board decision-making and is currently, as chairperson of a Case Management Committee, responsible for making recommendations on parole placement.

### **1.6.5 Data Analysis**

In preparing data for analysis, in order to provide some structure and meaning, qualitative data must be coded or organised in some way. The responses or contents of semi-structured interviews with Correctional Supervision and Parole Boards were coded in order to provide numerical descriptions of the data (Wilkinson, 2000:78). According to Welman and Kruger (2001:195), the qualitative analyses of the contents of such interviews are reported in a quantitative way (Annexure C). It does not replace the role of theory building, but provides a platform by which theories are built from data.

The SAS/Basic and SAS/STAT modules of the SAS statistical software package, Version 11.1, were used to perform all statistical analyses and data manipulation.

## **1.7 ETHICAL ISSUES**

Ethics are ways of thinking about what is right and involve a process of moral reasoning and justification (McLaughlin & Muncie, 2003:341). Champion (2002:679) describes ethics as “[n]ormative standards of professional groups or organisations..., a morally binding code upon members of a group”. The researcher, by obtaining permission from the Department of Correctional Services to conduct research within the organisation (Annexure F), addressed these issues.

The obligation to protect the best interests of participants from harm and exploitation, ethical issues such as informed consent, and privacy were taken into consideration within the qualitative approach (Noaks & Wincup, 2004:37).

### **1.7.1 Informed Consent**

Informed consent refers to research conducted in such a way that participants have complete understanding at all times of what the research is about and the implications for themselves in being involved (Noaks & Wincup, 2004:45). Consent must be voluntary. It means that each individual must have the right to choose whether to participate in the research (Annexure A).

## **1.7.2 Privacy, Anonymity and Confidentiality**

Privacy and confidentiality, say Dantzker and Hunter (2000:31), are two ethical issues that are crucial to researchers who request individuals to share with them their thoughts, attitudes and experiences. The privacy of participants can be protected by not disclosing their identities after information is gathered. This can be done through anonymity and confidentiality (Neuman, 1997:425).

Anonymity refers to the principle that the identity of an individual is kept secret or protected from being known (Mouton, 2001:244). It means that participants remain nameless or anonymous (Neuman, 1997:453). Confidentiality can be defined as a researcher's undertaking not to link a specific response with a particular participant in any report (Collins et al., 2000:112).

## **1.8 DEFINITION OF KEY CONCEPTS**

### **1.8.1 Case Management Committee**

Case Management Committee means a committee established under section 42 of the Correctional Services Act 111 of 1998 (Republic of South Africa, 1998:42).

For the purpose of this study, the Case Management Committee is defined as a multidisciplinary committee, responsible for the drafting of profile reports, making of recommendations regarding conditional placement of sentenced offenders and submission of profile reports to the Correctional Supervision and Parole Boards.

### **1.8.2 Correctional Centre**

A correctional centre or prison is an institution in which sentenced offenders are detained for the purposes of (a) punishment, (b) protecting the community and (c) rehabilitation.

### **1.8.3 Correctional Supervision**

Correctional supervision is a sentencing option exercised by the court and is served within the community (Department of Correctional Services, 2004:3).

### **1.8.4 Correctional Supervision and Parole Board**

Correctional Supervision and Parole Board means a board appointed by the Minister under section 74 of the Correctional Services Act 111 of 1998 (Republic of South Africa, 1998:62).

A Correctional Supervision and Parole Board is an independent and statutory body that has decision-making competencies with regard to parole placement, except in the case of offenders serving life imprisonment, those declared dangerous criminals and the conversion of sentences into correctional supervision.

### **1.8.5 Determinate Sentence**

A determinate sentence refers to a definite period of imprisonment imposed by the court with or without the option of a fine (Department of Correctional Services, 2004:5).

Amount of time served depends on legislative statutes or guidelines, which mandate the period to be served before an offender is eligible for parole (Stevens, 2006:307).

### **1.8.6 Offender**

For the purpose of this study, an offender (prisoner/inmate) is defined as a male person convicted of a criminal offence and serving a determinate sentence of longer than 12 months.

### **1.8.7 Parole**

Parole refers to a period whereby an offender who has served the prescribed minimum detention period of his sentence in a correctional centre is conditionally released to serve the remaining sentence in the community under the supervision and control of the Department of Correctional Services (Department of Correctional Services, 2004:3).

### **1.8.8 Parolee**

A parolee is an offender who has been conditionally released by the Correctional Supervision and Parole Board from a correctional centre, prior to the expiration of his sentence, and placed under the supervision of community corrections with certain conditions (Ntuli, 2000:13).

### **1.8.9 Profile Report**

A profile report (G326) is a report submitted by the Case Management Committee to the Correctional Supervision and Parole Board regarding:

- The offence for which the offender has been sentenced (SAP62);
- The previous criminal record of such an offender (SAP69);
- The conduct, disciplinary record, adaptation, training, aptitude, physical and mental health state of such an offender;
- The likelihood of relapse into crime, the risk posed and the manner in which this risk can be reduced;
- The confirmation of support system and employment offer; and
- The possible placement of such an offender on parole, and the conditions for such placement (Department of Correctional Services, 2004:7).

### **1.8.10 Recidivism**

Recidivism is concerned with the reconviction rate of offenders released from custody. Recidivist rates are generally used to test whether the different programmes undertaken within a correctional centre contribute towards reoffending or whether other forms of community-based punishment are more effective at reducing further reoffending (McLaughlin & Muncie, 2003:341).

Recidivism is defined as a return to prison for a criminal offence or the commitment of a new crime other than a technical violation of parole (Stevens, 2006:16). Technical violations, such as failing to report a change of address, involve non-criminal behaviour (Clear & Dammer, 2003:383).

### **1.8.11 Rehabilitation**

This is the process of providing offenders with a variety of services for development and treatment programmes, while under the control of the Department of Correctional Services, designed to reduce the probability of future criminality and make productive members of society (Silverman, 2001:543).

### **1.8.12 Reintegration**

Reintegration is a model that emphasises the maintenance of the offender's ties to family and the community as a method of reform in recognition of the fact that the offender will eventually be returning to the community (Clear & Dammer, 2003:24).

### **1.8.13 Restorative Justice**

Restorative justice is about addressing the hurts and the needs of both victims and offenders in such a way that both parties, as well as the communities which they are part of, are healed (Batley, 2005:21).

### **1.8.14 Social Reintegration**

Social reintegration refers to services that focus on an offender's preparation for release, their effective supervision after placement on parole and the facilitation of successfully reintegrating back into the community (Department of Correctional Services, 2006:12).

### **1.8.15 Victim**

A victim of crime is any person who directly or indirectly suffers injury or damage through the unlawful actions of another person (Van der Westhuizen, 1983:30), or a person who has been wronged, harmed or injured by criminal action (McLaughlin & Muncie, 2003:233).

For the purpose of this study, a victim called the complainant, or relative, who has been harmed by a crime has the right to make a verbal or written representation at a Correctional Supervision and Parole Board hearing when placement for an offender on parole is considered.



## **1.9 CONCLUSION**

Parole is an internationally accepted mechanism used to place offenders under supervision within the community. The role played by the community is significant, especially in assisting these offenders or parolees to re-adjust within their community as law-abiding citizens. As corrections are a societal responsibility and not just the responsibility of the Department of Correctional Services, the community definitely forms part of the rehabilitation of offenders when they are placed on parole.

The aim of the study is to gain insight into parole as a process, in terms of the Correctional Services Act 111 of 1998. The compiling of a profile report of an offender, the selection and making of a decision to place a suitable offender on parole and the effective supervision of a parolee in the community all form part of the parole process. The role played by the Case Management Committee and the Correctional Supervision and Parole Board will be discussed further in more detail, but first parole will be examined from a historical, theoretical and philosophical viewpoint in the next chapter.

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## CHAPTER 2

### THE HISTORY, THEORY AND PHILOSOPHY OF PAROLE

#### **2.1 INTRODUCTION**

Most countries have mechanisms in place that allow offenders to be released before the completion of their full sentence. Parole, preferably called conditional release, as a form of early release is an internationally accepted mechanism and effective tool in the alleviation of prison overcrowding.

Parole originated from the French word *parole* or term *parole d'honneur*, meaning “spoken word”, as in giving one’s word of honour. The term became associated with the offender’s promise or word of honour to behave in a law-abiding manner and according to certain restrictions or conditions in exchange for release (Petersilia, 2002:129). Parole was used during a time of war as a means of releasing prisoners with the promise that they would not resume arms in a current conflict (Abadinsky, 2003:212).

#### **2.2 DEFINITIONS OF PAROLE**

Parole is the release of an offender before his sentence expires under certain conditions as stipulated by a paroling authority (Cromwell & Del Carmen, 1999:4).

Van der Westhuizen (1983:40) explains parole, in simple terms, as the authorised conditional release of an offender under state supervision.

According to Naser (1993:353), parole can be described as a continuation of the court’s sentence in the community by which certain enforceable conditions are agreed upon by the Department of Correctional Services and the parolee.

With the focus on rehabilitation and reintegration as the goal, parole has two operational meanings (Travis & Petersilia, 2001:296). It refers both to a method of making release decisions

by a parole board and a form of community supervision by another office. From another operational level, Clear and Dammer (2003:16) define parole as two concepts of release and supervision. Suitable offenders are selected by parole boards for release and supervised or monitored by parole officers in the community.

Du Preez (2003:5) defines parole as:

*... a treatment programme in which an offender, after serving a part of the sentence in a correctional institution, is conditionally released under supervision and treatment by a parole worker. However the release of the offender is conditional, contingent upon satisfactory behaviour.*

Parole is also defined as the discretionary release of an offender on conditions that are set prior to release until the full term of the sentence has expired (United Nations Office on Drugs and Crime, 2007:49).

Parole, after a minimum detention period set out by statute has been served, is the conditional placement of an offender into the community, as approved by a Correctional Supervision and Parole Board. The offender, now called the parolee, is under the supervision and control of the community corrections office, until his full sentence or parole period expires.

## **2.3 THE HISTORICAL DEVELOPMENT OF PAROLE**

The concept of parole was the product of many minds, but the root concepts of what we call parole today originated in some of the penal codes of the 16<sup>th</sup> and 17<sup>th</sup> centuries. The beginnings of parole resulted from conditional pardon, apprenticeship by indenture, transportation of criminals to America and Australia, and the English and Irish experiences with the system of “ticket of leave” (Smykla, c1984:70).

In about 1830 the concept “conditional liberty” was first introduced in France. It was an intermediary step to freedom with supervision between prison confinement and complete freedom in the community, which sounds like the beginning of what is known as parole today (Reid, 1981:324).

Manuel Montesinos, appointed governor of a prison at Valencia, Spain, first started an operational system of conditional release in 1835. He advocated through vocational training and education for prisoners that up to one-third of each sentence could be reduced for good behaviour and a demonstrated desire to do better (Cromwell & Del Carmen, 1999:188). A similar system was adopted in France during the 1840s, where prisoners, by giving their word of honour to obey the law, were released after showing good behaviour and positive accomplishments in prison (Ntuli, 2000:38).

In the development of early parole, credit is given to two individuals that stand out: Captain Alexander Maconochie, the father of parole, and Sir Walter Crofton.

### **2.3.1 Transportation of Prisoners**

A reasonable starting point for parole would be with the transportation of English prisoners or criminals to American colonies as labourers for the king in exchange for a pardon in the early 17<sup>th</sup> century. The systematic transportation of these criminals to American colonies started when a specific law, which made provision for the banishment of criminals considered to be dangerous, was confirmed in England during 1617. Reprieves and stays of execution were granted to persons convicted of robbery who were physically fit for employment in the colonies. This tended to relieve the unemployment situation in England and at the same time relieve the labour shortage in the colonies (Cromwell & Del Carmen, 1999:189).

At first no specific conditions were imposed on those who were granted reprieves and pardons, with the result that many of them evaded transportation and returned to England before their terms expired. This led to the amendment of pardons in 1655 to include specific conditions. Failure to abide by the conditions imposed would result in the cancellation of the pardon (Abadinsky, 2003:212). Upon the prisoners' arrival in the colonies, their services were sold to the highest bidder and they thereafter were considered indentured servants. The condition of an indenture contract read somewhat similar to the parole agreement today, where a prisoner released on parole agrees in writing to accept certain conditions (Cromwell & Del Carmen, 1999:190).

Transportation to America ended in 1775 with the American Revolution and a new location, Australia, was selected. The first load of prisoners arrived in Australia in 1788. Transportation



to Australia differed from transportation to American colonies in that the government incurred all expenses of transportation and maintenance, and the prisoners remained under government control instead of being indentured. In 1790, pardons from Governor Phillips of Australia became conditional with the requirement that prisoners support themselves and remain within a specific district. The principle of conditional liberation, later known as ticket of leave, came into use. It was like the modern concept of parole, except that the released prisoner was not under the supervision of a government body (Giardini, 1959:7; Smith, c1998:247).

### **2.3.2 The Mark System of Alexander Maconochie**

Alexander Maconochie, a retired Royal Navy captain and former professor of geography, worked out a system of marks that could be used in connection with the system of ticket of leave and presented his plan to the House of Commons in 1837. He proposed a mark system whereby the duration of the sentence would be determined not by time, but by a prisoner's good conduct, labour and study. He believed that confinement ought to be rehabilitative, not punitive.

In 1840, Maconochie was put in charge of the penal colony on Norfolk Island, Australia. Here he was given the opportunity to test his mark system. Marks were accredited to each prisoner daily in accordance with the amount of work accomplished. Under Maconochie's system, the prisoner progressed through a series of stages of increasing responsibility, less restriction and ultimately freedom. These stages were:

1. Strict custody and supervision when a prisoner arrives;
2. Hard labour in work gangs;
3. Freedom in certain areas of the island;
4. Conditional release or ticket of leave; and
5. Complete freedom.

The system that Maconochie developed was never fully implemented. His principles and methods were subjected to criticism, resulting in his dismissal in 1844 (Champion, 2002:260; Clear & Dammer, 2003:40).

### **2.3.3 The Irish System of Sir Walter Crofton**

In 1854, Sir Walter Crofton, an Irish prison reformer, established an early system of parole based on Maconochie's experiments with the mark system. He felt that prison programmes should be directed more toward reformation and tickets of leave should be awarded to prisoners who had shown achievement and positive attitude change.

Crofton developed what became known as the Irish system, whereby prisoners would be:

1. Subject to a period of strict imprisonment;
2. Transferred to an intermediate prison where they could accumulate marks based on work performance, behaviour and educational improvement; and
3. Given tickets of leave and released under supervision or parole.

Parolees were required to submit monthly reports to the police, and a police inspector helped them find jobs and generally oversaw their activities. The concepts of intermediate prisons, assistance and supervision after release were Crofton's contributions to the modern system of parole (Champion, 2002:262; Clear & Dammer, 2003:40; Stevens, 2006:301).

### **2.3.4 The Development of the Parole System in South Africa**

The release of prisoners on specific conditions before the completion of their sentences has been part of the South African penal system since unification in 1910 (Department of Correctional Services, 1992:6).

The Prisons and Reformatories Act 13 of 1911, which was introduced shortly after South Africa became a union in 1910, led to prisons being utilised as reformatories and the creation of a uniform penal policy. During this time, a system of early release or remission of sentence was introduced. Subject to good behaviour in prison, prisoners were released early on probation with supervision, either directly into the community or through an interim period in a work colony or similar institution. The Prisons and Reformatories Act 13 of 1911 was the first South African law to make provision for the appointment of police force members as probation officers. This Act, however, did not clearly state the aim of imprisonment. With harsh prison conditions, it appeared that the main emphasis was on safe custody and little attention was paid to the

rehabilitation or treatment of prisoners (Coetzee, Krüger & Loubser, 1995:29; Department of Correctional Services, 2005:43; Singh, 2002:66; Weiss, 1990:44).

In 1947, the Landsdowne Commission Report on Penal and Prison Reform recommended that prisoners no longer be hired out for cheap labour and that rehabilitation and literacy programmes to prisoners be increased. It also criticised the militaristic management style as it contradicted the goals of rehabilitation. It is generally accepted that this report introduced an important era in penal reform in South Africa (Department of Correctional Services, 2005:44; Plaatjies, 2005:27).

Supervisory councils, which had to advise the Governor-General on the release of prisoners on parole, were established in terms of section 48 of the Prisons and Reformatories Act 13 of 1911. These councils were replaced during 1954 by various prison boards, which primarily had to make recommendations to the Minister of Justice regarding the remission of sentences and treatment of prisoners sentenced to more than two years (Bothma, 1995:70; Naser, 1989:27).

In 1959 a new Prison Act (Act 8 of 1959) was proclaimed, which embodied the United Nations Standard Minimum Rules for the Treatment of Prisoners. In contrast to the Prisons and Reformatories Act 13 of 1911, the Prisons Act 8 of 1959, which was influenced by the recommendations made by the Landsdowne Commission, specifically stated the aims of imprisonment. Where the Prisons and Reformatories Act emphasised the retribution principle, the Prisons Act redirected the emphasis to rehabilitation and uplifting prisoners. Despite the cognisance it took of the United Nations Standard Minimum Rules for the Treatment of Prisoners as far as the rehabilitation of prisoners is concerned, the new Act did ignore certain other aspects, such as retaining corporal punishment as a punishment for disciplinary offences (Coetzee et al., 1995:37; Department of Correctional Services, 2005:45).

During the 1960s, the Prisons Act 8 of 1959 made provision for the institution of release boards as a replacement for the former prison boards. In addition, the Commissioner of Prisons appointed institutional committees in the areas where release boards were established. Institutional committees made recommendations on the training and treatment of specific prisoners and submitted reports to release boards on the conduct, adaptation, training, aptitude, industry, physical and mental state of health and the possibility of relapse into crime of every prisoner (Republic of South Africa, 1959b:71; Singh, 2002:112; Weiss, 1990:47).

The functions and duties of release boards, as stipulated by section 61A of the Prisons Act 8 of 1959 (Republic of South Africa, 1959b:75), were to submit a report and recommendations to the Commissioner of Prisons on:

- The release of prisoners either on probation or on parole or upon the expiration of sentence;
- The period for which and the conditions on which these prisoners are released; and
- The remission of parts of sentences imposed (Bothma, 1995:44; Weiss, 1990:47).

In 1976 the Viljoen Commission of Inquiry into the South African penal system regarded the lack of co-ordination between the judiciary and the then prison authority as the largest single reason for the establishment of a representational body which would be entrusted with the release policy. The Commission recommended that the 28 release boards which existed at that stage be centralised and that one parole board be established. During 1980, the release boards were centralised to form the Central Release Board based at the Prison Services' head office in Pretoria (Bothma, 1995:47; Department of Correctional Services, 1991:5).

The consideration of each individual case was now subjected to the following release process:

- A report was submitted by the institutional committee of the prison at which the prisoner was incarcerated to the Central Release Board regarding, inter alia, the behaviour, adaptation, training and treatment programmes the prisoner was involved in.
- The Central Release Board then made recommendations to the Minister or to the delegated persons regarding the manner of release of such a prisoner (Department of Correctional Services, 1992:7).

A further development, after an amendment was made to the Prisons Act (Prisons Amendment Act 65 of 1982), was the establishment of the Advisory Release Board. Its duties, in terms of section 61B of the Prisons Act, were to advise the Minister on policy to be followed with regard to release of prisoners, remission of sentence and recommendations of the Central Release Board in particular cases (Republic of South Africa, 1959b:77; Van der Westhuizen, 1983:x; Weiss, 1990:48).

During the 1990s, the Prison Service was separated from the Department of Justice and renamed the Department of Correctional Services. A corresponding change was made to the title of the Prisons Act 8 of 1959 to the Correctional Services Act 8 of 1959. This brought about significant changes to the development of the South African penal system. An important milestone in this period was the introduction of the concept of non-custodial “correctional supervision” as a more cost-effective way of dealing with offenders and to alleviate the problem of prison overcrowding. It advocated the sentencing option to deal with certain categories of offenders within the community rather than inside prison (Department of Correctional Services, 2005:47; Plaatjies, 2005:29). According to Luyt (2001:28), correctional supervision is a form of punishment that limits the freedom of the offender through house arrest, while it also requires community service from the offender.

In 1991 the amendment to the Correctional Services Act 8 of 1959 made provision for the replacement of the Advisory Release Board by a body called the National Advisory Council. This council consisted of a Supreme Court judge, a magistrate of a regional division, an attorney-general or deputy, a member from the South African Police, a member of the Department of Correctional Services of or above the rank of brigadier, an official of a social welfare authority who held the rank of director or above and two non-state employed persons. Their duties were to advise the Minister on policy to be followed in respect of:

- The placement of offenders on correctional supervision, parole and day parole;
- The detention and treatment of offenders; and
- The efficient and most cost-effective management of the Department (Bothma, 1995:54; Department of Correctional Services, 1992:7; Mnyani, 1994:6).

The Correctional Services Act 8 of 1959 was amended in 1993 in order to restructure the release policy of prisoners. Under the Correctional Services Amendment Act 68 of 1993, parole boards would perform the role of the Central Release Board on a decentralised basis. In March 1994, decentralised parole boards were established at each prison in order to make recommendations to the Minister or Commissioner of Correctional Services regarding the release or placement of prisoners on parole, or the conversion of sentences into correctional supervision (Bothma, 1995:58; Department of Correctional Services, 1993:2).

The introduction of first the interim, followed by the final, Constitution of South Africa (108 of 1996), which included a Bill of Rights that made special reference to the rights of prisoners, resulted in the Department of Correctional Services embarking on creating a new legislative framework. In October 2004 the new Correctional Services Act 111 of 1998 was implemented in full. This legislation represented a total departure from the previous Correctional Services Act 8 of 1959, and embarked on a modern, internationally accepted correctional system, designed within the framework of the 1996 Constitution (Department of Correctional Services, 2005:52).

Under Act 111 of 1998, the Department of Correctional Services is now committed to a threefold purpose:

- Enforcing sentences of the court in the manner prescribed by the Correctional Services Act;
- Detaining all offenders in safe custody whilst ensuring their human dignity; and
- Promoting the social responsibility and human development of all offenders and persons subject to community corrections.

The Department of Correctional Services published a White Paper on Corrections during 2005. In it, the core business of the Department is stated as “correcting offending behaviour, rehabilitation and correction as a societal responsibility”. Case management was identified as the vehicle to bring about a shift in emphasis in the core business (Du Preez & Luyt, 2006:196).

Important features of the Correctional Services Act 111 of 1998, which will be discussed later in more detail, are:

- A refined community involved release policy;
- A new parole system;
- The Case Management Committee;
- The Correctional Supervision and Parole Board;
- Community corrections; and
- The Correctional Supervision and Parole Review Board.

## **2.4 LEGISLATIVE FRAMEWORK**

The promulgation of the Correctional Services Act 111 of 1998 means that offenders sentenced before 1 October 2004 will be dealt with in accordance with the release policy of the former Correctional Services Act 8 of 1959. It is therefore necessary, from a legislative framework, to provide clarification on parole provisions for offenders sentenced before and after the promulgation of the new Correctional Services Act 111 of 1998.

### **2.4.1 Provisions of Correctional Services Act 8 of 1959**

Section 65(4)(a) of the Correctional Services Act 8 of 1959 provides that a prisoner serving a determinate sentence will not be considered for placement on parole before he has served half of his term of imprisonment (Republic of South Africa, 1959a). This, however, is subject to the proviso that the date on which consideration may be given to whether a prisoner may be placed on parole may be brought forward by the number of credits earned by the prisoner. The so-called credit system came into effect on 1 March 1994 to replace the previous system of remission of sentence.

Section 22A(1) of the Correctional Services Act 8 of 1959 provides that a prisoner may earn credits to be awarded by the institutional committee (now known as the Case Management Committee) by observing the rules which apply in the prison and by actively taking part in the programmes aimed at his treatment, training and rehabilitation. The one proviso is that a prisoner may not earn credits amounting to more than half of the period of imprisonment which he has served. In terms of the credit system, a prisoner, subject to good behaviour, earns credits up to a maximum of one day for every two days' imprisonment served by him. The practical effect of this is that a prisoner serving a determinate sentence becomes eligible, in terms of Act 8 of 1959, for consideration for placement on parole after serving one-third of his sentence. This is irrespective of the crime for which a prisoner was sentenced (Nxumalo, 1997:40; Dissel, 1994:3).

In terms of section 62(1) of the Correctional Services Act 8 of 1959, the institutional committee of a given prison was required to make decisions (except in respect of prisoners serving sentences of less than six months) with regard to the credits to be awarded to each prisoner under its jurisdiction, his treatment, training and classification and the regulation of his conduct according

to prescribed programmes, classifications and procedures (Republic of South Africa, 1959a). To this end the committee was to evaluate prisoners at intervals of not more than six months.

Section 63(1) of the Correctional Services Act 8 of 1959 provides that the parole board for a given prison was required, in respect of each prisoner under its jurisdiction serving a sentence of imprisonment in excess of six months, to submit a report to the Minister or the Commissioner of Correctional Services, together with its recommendation on the placement of the prisoner on parole (Republic of South Africa, 1959a). This report of the parole board together with its recommendation (the so-called profile report) was submitted to the delegated official of the Commissioner to whom the powers of the Commissioner for the placement of prisoners on parole had been delegated in terms of section 93(2) of the Correctional Services Act 8 of 1959 (Department of Correctional Services, 1995:26).

After considering the profile report from the parole board together with its recommendation, the delegated official of the Commissioner made the decision whether or not the prisoner should be placed on parole at that stage according to section 65(8) of Act 8 of 1959 (Republic of South Africa, 1959a).

#### **2.4.2 Provisions of Correctional Services Act 111 of 1998**

The focus of this study is the fact that under the Correctional Services Act 111 of 1998 the procedure for the placement of prisoners changed fundamentally. This is also the process which currently applies to the placement of prisoners on parole, irrespective of whether a prisoner was sentenced prior or subsequent to the parole provisions of the Correctional Services Act 111 of 1998 coming into effect. Such provisions came into effect on 1 October 2004. The upshot of this is that the procedure provided for in terms of the Correctional Services Act 111 of 1998 now applies to all prisoners serving determinate sentences of imprisonment.

In terms of section 42(2)(d) of the Correctional Services Act 111 of 1998, the Case Management Committee (previously known as the institutional committee) for a given prison is required to submit a profile report regarding the possible placement on parole for each prisoner under its jurisdiction. To this end, the Case Management Committee is required, in terms of section 42(2)(b) of the Act, to interview and assess each prisoner at its prison at regular intervals (Republic of South Africa, 1998:42).



The profile report of the Case Management Committee on the placement on parole of prisoners serving more than 12 months' imprisonment is submitted to the relevant Correctional Supervision and Parole Board for the area of jurisdiction under which the given prison falls. These boards are appointed by the Minister of Correctional Services in terms of section 74 of the Correctional Services Act 111 of 1998 (Republic of South Africa, 1998:62).

In terms of section 75(1) of the Correctional Services Act 111 of 1998, it is the function of the Correctional Supervision and Parole Board, having considered the profile report submitted by the Case Management Committee in terms of section 42 of the Act, to decide whether or not a prisoner serving a determinate sentence exceeding 12 months should be placed on parole (Republic of South Africa, 1998:64).

Simply put, under the Correctional Services Act 111 of 1998 the Case Management Committee performs the functions (by way of recommendations with regard to parole) which were previously performed by the parole board under the Correctional Services Act 8 of 1959. The Correctional Supervision and Parole Boards perform the functions (by way of deciding whether or not a prisoner should be placed on parole) which were previously performed by the delegated official of the Commissioner.

Section 276B of the Criminal Procedure Act 51 of 1977 now makes provision for the imposition of terms of imprisonment whereby courts may stipulate non-parole periods of imprisonment (not exceeding two-thirds of the sentence imposed). Section 73(6)(a) of the Correctional Services Act 111 of 1998 stipulates that a prisoner serving a determinate sentence may not be placed on parole until such a prisoner has served either the stipulated non-parole period, or if no non-parole period was stipulated (Republic of South Africa, 1998:60).

#### **2.4.3 The Juxtaposition of Correctional Services Act 8/1959 with Correctional Services Act 111/1998**

Section 136 of the Correctional Services Act 111 of 1998 specifically provides for transitional provisions which apply to prisoners who were serving sentences prior to the parole provisions of Correctional Services Act 111 of 1998 coming into effect (Republic of South Africa, 1998:104).

Section 136(1) of the Correctional Services Act 111 of 1998 provides that:

*[a]ny person serving a sentence of imprisonment immediately before the commencement of this Act will be subject to the provisions of the Correctional Services Act, 1959 (Act No. 8 of 1959), relating to his or her placement under community corrections, but the Minister may make such regulations as are necessary to achieve a uniform policy framework to deal with prisoners who were sentenced immediately before the commencement of this Act, and no prisoner may be prejudiced by such regulations.*

In simple terms, the Correctional Services Act 111 of 1998 provides by way of transitional provisions that prisoners who were already ‘in the system’ before the commencement of Chapters IV, VI and VII (which relate, inter alia, to placement on parole and which came into effect on 1 October 2004) are to be dealt with in terms of the parole provisions of the Correctional Services Act 8 of 1959, except that such prisoners are to be considered for placement on parole by the Correctional Supervision and Parole Board.

In Table 1 a comparison is given of the former Correctional Services Act 8 of 1959 and the new Correctional Services Act 111 of 1998, when considering an offender for parole placement. Table 2 refers to the composition of parole boards under these Acts.

Table 1

*Comparison of Act 8 of 1959 and Act 111 of 1998*

	<b>ACT 8 OF 1959</b>	<b>ACT 111 OF 1998</b>
Minimum detention period to be served before placement is considered	One-third (1/3) of sentence	Half (1/2) of sentence
Recommendation for placement by	Parole board	Case Management Committee
Decision for approval by	Delegated official of the Commissioner	Correctional Supervision and Parole Board

Table 2

*Composition of parole boards*

	<b>PAROLE BOARD</b> (Act 8 of 1959)	<b>CORRECTIONAL SUPERVISION AND PAROLE BOARD</b> (Act 111 of 1998)
Chairperson	Official or non-official member from Correctional Services	Member from the community
Vice-Chairperson	Member of Correctional Services	Member from the community
Secretary	Member of Correctional Services	Member of Correctional Services
Other members sitting on the board	<ul style="list-style-type: none"> <li>• Member from the institutional committee</li> <li>• Vocational staff such as social worker, psychologist, educationist</li> <li>• Any person who can provide inputs regarding the case, e.g. work team supervisor</li> </ul>	<ul style="list-style-type: none"> <li>• Two representatives from the community</li> <li>• Representative from the South African Police Service</li> <li>• Representative from the Department of Justice</li> <li>• Legal representative, family or friends of the offender, and/or the victim/complainant participation is also allowed</li> </ul>

## 2.5 THEORETICAL FOUNDATION OF PAROLE

The theoretical underpinning of parole is an attempt to justify to the community why certain offenders are selected to be placed on parole (Weiss, 1990:23). It is also, according to Clear and Dammer (2003:347), based on three basic concepts.

### **2.5.1 The Theory of Grace or Privilege**

Parole makes release from a correctional centre or prison a privilege that must be earned. The offender is the one who must demonstrate through his efforts and behaviour in prison his readiness to be released. The absence of parole or release as a right means that offenders simply walk out the prison door at the end of their sentence. No questions are asked about what has been done to make sure the offender is no longer a threat or danger to society before he is released. The choice is between parole, which means earned release, and no parole, which means automatic release (Burke, 1995:5).

In discussing the question of who should be paroled, Amos Butler (Witmer, 1927:47) said:

*Parole should be granted to those who by their ability to keep the rules inside prison give evidence of their ability to keep the law outside, who by their life gain the confidence of the management and whose release is not contrary to the public sense of the community from which they come.*

Parole, therefore, is granted as a kind of reward for good conduct or behaviour in the correctional centre.

If parole is approved by a parole authority, such as the Correctional Supervision and Parole Board, that considers all information surrounding the offender, it is an act of grace and therefore a privilege and not a right (Weiss, 1990:23). In other words, an offender could be kept in prison for the whole duration of his sentence, if not for the grace of the parole board (Tomasic & Dobinson, 1979:78).

### **2.5.2 The Consent or Contract Theory**

Every offender that is released on parole voluntarily enters into a contract and agrees to certain terms and conditions in return for his conditional freedom. A violation of any of these conditions amounts to a breach of contract which can result in parole being revoked (Nxumalo, 1997:18; Tomasic & Dobinson, 1979:78).

According to Clear and Dammer (2003:347), the parole system is seen as a kind of agreement, like a contract, between an offender and the state to find a way to meet the needs of both parties – the state gets to see if the offender becomes a law-abiding citizen, and the offender gets to leave the prison early. If both parties keep their promise, then parole is a win-win situation.

### **2.5.3 The Custody Theory**

This theory implies that the parolee is not free, but is in 'constructive custody' and the community has become an extension of his prison cell (Weiss, 1990:24). Clear and Dammer (2003:347) assert that the offender, even though he is released from prison, is still the responsibility of the Department of Correctional Services. Parole is an extension of correctional programmes into the community. The parolee is in legal custody of community corrections or parole authority, and his status is one of quasi-prisoner, which means that his constitutional rights are automatically limited (Nxumalo, 1997:18).

## **2.6 PHILOSOPHICAL FOUNDATIONS OF PAROLE**

The philosophy of parole is that:

- An offender has the opportunity to serve the rest of his sentence in the community;
- It is one phase of the treatment process;
- It is an internationally accepted method of placement;
- It is a legal method of conditional placement;
- It is an aid to the social reintegration of an offender; and
- It is based on supervision and control.

Parole, maintains Champion (2002:270), has been established for the purpose of rehabilitating offenders and successfully reintegrating them back into the community. Parole is earned rather than automatically approved after serving a minimum sentence period. The punitive nature of parole is that it punishes the offender by restricting his freedom of movement, under certain conditions and varying degrees of supervision (Bruyns, 2001:3).

Whatmore (Biles, 1989:40) sums up parole as:

*[a] method of releasing prisoners from institutional treatment to life in the community under prescribed conditions and with the aid of adequate supervision. It is not a right nor a reward for good conduct. It provides the parolee with help and guidance over the difficult period when he endeavours to re-adjust himself to life in the community; it retains control so that he may be returned to custody if he breaks the condition of his parole. Parole is part of the sentence.*

## **2.6.1 Functions of Parole associated with Community Safety and Protection**

A primary area of concern for the community relating to parole is offender risk or the chance of reoffending. The Correctional Supervision and Parole Boards use different methods and criteria to determine which offenders should be placed on parole and the amount of risk such placement would pose to the community. Parole offers offenders the chance to live reasonably normal lives within the community, but risk is assumed by Correctional Supervision and Parole Boards when parole is approved. No one knows for sure how each parolee will respond to his placement on parole (Champion, 2002:273; Clear & Dammer, 2003:387).

The ultimate goal of the justice community is public safety and in parole that means to protect the community from released offenders. It is obvious that the most profitable way of obtaining community protection is to turn the offender into a useful, law-abiding citizen and parole can be a means to this end (Giardini, 1959:19; Stevens, 2006:291). The supervision, restriction and monitoring of parolees and the revocation of parole when conditions of release are not complied with contribute to community safety and protection (Cromwell & Del Carmen, 1999:2).

## **2.6.2 Functions of Parole associated with Parolee**

### **2.6.2.1 Restitution**

Monetary payment from offenders to victims or institutions they have harmed or to compensate for their losses is the most common form of restitution. Parole can provide an opportunity for offenders to repay their financial debt to society and teaches them responsibility for their actions (Clear & Dammer, 2003:387; Cromwell & Del Carmen, 1999:5).

Community service provided by a parolee as a condition of parole is referred to as a form of 'symbolic restitution'. The parolee must perform 'free labour' to benefit or compensate the community. Restoration for the harm done by crime is produced through work, benefiting the entire community and not just a specific victim. Community service restitution is both punitive and rehabilitative. It is punitive in that the parolee's time and freedom are restricted until the task is completed, and rehabilitative in that it allows parolees to do something constructive, to increase their self-esteem, to reduce their isolation from the community and to benefit society through their efforts (Cromwell & Del Carmen, 1999:6; Stevens, 2006:198).

### **2.6.2.2 Rehabilitation**

Rehabilitation focuses on altering the behaviour and attitudes of offenders in such a way that they no longer need or want to commit crimes. This can be accomplished by providing rehabilitation programmes such as development or skills training, educational or work programmes and vocational or treatment programmes (life skills, drug abuse, etc.) that aim to target the specific needs of offenders.

Van der Westhuizen (1983:40) states that parole is the next logical step in the total development of the process of rehabilitation. By providing supervised assistance, the offender has a better chance of being successful in the community.

Clear and Dammer (2003:387) point out that rehabilitation is criticised as not working. Offenders know that if they show they are "rehabilitated", and learn to beat or manipulate the system, they will have a better chance of early parole release.

The Correctional Services Act 111 of 1998 also places an enormous responsibility on the Department of Correctional Services to provide programmes, but this is constrained by a lack of resources, such as sufficient social workers, teachers/educationists, psychologists and other professional staff (Dissel, 2002:4).

### **2.6.2.3 Reintegration**

Reintegration stresses adaptation to the community by requiring the offender to participate in rehabilitation programmes to develop his skills and educational abilities and allow the offender to use those skills in a community setting (Cromwell & Del Carmen, 1999:3).

Stevens (2006:291) describes reintegration as the process of finding an offender employment, restoring family relationships and confirming his support system (via address), and guiding an offender toward an independent, crime-free lifestyle. This same person must now be guided through re-entry into a community that values imprisonment more than conditional release. Being stigmatised as “once a criminal always a criminal” can become an obstacle for many parolees, especially in finding suitable employment.

To prevent this, the Department of Correctional Services aims to equip offenders with skills required for effective reintegration into the community after parole has been approved. Offenders are to undergo a compulsory pre-release programme. Aspects receiving attention include obtaining employment, accommodation and personal finance management. Community involvement in supporting offenders after release is encouraged during the programme.

The approval of parole limits the effects of imprisonment and functions as a reintegrative mechanism (Nxumalo, 1997:56). Offenders, especially those who have been incarcerated for long periods, often find it difficult to readjust to life in the community. Parole provides a means through which an offender may make a smooth transition from prison life to living in a community with some degree of freedom under supervision (Champion, 2002:270).

## **2.6.3 Functions of Parole associated with Corrections**

### **2.6.3.1 Deterrence of Crime and Institutional Control**

The prospect of parole provides a strong incentive for offenders to comply with institutional rules. A study of parole board decision-making in Nebraska showed that parole-eligible offenders who were denied parole were more likely to comply with institutional rules and behave well following their parole denials. Institutional misconduct also decreased by offenders not granted parole hearings. This information suggests that once these offenders have been rejected for early



release or denied a parole hearing, they may seek to conform to institutional rules to a greater degree than before (Proctor & Pease, 2000:39).

Parole boards are persuaded to approve parole for offenders with good conduct records in prison. They are deemed better risks than those who engage in institutional misconduct or disciplinary offences (Champion, 2002:271).

### **2.6.3.2 Punishment**

Punishment through parole is a continuation of the prison sentence in a sense that parolees are subjected to strict parole conditions under the supervision and monitoring of parole officers. Parolees are not free to do whatever they wish, and parole can be revoked for misbehaviour or not keeping their promise to comply with the conditions (Clear & Dammer, 2003:21). Parole has to do with “how” punishment and not “how much” punishment is administered. Parole implies flexible, judgement-driven, tailored and targeted punishment (Burke, 1992:11).

### **2.6.3.3 Controls Prison Overcrowding**

Parole boards have always been the historical “backdoor keeper”, and at times they have served as a safety valve to relieve overcrowding (Rhine, Smith & Jackson, 1991:27). Whether parole boards should perform this function is just as controversial as whether judges should take prison population into account when making the initial sentence decision (Duffee, c1989:424).

According to Champion (2002:271), the discretion of parole board members as to which offenders will be released before serving their full sentence is not affected by prison overcrowding. Parole boards can make a number of responses to overcrowding. They can increase the frequency of hearings, revise the criteria for parole eligibility and find alternatives to imprisonment after revocation of parole (Duffee, c1989:424).

### **2.6.3.4 Cost Savings**

As at 31 March 2006, there were 22 695 parolees in the system of community corrections and by June 2006, South African correctional centres accommodated an offender population of 158 032 people, an over-population of more than 50 000 people (Burger, 2007:414). The costs of

incarcerating an offender are R139,33 per day, compared to R13,44 per day for supervision cases (Security and Constitutional Affairs Select Committee, 2007:4). It is clear that with the proper administration of the parole process in placing “rehabilitated” offenders in the community, and thus reducing the period of imprisonment, the Department of Correctional Services, not to mention the taxpayer, can save a lot of money.

## **2.7 CONCLUSION**

The concept of parole as part of the framework of modern penology is the product of many minds; the contributions made by Alexander Maconochie and Sir Walter Crofton played a major role, in particular. The chapter has reflected the important roles that the Case Management Committee, Correctional Supervision and Parole Boards and community corrections need to play in order to make the parole process a success.

The purpose of the new parole system in South Africa and one of the key objectives of the Department of Correctional Services is to promote the rehabilitation of offenders. Ensuring gradual integration back into the community under controlled circumstances will be one method of combating the probability of reoffending or recidivism. Parole must serve as an instrument of continuing rehabilitation in the community in order to provide opportunities for communities to accept their responsibility in the rehabilitation process of offenders (Cilliers, 2006:ii).

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## CHAPTER 3

### AN INTERNATIONAL PERSPECTIVE OF PAROLE

#### **3.1 INTRODUCTION**

Parole, as a form of early release from incarceration, is an internationally accepted mechanism that is used to reintegrate sentenced offenders into the community under controlled circumstances.

The aim of this chapter is not to give a comprehensive account of release mechanisms in other countries, but to provide a descriptive overview of parole as a method of conditional release from an international perspective. Parole will be described as both a release mechanism and a method of community supervision in Canada, the United States of America, and Namibia as a developing country on the African continent.

#### **3.2 CANADA**

##### **3.2.1 The National Parole Board**

“The National Parole Board of Canada is an independent, administrative body that has exclusive authority under the Corrections and Conditional Release Act to grant; deny; terminate or revoke parole” (Correctional Services of Canada. National Parole Board, 2007b). “The board makes independent, quality decisions on the timing and conditions of release that will best facilitate the rehabilitation of offenders and their reintegration into society as law-abiding citizens” (Correctional Services of Canada. National Parole Board, 2007a).

The Correctional Services of Canada, by preparing reports and making recommendations, not only presents cases before the National Parole Board, but also supervises offenders on parole to ensure that they adhere to the conditions of release set by the board (Dunberry, 2004:4). Both the National Parole Board and Correctional Services of Canada, as part of the criminal justice system, operate under the authority of the Minister of the Solicitor General (Goff, 1999:1).



The National Parole Board is responsible for all federal offenders (serving sentences of two years or more) and provincial offenders (serving less than two years) in seven provinces and two territories. The other three provinces have their own parole boards (Dunberry, 2004:2; Rhine, Smith & Jackson, 1991:145).

The National Parole Board consists of 73 board members (September 2006). Full-time board members are appointed for fixed, five-year terms and part-time members for three-year terms based on their level of qualifications. Community board members are appointed for two years and all the terms for board members are renewable (Correctional Services of Canada. National Parole Board, 2007b; Rhine et al., 1991:145).

The selection criteria for appointed board members include a secondary school diploma and/or university degree, experience in a decision-making environment and knowledge of the criminal justice system and community activities. The board members, who offer a wide range of professional experience, are drawn from the fields of criminology, psychology, social work, law, corrections and other community-related fields (Correctional Services of Canada. National Parole Board, 2007a).

Members of the National Parole Board are guided by specific principles for decision-making. The principles help to ensure that the hearing and conditional release process is fair and understandable to everyone concerned. Some of the principles are:

- Community safety is the most important consideration in every conditional release decision;
- All relevant information must be considered during the decision-making process, including inputs from the victim(s);
- Parole boards are more effective when they exchange information among their criminal justice system partners and provide information about policies and programmes to offenders, victims and the general public;
- Parole board actions are guided by appropriate policies, and board members are given proper and continuous training; and
- Offenders must receive the information that the board will use to make a release decision, the reasons for the decision and the opportunity to appeal a decision (Correctional Services of Canada. National Parole Board, 2007a).

### 3.2.2 Conditional Parole and Release Criteria

In Canada, conditional release is a programme that allows an offender to serve part of a prison sentence in the community. The offender is placed under supervision and is required to abide by certain conditions developed to reduce the risk of reoffending and enhance reintegration into the community. There are three types of conditional release programmes: Full parole, day parole and statutory release (Correctional Services of Canada. National Parole Board, 2007a).

1. **Full parole** allows the offender to serve the remainder of the sentence under supervision in the community. Offenders (except those serving life sentences) are eligible to apply for full parole after serving either one-third of their sentence, or seven years (Rhine et al., 1991:146).
2. **Day parole** provides offenders with the opportunity to participate in community-based activities in preparation for release on full parole, or statutory release. Offenders must apply for day parole six months before they are eligible for full parole, and are usually required to return nightly to a correctional institution or halfway house (Correctional Services of Canada. National Parole Board, 2007a).
3. **Statutory release** requires, by law, that offenders be released with supervision after serving two-thirds of their sentence. Offenders serving life sentences and those declared as dangerous are not eligible for statutory release (Dunberry, 2004:4).

In order to protect society, members from the National Parole Board, Canada, make a preliminary risk assessment by reviewing all available information about the offender and considering a number of factors, including:

- The offence;
- Criminal history;
- Performance on earlier releases, if any;
- Social problems, such as alcohol or drug use and family violence;
- Mental status, especially if it affects the likelihood of future crime;
- Information about the offender's relationships and employment;
- Psychological or psychiatric reports;

- Opinions from professionals such as judges, police and other information that indicates whether release would present an undue risk to the community; and
- Information from victims (Correctional Services of Canada. National Parole Board, 2007a; Goff, 1999:109).

Members of the National Parole Board, Canada, also try to predict future criminal behaviour by considering specific factors such as:

- Appropriate treatment for any disorder diagnosed by a professional;
- Programmes that help offenders become law-abiding citizens such as substance abuse counselling and literacy training;
- The offender's understanding of the offence; and
- The offender's release plan (Correctional Services of Canada. National Parole Board, 2007a; Goff, 1999:110).

### 3.3 UNITED STATES OF AMERICA

Parole is the early release of inmates from correctional institutions prior to the completion of the prison sentence under supervision in the community. Parole in the United States is uniformly an activity of state and federal institutions, and those who are supervised in the community remain the responsibility of the criminal justice system (Clear & Cole, 1997:417).

The first element of parole is the decision by a legally designated paroling authority to determine the portion of the offender's sentence that he must serve before being released to complete the remainder of his sentence outside the institution. This authority is awarded to a parole board (or parole commission) that is charged with administering the parole policy (Cromwell & Del Carmen, 1999:211).

According to Abadinsky (2003:232), parole can be administered based on two models. In many states the parole board may be either independent from the correctional institutions, an **autonomous model**, or in others a decision-making body within the department of corrections, a **consolidation model** (Clear & Cole, 1997:435; Clear & Dammer, 2003:369).

The American Correctional Association (Cromwell & Del Carmen, 1999:211) has listed the following essential elements of an effective parole system:

- Flexibility in sentencing and parole laws;
- A qualified parole board;
- A qualified and competent parole staff;
- Freedom from political or improper influences;
- Workable position that is organisationally structured;
- Proper procedures that are in line with rehabilitation;
- Pre-release preparation within the prison;
- Positive public attitude toward parole; and
- Research and statistics on the effectiveness.

### **3.3.1 Composition and Functions of a Parole Board**

There is considerable diversity among parole boards in the United States. The governor of the state, whether full- or part-time, appoints most parole board members and there are no special qualifications for parole board membership in most jurisdictions. In other jurisdictions the Commissioner of Corrections appoints the members of the parole board, and in one state (Maryland) the Secretary of Public Safety is responsible for making the appointments (Champion, 2002:318; Rhine et al., 1991:35).

Massachusetts probably has the most stringent criteria for members to be appointed to the parole board compared to other jurisdictions. Members of the Massachusetts Parole Board must possess a bachelor's degree and have at least five or more years' experience in corrections, law enforcement, social work, or other related field (Champion, 2002:318).

In 40% of the states, board members serve four-year terms, and in 25% of the states they serve six years. As an example, the governor appoints the five members of the Alaska Board of Parole for five-year terms. In Connecticut, the chairperson and two vice-chairpersons serve full-time four-year terms; the other 12 members serve part-time four-year terms (Abadinsky, 2003:235).

According to Bottomley (1990:321), the functions of parole boards include three basic elements:

- To select and place rehabilitated offenders on parole or discretionary early placement on parole;
- To ensure effective supervision of parolees within the community by approving specific conditions for parole placement; and
- To review the violation of conditions and determine whether revocation of parole and return to prison are necessary.

Each parole board in the United States has different functions; no two parole boards are identical. A summary of functions, however, is possible by comparing the goals and philosophical statements of various boards. The American Correctional Association (Champion, 2002:319), as a result, has listed the following major functions of parole boards:

- To evaluate prison inmates who are eligible for parole and either approve or deny parole placement;
- To convene to determine whether a parolee's parole should be revoked on the basis of alleged parole violations;
- To evaluate juveniles to determine their eligibility for release from detention;
- To grant pardons or a commutation of sentence to prisoners, when mitigating circumstances or new information is presented that was not considered at trial;
- To make provision for the supervision and monitoring of adult offenders placed on parole;
- To provide investigative and supervisory services to smaller jurisdictions within the state;
- To grant reprieves in death sentence cases and to commute death penalties;
- To restore full civil and political rights to parolees and others on conditional release, including probationers;
- To review disparate sentences and make recommendations to the governor for clemency; and
- To review the pardons and executive clemency decisions made by the governor.

### 3.3.2 Parole Decision and Release Criteria

Parole eligibility is determined by statutory requirements and is usually based on the completion of the minimum sentence (Cromwell & Del Carmen, 1999:219).

Decisions made by parole boards, explains Champion (2002:324), can be classified into six general categories, each manifesting a particular value system:

4. The **jurist value system** regards parole decisions as a natural part of the criminal justice system. Fair and honest (equity) decisions are made and parole board members strive to be sensitive by placing emphasis on offenders' rights.
5. The **sanctioner value system** places the amount of time served evenly with the seriousness of the crime, in other words, the more serious the crime, the more time the offender must serve before a parole decision can be made.
6. The **treater value system** links the level of rehabilitation with participation in various educational or vocational programmes. If the offender benefited from these programmes, it might lead to a decision for early placement on parole.
7. The **controller value system** is most concerned with protecting the community. Parole supervision and monitoring are therefore set as conditions for control purposes.
8. The **citizen value system** is concerned with making appropriate parole placement decisions that meet the interests and expectations of the community.
9. The **regulator value system** is directed toward offender reactions to parole board decisions.

In states retaining indeterminate sentences, discretionary release by the parole board is the manner by which most felons leave prison. Discretionary release is the release of an inmate from incarceration at the discretion of the parole board within the boundaries set by the sentence and the penal law. Critics of parole release decisions portray the system as arbitrary and maintain that

rehabilitation should not be the primary criterion for returning inmates to the community. This is one of the reasons some jurisdictions have abolished parole. Other jurisdictions have instituted parole guidelines to be used to structure decisions without completely removing discretion (Clear & Cole, 1997:429; Clear & Dammer, 2003:351).

The use of determinate sentences and parole guidelines to fix the end of a prisoner's incarceration is referred to as mandatory release. The release from prison to community supervision is mandatory once the offender has served the required amount of time (Clear & Cole, 1997:421; Smith, c1998:248). The seriousness of the offence, institutional record of the inmate and risk of future recidivism were found to best explain a large number of parole decisions (Clear & Dammer, 2003:362).

The Alaska Board of Parole, say Rhine et al. (1991:73), has an extensive list of aggravating and mitigating factors to depart from parole guideline grids:

Aggravating factors

- Aggravated or sophisticated offence behaviour;
- Substantial negative impact on the victim;
- Magnitude of the offence;
- Violation of position of trust, or vulnerable victim;
- Multiple offences/counts/victims;
- Extensive prior record;
- Pattern of repetitive criminal behaviour;
- Repeated parole failures;
- Failure on pre-trial diversion or bail failures;
- Other verified criminal behaviour;
- Lengthy history of alcohol or drug abuse;
- Failure to take advantage of alcohol or drug programming before;
- Poor institutional behaviour;
- Failure to make restitution when able to do so; and
- Well-reasoned negative recommendation of victim/judge/other person or group.

### Mitigating factors

- Verified pre-trial diversion compliance over substantial period of time under strict reporting/supervision conditions;
- Incident-free recent parole history;
- No prior criminal behaviour;
- Exceptional institutional programme achievement;
- Strong community support/resources available;
- Substantial cooperation with the government resulting in the conviction of equal or more serious criminals;
- Payment of substantial amount of restitution to the victim;
- Life-threatening medical problem; and
- Substantial continuous period in jail on other charges.

Parole boards take into an account a variety of factors in making a decision for parole placement. According to Champion (2002:323), the following factors are considered:

- Behaviour or conduct during period of incarceration;
- Record of previous convictions;
- History of community adjustment;
- Nature and circumstances of the crime;
- The aggravating and mitigating factors surrounding the offence;
- Participation in institutional programmes dealing with offending behaviour;
- Documented changes in self-development and acceptance of authority;
- Adequacy of parole plans (accommodation and employment upon release);
- Manifestation of remorse; and
- Remarks by sentence imposer.

Parole decisions are influenced by the type of qualification and amount of experience members of a parole board possess. According to Cromwell and Del Carmen (1999:214), a qualified parole board should be made up of members who have sufficient and broad educational and professional experience in fields such as criminology, education, psychology, law, social work or other professions closely related to parole administration.



### **3.4 NAMIBIA**

The Ministry of Prisons and Correctional Services (MPCS) was established in 1995, and emphasised a new objective of the correctional services in Namibia: To promote the rehabilitation of prisoners. The Ministry of Prisons and Correctional Services was known as such until 21 March 2005, when the Namibian Police and Prison Services were united under the new Ministry of Safety and Security (Oxche, 2006:2).

The Namibian Prison Service adopted a new philosophical point of departure that “[h]uman beings can change, depending on the conditions under which they are kept. It is therefore important to treat inmates with dignity and respect, and this would cultivate an atmosphere of rehabilitation”. The Namibian Prison Service turned to Canada for guidance on developing a new legislative and policy framework, and from this new legislation the Prisons Act 17 of 1998 was drafted and approved. The penal policy in Namibia transformed from retribution to the rehabilitation of prisoners (Oxche, 2006:3).

#### **3.4.1 The National Release Board**

The National Release Board has been established subject to section 97(12) of the Prisons Act 17 of 1998. The members of the National Release Board are appointed by the Minister as per section 108 of this Act. One of the appointed full-time members is designated to be the chairperson of the National Release Board and another as the vice-chairperson of the board. The Commissioner appoints a correctional officer to serve as a secretary. He or she assists in administrative duties and is not a member of the National Release Board (Republic of Namibia, 2004).

A full-time member of the National Release Board holds office for a period of ten years and a part-time member for a period of three years (Republic of Namibia, 2005:91).

The board is mandated to make the recommendations, based on a thorough risk assessment of every case, to the Minister or Commissioner of Prisons regarding:

- The release on parole or probation or remission of sentence of prisoners serving determinate sentences;
- The release on parole or probation of offenders declared as habitual criminals or sentenced to life imprisonment; and
- The set conditions of parole or release (Republic of Namibia, 2004).

The principles that guide the National Release Board in fulfilling its functions are:

- Protection of society as the paramount consideration in the determination of any case;
- Taking into consideration all available information that is relevant to a case, including the stated reasons and recommendations of the presiding officer, other information from the trial or sentencing process, information and assessments provided by correctional authorities and information obtained from victims and the offender;
- Enhancing its effectiveness and openness through the timely exchange of relevant information with other components of the criminal justice system and through communication of its policies and programmes to offenders, victims and the general public; and
- Providing offenders with relevant information, reasons for decisions and access to the review of decisions in order to ensure a fair and understandable release process (Republic of Namibia, 2005:93).

The government of Namibia has developed a long-term strategy plan known as Vision 2030. Some of the key objectives are to provide rehabilitation to offenders in order to change their criminal behaviour and to reintegrate offenders into society as law-abiding citizens (Oxche, 2006:4).

### **3.4.2 The Release of Offenders on Parole**

Members of the National Release Board, after reviewing an offender's case during a hearing, consider the following risk factors when making a recommendation for either parole, probation or remission of sentence (Republic of Namibia, 2004):

- **Probability of reoffending:** Based on the offender's progress, as well as his ability to control his crime pattern;
- **Severity of reoffending:** Taking into consideration the history of aggressive behaviour, the usual type of criminal behaviour, conduct in the correctional institution, and crime descriptions found in police reports;
- **Risk management:** How the proposed community release plan will allow (or not allow) the level of risk to remain acceptable to society;
- **Offender's level of commitment:** Taking into account the offender's current attitude and record of previous releases on parole (if applicable);
- **Overall level of risk:** Taking into account the probability and seriousness of reoffending, risk management and the offender's level of commitment;
- **Release plan and community support:** Taking into account the reality of the offender's plan, opportunities of employment, type of community support and family involvement; and
- **Additional conditions:** Additional conditions are set that might contribute in managing the offender when returning to the community.

The National Release Board may only recommend parole before the expiration of the offender's sentence, if it is of the opinion that the offender will contribute to the protection of society and will not present an undue risk to society (Republic of Namibia, 2005:94).

### 3.5 CONCLUSION

Offenders or persons convicted of crimes come from communities, and these offenders will return to their community after parole has been approved by a parole board (Bukurura, 2003:82). The community must therefore accept its responsibility for improving home and neighbourhood conditions in preparation for the offender's placement (Giardini, 1959:20).

Parole is designed to assist rehabilitated offenders in the transition from incarceration to a law-abiding lifestyle and contributes to community safety (Dunberry, 2004:8).

Parole is an integral part of the criminal justice system and structured parole decision-making explicitly links three major aspects of the parole process: release, supervision and revocation.

The following chapter will examine the role of the Case Management Committee in making recommendations for parole placement and compiling profile reports for the Correctional Supervision and Parole Board. This, according to the researcher, is the starting point of the new parole process in South Africa.

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## CHAPTER 4

### PREPARATION FOR PAROLE PLACEMENT

#### 4.1 INTRODUCTION

The Department of Correctional Services in South Africa is in the process of transformation by placing the rehabilitation of offenders at the centre of all its activities (Cilliers & Smit, 2007:83). Rehabilitation is not an event or programme, but the result of a process which is aimed at positively changing the offender and his criminal behaviour. It combines the correction of offending behaviour, human development and the promotion of social responsibility and values (Department of Correctional Services, 2005:71).

The rehabilitation process, which forms part of the case management system, commences the moment the offender is admitted to a correctional centre and continues up to and after he is placed on parole within the community. Treatment, care and development programmes aiming to assist offenders in their rehabilitation process or path are identified as educational, skills training, social work, psychological and spiritual or religious programmes (Cilliers & Smit, 2007:87). These programmes are focused directly on the typical problem area or deviating behaviour of the offender.

On the rehabilitation of offenders in correctional centres, the United Nations Standard Minimum Rules for the Treatment of Prisoners (Rule 66(1)) prescribes as follows:

*To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release (Department of Correctional Services, 2005:128).*

According to Weiss (1990:31), the rehabilitation aspect is very important in the preparation phase for parole placement and the offender's participation in the rehabilitation process will obviously have an impact on the decision whether or not to place him on parole.

An administrative process for parole placement is activated by the Case Management Committee once the sentenced offender reaches his consideration date as prescribed by law. The Correctional Services Act 111 of 1998 (section 73) stipulates the minimum periods sentenced offenders must serve before consideration may be given to possible placement into the community corrections system.

At every correctional centre, an offender's case is managed and prepared for parole consideration by the Case Management Committee. The committee is therefore responsible for compiling profile reports, making a recommendation and submitting profile reports regarding parole placement to the Correctional Supervision and Parole Board for a decision. The quality of a prepared profile report will influence the quality of the decision taken by a Correctional Supervision and Parole Board (Luyt, 1999:134).

The Case Management Committees are the mainstay of the correctional centres. They are the true power engines that feed the Correctional Supervision and Parole Boards with profiles and ultimately work (Campbell, 2006:8).

In this chapter the researcher will focus on the role the Case Management Committee plays in preparing cases for parole placement with specific reference to its duties and composition. A complete description of a profile report (G326 form) and its contents will also be provided.

## **4.2 DEFINING CASE MANAGEMENT**

Luyt (1999:127) defines case management as a manner of organising the progress of each individual offender through the correctional system (Du Preez & Luyt, 2006:198). Case management is further described as a continuous process of involvement by personnel with specific skills and knowledge to assist offenders in a positive change of behaviour, to reduce recidivism and to improve security (Luyt, 1999:128).



Du Preez (2003:34) argues that case management is “the act of investigating and controlling something or a subject successfully by a professional person”. Case management is then defined as a form of service delivery by correctional officials through reaching out to an offender with a variety of specific needs and complex problems.

In case management, each offender must be regarded as an individual case and each offender’s sentence is regarded as something to be managed in order to have the best possible result for both the offender and for the community. Thus, case management, as an ongoing process, is utilised to assist each individual offender in becoming a productive and law-abiding citizen. It allows for a multidisciplinary team of committed correctional officials and vocational staff or professional team of specialists, with specific tasks and roles to fulfil, to interact with an offender in an effective manner (Du Preez & Luyt, 2006:199).

Decisions on how to manage a particular offender’s case depend mostly on his specific needs and risks that were identified during the assessment process. Case management involves planning a series of activities and programmes in order to meet these needs and risks and managing the offender’s progress toward the ultimate goal of placement on parole into the community (Correctional Services of Canada, 1993:6).

According to Luyt (1999:128), the objectives of case management can be described as follows:

- To ensure that focus is placed on the offender as an individual;
- To enhance the role of the correctional official as a rehabilitator;
- To develop a more effective risk security classification system;
- To develop sound working relationships with the offender based on clarity of roles and expectations;
- To identify and assess specific needs and problem areas;
- To develop, manage and implement realistic correctional sentence plans and programmes to meet these needs;
- To monitor and review plans on a regular basis; and
- To make the offender’s sentence as productive as possible.

### **4.3 THE CASE MANAGEMENT COMMITTEE**

Within case management, preparing cases for parole placement is the sole responsibility of the Case Management Committee, which submits a profile report of an offender to the Correctional Supervision and Parole Board for a decision. Proper preparation of cases, based on solid information, ensures that appropriate decisions are taken by the Correctional Supervision and Parole Board.

#### **4.3.1 Composition**

Section 42(1) of the Correctional Services Act 111 of 1998 states that:

*[a]t each prison there must be a Case Management Committee composed of correctional officials as prescribed by regulation.*

Therefore, at each correctional centre, the Case Management Committee is a multidisciplinary committee composed of the following officials:

- Chairperson;
- Secretary and clerks;
- Community integration official;
- Official in charge of the work team/workplace where the offender has been allocated for labour/training;
- Official in charge of the unit (unit manager or case officer) where the offender is detained;
- Vocational personnel, as determined by the chairperson, such as educationists, social workers, psychologists and religious care workers; and
- Any official in an advisory capacity, co-opted to the Case Management Committee by the chairperson (Department of Correctional Services, [s.a.]).

#### **4.3.2 Duties**

The Case Management Committee is responsible for ensuring a professional and coordinated approach towards the incarceration, treatment, training and development of all offenders (Burger,

2007:412). Its involvement with a view to guidance, evaluation and support covers the entire period for which an offender is detained in a correctional centre. Mnyani (1994:4) explains that the offender must appear before the Case Management Committee as soon as possible after admission to receive guidance regarding:

- The rights and privileges of each offender;
- The rules and regulations which apply in the correctional centre;
- The disciplinary system;
- Participation in multidisciplinary programmes; and
- Special vocational programmes which are available.

The committee has certain decision-making competencies and is called upon to communicate with offenders individually on a six-monthly basis about:

- Regulating the behaviour of offenders in terms of their privilege classification;
- Awarding/upgrading and forfeiture of gratuity;
- Scheduling and rescheduling rehabilitation programmes; and
- Monitoring sentence plans and evaluating progress to ensure the successful reintegration of the offender into the community (Department of Correctional Services, [s.a.]).

The assessment process after admission is defined as the procedures by which an offender is reviewed for possible placement in a correctional programme (Clear & Dammer, 2003:479). Reference to “procedures” as part of the assessment process is indicative of the active participation of a multidisciplinary committee in order to identify specific needs of an individual offender (Maree, Joubert & Hesselink-Louw, 2003:73).

Section 38 of the Correctional Services Act 111 of 1998 puts it as follows:

- (1) *As soon as possible after admission as a sentenced prisoner, such prisoner must be assessed to determine his or her –*
  - (a) *security classification for purpose of safe custody;*
  - (b) *health needs;*
  - (c) *educational needs;*

- (d) *social and psychological needs;*
  - (e) *religious needs;*
  - (f) *specific development programme needs;*
  - (g) *work allocation;*
  - (h) *allocation to a specific prison; and*
  - (i) *needs regarding reintegration into the community.*
- (2) *In the case of a sentence of imprisonment of 12 months or more, the manner in which the sentence should be served must be planned in the light of this assessment and any comments by the sentencing court.*

The correctional sentence plan, according to the White Paper on Corrections (Department of Correctional Services, 2005:133), is based on the total needs of the specific offender. These needs are:

- Needs in terms of correcting offending behaviour (corrections plan);
- Security needs, taking into account the human rights of the individual (security plan);
- Needs in terms of the physical and emotional wellbeing of the offender (care plan);
- Education and training needs (development plan);
- Needs in terms of allocated physical accommodation (facilities plan); and
- Needs in terms of the support required for the successful social reintegration of the offender (after-care or social reintegration plan).

The sentence plan is, according to the Correctional Services of Canada (Correctional Services of Canada, 1993:40), the central document in managing an offender's case and is a major focus for all decisions concerning the offender throughout his sentence. It will guide correctional officials in assisting offenders to:

- Address problem areas;
- Give priority to the most important needs;
- Take advantage of programmes available; and
- Prepare for a return to the community.

The recommendation function of the Case Management Committee regarding the placement of sentenced offenders on parole is highlighted in section 42(2) of the Correctional Services Act 111 of 1998:

*The Case Management Committee must –*

*(d) submit a report, together with the relevant documents, to the Correctional Supervision and Parole Board regarding –*

- (i) the offence or offences for which the sentenced prisoner is serving a term of imprisonment together with the judgment on the merits and any remarks made by the court in question at the time of the imposition of sentence if made available to the Department;*
- (ii) the previous criminal record of such prisoner;*
- (iii) the conduct, disciplinary record, adaptation, training, aptitude, industry, physical and mental state of such prisoner;*
- (iv) the likelihood of a relapse into crime, the risk posed to the community and the manner in which this risk can be reduced; ...*

The duties of the Case Management Committee are summarised as follows:

- Assessing each sentenced offender's needs and creating a suitable correctional sentence plan in terms of section 38(2) of the Correctional Services Act 111 of 1998;
- Interviewing each offender on a regular basis, reviewing the correctional sentence plan and the progress made and, if necessary, amending such plan;
- Possible placement of offenders under community corrections;
- Making recommendations regarding the placement of offenders on parole and the conditions for such placement by submitting a profile report, together with all relevant documents, to the Correctional Supervision and Parole Board for a decision; and
- Informing the offender of the contents of the report submitted by the Case Management Committee and affording the offender the opportunity to submit written representations (Department of Correctional Services, 2004:7; Du Preez, 2003:9).

### 4.3.3 Recommended Placement Option for Parole

The Case Management Committee can also recommend an offender for placement on either day parole or medical parole, besides making recommendations for placement on full parole.

#### 4.3.3.1 Day Parole

Day parole is a management mechanism preceding the parole phase to gradually assist an offender to be released into the community on his own recognisance under controlled circumstances. During this period the offender is compelled to return to a correctional centre after hours and may not commit any crimes or use alcohol. Day parole is aimed at the successful reintegration of the offender into the community in the sense that:

- He gradually becomes accustomed to community life;
- He is gradually exposed to greater responsibilities;
- Effective supervision and control is exercised over the offender during the period of day parole; and
- The continuous exposure to criminal elements together with the isolating effect of institutionalisation is reduced (Department of Correctional Services, [s.a.]; Ntuli, 2000:115).

Section 54 of the Correctional Services Act 111 of 1998 provides as follows:

- (1) *A person granted day parole remains a prisoner while in prison and is otherwise a person subject to community corrections but –*
  - (a) *such person may wear his or her own clothing whilst he or she is on day parole; and*
  - (b) *if he or she can afford it, must pay for board and lodging and medical services.*
- (2) *The Commissioner, Correctional Supervision and Parole Board, court or other body must decide on the duration of placement on day parole and must inform the Head of Prison who must inform the prisoner concerned of that determination.*
- (3) *A person on day parole who fails to report at prison is guilty of an offence and liable on conviction of the penalty prescribed in section 117.*

The categories of offenders who could be considered for day parole are:

- Offenders with practical resettlement or adaptation problems;
- Offenders who have become institutionalised; and
- Offenders with a doubtful prognosis and regarded as a high security risk (Department of Correctional Services, [s.a.]).

#### **4.3.3.2 Medical Parole**

Section 79 of the Correctional Services Act 111 of 1998 stipulates that:

*[a]ny person serving any sentence in a prison and who, based on the written evidence of the medical practitioner treating that person, is diagnosed as being in the final phase of any terminal disease or condition may be considered for placement under correctional supervision or on parole, by the Commissioner, Correctional Supervision and Parole Board or the court, as the case may be, to die a consolatory and dignified death.*

#### **4.4 THE PROFILE REPORT: G326 FORM**

The profile report is probably the most important document in any sentenced offender's life. It provides valuable information to the Correctional Supervision and Parole Board in considering the safety of the community, the interests of the victim, rehabilitation and control or supervision of the offender. The compilation of the profile report by the Case Management Committee, the quality of information and the attached documents will determine whether or not an offender is suitable to be placed on parole.

Legislation makes provision that all sentenced offenders qualify to be considered for possible parole placement after a certain period of the sentence, or minimum detention period, has been served. The earliest date on which placement on parole can be considered for offenders sentenced after 1 October 2004, in terms of section 73(5) of the Correctional Services Act 111 of 1998, is half of their sentences. A profile report must then be submitted to the Correctional Supervision and Parole Board by the Case Management Committee on the profile submission date or two months prior to the minimum detention period.

When submitting a profile report, the Case Management Committee must comply with the following guidelines:

- All documents attached to a profile report must be classified as confidential;
- A complete and correct profile report must be submitted;
- Each case must be dealt with on its own merits;
- When placement on parole is recommended, the recommended parole date should not be set for longer than one year in the future; and
- When a further profile is recommended, the further profile date must not be set for longer than two years in the future. This is to ensure that, although placement is not yet recommended, the offender will still appear before the Case Management Committee at regular times (Department of Correctional Services, [s.a.]).

Annexure D provides an example of the profile report (G326) that is generated from the Department of Correctional Services's computer system, as well as a typed cover sheet that accompanies the profile report. In describing the profile report, attention will be given to the particular sections and attached documents.

#### **4.4.1 Cover Sheet and Covering Page for G326**

On the cover sheet for a G326 form, the Case Management Committee will indicate in writing the name and registration number of the particular offender who is to be considered for parole placement. The number of pages and date of documents are also indicated on the cover sheet or annexure. The following documents, if available, are then attached in sequence:

- G326 – Profile report;
- SAP69(c) – Record of previous convictions;
- SAP62 – Crime description;
- Sentence remarks;
- Sentence plan;
- Sentence plan progress reports;
- Report by unit manager;
- Report by workplace supervisor;



- Confirmation of support systems;
- Confirmation of employment offer;
- Report by social worker;
- Report by psychologist;
- Report by educationist;
- Report by religious worker;
- Medical report; and
- Additional reports, including:
  - Copy of warrant;
  - Certificates of programmes attended;
  - Written representation by offender;
  - Written representation by family, friends or lawyer; and
  - Written inputs from victim(s).

The main purpose of the cover sheet is to indicate to the Correctional Supervision and Parole Board which of the above documents are attached, outstanding or not available. It also provides information whether the offender in question was previously considered by the Correctional Supervision and Parole Board and, if this was the case, the previous profile report must be attached.

After the Case Management Committee has considered an offender for possible placement, a computer-generated covering page (Approved/disapproved of Profile Report: Determinate sentence(s)), as part of the enclosed profile report will then be printed. Only the recommendation for placement by the Case Management Committee is indicated on the covering page. The recommendation submitted by the Case Management Committee is then approved, disapproved or amended by the Correctional Supervision and Parole Board and provision is made on the covering page to motivate reasons for the decision.

#### **4.4.2 Personal Particulars**

Section A of the profile report will indicate the personal particulars of an offender such as:

- Surname and name(s);
- Identity number or date of birth;

- Gender;
- Current age;
- Marital status;
- Qualification(s);
- Citizenship;
- Place of birth;
- If born outside the Republic of South Africa, if and when citizenship was obtained;
- If deportable, full details are provided, e.g. whether or not the deportation order was finalised;
- If any, registration numbers of accomplice(s) must be provided;
- If available, all previous correspondence in respect of representation must be attached;
- Security classification and date as from when the classification is applicable; the codes 1, 2 and 3 are used to indicate a minimum, medium and maximum classification, respectively;
- Privilege group, either A, B or C, is entered and the date as from when the group became effective; and
- Current workplace such as a trade or field of vocational training and the date of allocation.

#### **4.4.3 Current Sentence(s), Description of Crime(s) and Record of Escape(s)**

Section B of the profile report describes the following in chronological order:

- Case number, sentence date and warrant number;
- Court and place of sentence;
- Offence(s) committed and description of crime;
- Sentence as reflected on the warrant(s);
- If the offender has previously escaped, the date escaped, date rearrested and number of days out of custody; and
- Effective sentence period.

#### 4.4.4 Calculations and Certification

After an offender with a determinate sentence has been admitted, the release dates must be calculated, entered on the warrant and captured on computer. These dates are of importance, as they are an indication to the Case Management Committee and Correctional Supervision and Parole Board when an offender can be considered for possible placement on parole (Department of Correctional Services, 2004:42).

The following dates in section C are important in considering an offender, sentenced after 1 October 2004, for possible placement on parole:

- **Maximum release date:** The date upon which the imposed determinate sentence expires before amnesty/special remission of sentence is deducted;
- **Sentence expiry date:** The date when the total determinate sentence expires after amnesty and/or special remission of sentence has been deducted from the maximum release date. It is also known as unconditional release when an offender is released on his sentence expiry date;
- **Non-parole period:** The date after which parole can be considered as determined by court;
- **Minimum detention period or half of sentence period:** The date on which an offender is first considered for possible placement on parole. In the case of a habitual criminal, his first consideration for possible placement on parole is only after serving at least seven years of his sentence; and
- **Profile submission date:** The date a profile report must be submitted to the Correctional Supervision and Parole Board, two months prior to the completion of the minimum detention period.

It is vital that an offender's sentence details and calculation of release dates be indicated correctly on the G326 form. Subsequently, the chairperson of the Case Management Committee and of the Correctional Supervision and Parole Board will certify sentences and calculations as correct in section D of the profile report.

#### **4.4.5 Previous Convictions and Review**

Previous convictions, as per attached SAP69, are reflected in section E of the profile report. The crime rate of the offender can be determined based on the following information:

- The time he committed the previous convictions, the total number of previous convictions recorded against the offender and the various counts;
- The longest uninterrupted sentence served or most severe sentence imposed;
- Number of previous correctional supervision sentence(s); and
- Number of previous sentences converted to correctional supervision.

Section F provides an additional review on the number of previous placements, the time between his previous placement/release and date of current crime/conditions violated.

#### **4.4.6 Disciplinary Offences: G363(a)**

An offender's behaviour or conduct in a correctional centre is reflected in section G of the profile report. The total number and type of disciplinary offence(s) recorded against the offender are then clearly defined in the attached G363(a) form.

#### **4.4.7 Evaluation**

In section H of the profile report is where the Case Management Committee will indicate the different interventions made by specialists or vocational staff such as social workers, psychologists, educationists, spiritual workers and medical or health workers, in order to address problem areas that may exist. A brief summary of the evaluation is entered and, if available, the most recent reports must accompany the profile report.

As assessment per offender is usually reflected on the last page of the profile report, such as the type of rehabilitation programme(s) attended, the duration and comments or concluding remarks by a specialist who presented the programme.

The Case Management Committee will also specify if the following reports are attached:

- Report on the general behaviour and adaptation from the unit manager where the offender is detained;
- Written representation by the offender;
- Input(s) from victim(s); and
- Representation(s) by family, friends or lawyer.

#### **4.4.8 Recommendation of the Case Management Committee**

Section I of the currently used profile report still reads “Recommendation of the Parole Board”, which in the researcher’s opinion should be amended to “Recommendation of the Case Management Committee”. It is here where the Case Management Committee, after taking all the factors into consideration, will recommend placement on either day parole or parole, or that the offender be released on the completion of his sentence, or that a further profile be submitted. Provision is made for the Case Management Committee to motivate reasons for its recommendation to be approved.

The setting of supervisory conditions on maximum, medium or minimum, as part of section I, has since been amended to different monitoring or supervision phases which will be discussed later in more detail.

Section 42(2) of the Correctional Services Act 111 of 1998 states as follows:

*The Case Management Committee must –*

- (d) submit a report, together with the relevant documents to the Correctional Supervision and Parole Board regarding -*
- (vii) the possible placement of such prisoner on day parole or on parole, and the conditions for such placement.*

Therefore, the Case Management Committee must also recommend the conditions for parole placement, including the monitoring phase, after which the Correctional Supervision and Parole Board will either approve or amend these conditions and phases.

#### 4.4.9 Communication Plan

After studying the offender's file, the Case Management Committee will determine and indicate, where applicable, whether or not the offender's case was newsworthy or sensitive.

#### 4.4.10 Conditions related to Community Corrections

Attached to a profile report are the conditions related to community corrections (Annexure E), in other words the conditions for parole placement (conditional placement). The offender must accept and sign for these conditions as recommended by the Case Management Committee. According to Ntuli (2000:116), parolees who are integrated into the parole supervision system are subject to certain conditions until the sentence expiry date.

Parole conditions serve two distinct purposes: facilitation of rehabilitation and reintegration into the community; and protection of society. While these purposes are often complementary, occasionally their implementation may lead to contradictory results. For example, strict monitoring or supervision of parolees may best provide short-run community safety, but is also likely to be dysfunctional to the rehabilitation goal, thus creating a greater long-run problem for the community (The Parole System, 1971:307).

Section 52(1) of the Correctional Services Act 111 of 1998 provides that:

*[w]hen community corrections are ordered, a court, Correctional Supervision and Parole Board, the Commissioner or other body which has the statutory authority to do so, may, subject to the limitations in subsection (2) ..., stipulate that the person concerned –*

- (a) is placed under house detention;*
- (b) does community service;*
- (c) seeks employment;*
- (d) takes up and remains in employment;*
- (e) pays compensation or damages to victims;*
- (f) takes part in treatment, development and support programmes;*
- (g) participates in mediation between victim and offender or in family group conferencing;*
- (h) contributes financially towards the cost of the community corrections to which he or she has been subjected;*

- (i) *is restricted to one or more magisterial districts;*
- (j) *lives at a fixed address;*
- (k) *refrains from using or abusing alcohol or drugs;*
- (l) *refrains from committing a criminal offence;*
- (m) *refrains from visiting a particular place;*
- (n) *refrains from making contact with a particular person or persons;*
- (o) *refrains from threatening a particular person or persons by word or action;*
- (p) *is subject to monitoring; ...*

These conditions as stipulated in the Correctional Services Act 111 of 1998 will now be discussed in more detail.

#### **4.4.10.1 Monitoring**

All parolees, says Ntuli (2000:160), are subject to monitoring, which takes place in the following manner:

- Telephonic control at work and at home;
- Physical visits at home; and
- Compulsory visits by the parolee to the community corrections office.

Section 68(1) of the Correctional Services Act 111 of 1998 states as follows:

*Where a condition of monitoring is set in terms of section 52(1)(p), it must specify the form of monitoring.*

A revised classification system for offenders subject to community corrections has been implemented. The aim is to align the offenders' classification with rehabilitation, requiring more interaction between offenders and their supervision officials (Department of Correctional Services, 2006:39).

The grade of monitoring could take the form of Phase I to Phase V, depending on the predicted risk of the parolee to the community or as determined by the Correctional Supervision and Parole Board. The most stringent monitoring phase is gradually scaled down to Phase V of the

level of supervision, depending on the parolee's positive co-operation with the office of community corrections.

#### **4.4.10.2 House Detention**

Section 59 of the Correctional Services Act 111 of 1998 provides that:

*[w]here a condition of house detention is set in terms of section 52(1)(a), it must stipulate the hours to which the person is restricted daily to his or her dwelling and the overall duration of the limitation.*

The period of house detention, or period that the individual parolee is compelled to be at home, differs and depends on the monitoring phase under which the parolee was placed. Only the conditions that are applicable to that specific monitoring phase may apply.

#### **4.4.10.3 Community Service**

One of the conditions that may be set if not ordered by the court is the rendering of community service as specified in section 60 of the Correctional Services Act 111 of 1998:

- (1) *Where a condition of community service is set as part of community corrections, it must stipulate the number of hours which the person is required to serve, which shall not be less than 16 hours per month, unless the court otherwise directed.*
- (2)(a) *The court, Correctional Supervision and Parole Board or other body which has the authority to impose community service may specify where such community service is to be done ...*

All offenders placed on parole, where practicably possible, are compelled to do community service as a constructive contribution to serve the community.



#### **4.4.10.4 Seeking Employment and Employment**

In terms of section 61 of the Correctional Services Act 111 of 1998:

- (1) *A person subject to community corrections who is required in terms of section 52(1)(c) to seek employment, must make a reasonable effort to find employment and must furnish evidence to the Commissioner of the attempts that he or she has made in this regard.*
- (2) *The Commissioner must assist in the attempt to find employment.*

Section 62 of the Correctional Services Act 111 of 1998 further states on employment that:

*[a] person subject to community corrections who is required in terms of section 52(1)(d) to take up and remain in employment –*

- (b) may not change his or her employment without the permission of the Commissioner;*
- (c) must perform the work to the best of his or her ability and comply with the conditions of the contract of employment; and*
- (d) may not leave the place of employment during working hours, for purposes unrelated to the employment without the permission of the Commissioner.*

#### **4.4.10.5 Compensation**

The court can order that a person (parolee), as a condition of parole, must pay a certain amount to the victim as compensation. The parolee is required in terms of sections 52(1)(e) and 63 of the Correctional Services Act 111 of 1998 to pay compensation and an agreement must be reached with the parolee either to pay the amount once or in instalments.

#### **4.4.10.6 Programmes**

These programmes are usually aimed at addressing specific needs in each individual parolee's case, for example to prevent further criminality, to aid in drug and alcohol abuse, to improve family responsibilities or relationships and to acquire social skills (Ntuli, 2000:162).

Section 64(1) of the Correctional Services Act 111 of 1998 stipulates as follows:

*The court, Correctional Supervision and Parole Board or other body which has the authority to impose treatment, development and support programmes in terms of section 52(1)(f) may specify what programmes the person subject to community corrections must follow.*

#### **4.4.10.7 Contribution to Costs**

Section 65 of the Correctional Services Act 111 of 1998 provides the following about this matter:

- (1) *A person who is required in terms of section 52(1)(h) to make a contribution to the cost of the community corrections and a person on day parole must provide the Commissioner with a statement of income and expenditure.*
- (2) *The Commissioner may, within the means of such person, determine the contribution to costs which that person must make and may adjust it during the period of supervision and day parole.*

#### **4.4.10.8 Fixed Address**

In terms of section 66 of the Correctional Services Act 111 of 1998:

- (1) *When the court, Correctional Supervision and Parole Board or other body which has the authority to impose community corrections, requires a person to live at a fixed address in terms of section 52(1)(j) it must, after consultation with the Commissioner, determine such address.*
- (2) *Where an address was stipulated by such court, Board or other body but the Commissioner has subsequently been satisfied that -*
  - (a) *support will not be available to such person living there and that such support cannot be provided from other sources; or*
  - (b) *living at such address will be incompatible with compliance with the prescribed conditions for community corrections, the Commissioner may declare the address unsuitable ...*

#### **4.4.10.9 Use or Abuse of Alcohol or Drugs**

Section 67 of the Correctional Services Act 111 of 1998 makes it clear that:

*[w]here there is a reasonable suspicion that a person has used or abused alcohol or drugs in contravention of a condition set in terms of section 52(1)(k), a correctional official may require such a person to allow a designated medical officer to take a blood or urine sample in order to establish the presence and concentration of alcohol or drugs in the blood or urine.*

#### **4.4.10.10 Supervision**

The success of parole is closely related to the effectiveness of the supervision provided. Supervision is and remains the cornerstone of a successful parole system (Department of Correctional Services, [s.a.]). It involves all those activities related to the reintegration, surveillance and monitoring of the parolee at various levels within the community (Du Preez, 2003:90; Stevens, 2006:8).

Parole supervision, contends Ntuli (2000:116), is aimed at protecting the community. The risk that the parolees might pose to the community determines the level of parole supervision. Offenders, according to category, are usually placed under one of five supervision phases.

Table 3 refers to the level of parole supervision given to parolees according to the category, monitoring and house detention. In house detention, parolees are normally compelled to be at home, but will exclude the periods as indicated in Table 3 (Department of Correctional Services, [s.a.]).

Table 3

*Levels of parole supervision*

<b>LEVEL OF SUPERVISION</b>	<b>CATEGORY OF PAROLEES</b>	<b>MONITORING</b>	<b>HOUSE DETENTION</b>
<b>PHASE I</b>	<ul style="list-style-type: none"> <li>• History of violent crime committed/misconduct;</li> <li>• Previously violated parole conditions, escaped, failed to comply with conditions of bail/suspension/postponement;</li> <li>• Committed sexual crimes/crimes against children and the aged.</li> </ul>	<ul style="list-style-type: none"> <li>• Be physically visited at home, at least four (4) times a month;</li> <li>• Be visited at work at least once a month;</li> <li>• Be compelled to pay a visit at the Community Corrections Office or any place as agreed upon at a scheduled time for the purpose of consultation, at least twice (2) a month.</li> </ul>	<ul style="list-style-type: none"> <li>• Working hours and the duration of the journey to and from work;</li> <li>• Four (4) hours shopping period per week (on any day from Monday to Sunday);</li> <li>• Periods of compulsory engagement in programmes/community service.</li> </ul>
<b>PHASE II</b>	<ul style="list-style-type: none"> <li>• Not more than one previous violent crime/misconduct;</li> <li>• Previously violated parole conditions, but G306 warrant was not issued;</li> <li>• Not committed sexual crimes/crimes against children and the aged.</li> </ul>	<ul style="list-style-type: none"> <li>• Be physically visited at home, at least three (3) times a month;</li> <li>• Be visited at work at least once a month;</li> <li>• Be compelled to pay a visit at the Community Corrections Office or any place as agreed upon at a scheduled time for the purpose of consultation, at least once (1) a month.</li> </ul>	<ul style="list-style-type: none"> <li>• Working hours and the duration of the journey to and from work;</li> <li>• Six (6) hours shopping period per week (on any day from Monday to Sunday);</li> <li>• Periods of compulsory engagement in programmes/community service.</li> </ul>
<b>PHASE III</b>	<ul style="list-style-type: none"> <li>• No previous record of violent crime;</li> <li>• Have not previously violated parole conditions;</li> <li>• Not committed sexual crimes/crimes against children and the aged.</li> </ul>	<ul style="list-style-type: none"> <li>• By physically visited at home, at least twice (2) a month;</li> <li>• Be visited at work at least once a month;</li> <li>• Be compelled to pay a visit at the Community Corrections Office or any</li> </ul>	<ul style="list-style-type: none"> <li>• Working hours and the duration of the journey to and from work;</li> <li>• Two (2) free hours per day (Monday to Friday);</li> <li>• Six (6) hours shopping period per day</li> </ul>

		place as agreed upon at a scheduled time for the purpose of consultation, at least once (1) a month.	(Saturday and Sunday); <ul style="list-style-type: none"> <li>• Periods of compulsory engagement in programmes/ community service.</li> </ul>
<b>PHASE IV</b>	<ul style="list-style-type: none"> <li>• No previous record of violent crime;</li> <li>• Have not previously violated parole conditions;</li> <li>• Not committed sexual crimes/crimes against children and the aged;</li> <li>• Do not conspicuously pose an actual danger to society.</li> </ul>	<ul style="list-style-type: none"> <li>• Be physically visited at home, at least once (1) a month;</li> <li>• Be visited at work at least once every 2<sup>nd</sup> month;</li> <li>• Be compelled to pay a visit at the Community Corrections Office or any place as agreed upon at a scheduled time for the purpose of consultation, at least once every 2<sup>nd</sup> month.</li> </ul>	<ul style="list-style-type: none"> <li>• Working hours and the duration of the journey to and from work;</li> <li>• Three (3) free hours per day (Monday to Friday);</li> <li>• Eight (8) hours shopping period per day (Saturday and Sunday);</li> <li>• Periods of compulsory engagement in programmes/ community service.</li> </ul>
<b>PHASE V</b>	<ul style="list-style-type: none"> <li>• Complied with all the conditions of parole supervision;</li> <li>• House arrest and/or community service suspended;</li> <li>• Exit phase.</li> </ul>	<ul style="list-style-type: none"> <li>• Be physically visited at home, at least once (1) every 2<sup>nd</sup> month;</li> <li>• Be visited at work at least once every 2<sup>nd</sup> month;</li> <li>• Be compelled to pay a visit at the Community Corrections Office or any place as agreed upon at a scheduled time for the purpose of consultation, at least once every 2<sup>nd</sup> month.</li> </ul>	<ul style="list-style-type: none"> <li>• Working hours and the duration of the journey to and from work;</li> <li>• Four (4) free hours per day (Monday to Friday);</li> <li>• Eight (8) hours shopping period per day (Saturday and Sunday);</li> <li>• Periods of compulsory engagement in programmes/ community services.</li> </ul>

Section 57 of the Correctional Services Act 111 of 1998 specifies the following:

- (1) *All persons subject to community corrections must be supervised in the community by correctional officials.*
- (2) *Such supervision must not invade the privacy of the person concerned more than is necessary to ensure compliance with the conditions of the community corrections imposed.*
- (3) *If during such supervision it is necessary to ensure the safety of a correctional official or of any other person, a correctional official may search a person subject to community corrections and confiscate any weapon found.*
- (4) *A person subject to community corrections must facilitate the supervision process and in particular must not threaten, abuse, obstruct or deliberately avoid a correctional official.*
- (5) *A person subject to community corrections may not be under the influence of alcohol or other drug to an extent that impairs the process of supervision.*
- (6) *A person subject to community corrections may be required to attend and participate in meetings with the correctional official or officials responsible for supervising his or her behaviour or with a Supervision Committee.*

#### **4.5 CONCLUSION**

In preparing individual cases for the Correctional Supervision and Parole Board, the Case Management Committee together with available vocational personnel, as a multidisciplinary committee, plays a significant role in motivating for and recommending an offender to be placed on parole.

The rehabilitation process, facilitated by this multidisciplinary committee, depends mainly on the voluntary participation and positive commitment of an individual offender in order to be successful (Department of Correctional Services, 2005:128). However, as long as the offender primarily regards participation in rehabilitation programmes as a method to influence the Correctional Supervision and Parole Board, rehabilitation will largely remain a myth (Cilliers & Smit, 2007:99).

On paper, the rehabilitation process seems as if it is working, but in reality the Department of Correctional Services faces serious problems of overcrowding as well as a shortage of human

resources, and more specifically a shortage of vocational or professional personnel. For the financial year 2005, the staff establishment of the Department of Correctional Services represented a ratio of 1:221 educationists to sentenced offenders and the ratio of professional social workers and psychologists to the offender population was 1:595 and 1:11 223, respectively. The problem of overcrowding in South African correctional centres also creates conditions that undermine the quality of rehabilitation programmes offered to incarcerated offenders. These circumstances seriously hamper the Department's efforts to place the rehabilitation of offenders at the centre of all its activities (Cilliers & Smit, 2007:98).

According to Kalideen (2006:1), many offenders are being paroled without seeing a psychologist or social worker owing to the critical shortage of staff and lack of available rehabilitation processes, which at the end of the day is in direct violation of the Department of Correctional Services' own requirements for an offender to be placed on parole. The Judicial Inspectorate of Prisons, during their national inspections, also identified problems in most prisons such as a lack of staff, poor infrastructure, prison overcrowding, lack of rehabilitation programmes, lack of vocational and recreation facilities and inadequate health care (Erasmus, 2007:7).

When considering the eligibility of an offender for parole placement, the question remains whether the Correctional Supervision and Parole Board has a correctly prepared profile report in order to make proper parole decisions.

In the next chapter the researcher will focus exclusively on decisions made by the Correctional Supervision and Parole Board for parole placement. In addition, the role played by the Parole Review Board and victim participation will also be taken into consideration.

## 4.6 REFERENCES

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## CHAPTER 5

### THE DECISION FOR PAROLE PLACEMENT

#### **5.1 INTRODUCTION**

The Correctional Supervision and Parole Boards in South Africa are independent bodies responsible for making proper parole placement decisions. The Correctional Services Act 111 of 1998 recognises the need to ensure that decisions for parole placement are transparent and procedurally fair. This means that sufficient and relevant information about the offender is made available to the Correctional Supervision and Parole Boards, that the offender is provided with an opportunity to be heard during the decision-making process and that the rights of victims are acknowledged (Burger, 2007:55). Consideration is given to community safety, the interest of the victim, and the rehabilitation and control of the offenders, as part of the mission statement of the Correctional Supervision and Parole Boards (Department of Correctional Services, [s.a.]).

The significance of the existence of Correctional Supervision and Parole Boards is determined by two factors: the rationale for parole placement, and assessment criteria used to release offenders on parole (Lidovho, 2003:376). The parole decision-making process is based on the assessment of the offender's needs and the needs of the community for safety (Du Preez, 2003:89), or the bulk of parole decision-making focuses almost exclusively on the discretion exercised by members of the Correctional Supervision and Parole Board, and the factors that affect their decision to approve or deny parole (West-Smith, Pogrebin, & Poole, 2003:348).

The decision to approve parole results in conditional release before the sentence expiry date. A denial results in continued imprisonment until the offender reaches his approved further profile date. A further profile date is a date that is approved by the Correctional Supervision and Parole Board after finding a prisoner not suitable to be placed on parole. The Case Management Committee will compile and submit another profile report (G326) to the Correctional Supervision and Parole Board, at least two months before the prisoner reaches his further profile date.

The decision to approve parole placement is a complicated one, and vast responsibility has been placed on the members of a Correctional Supervision and Parole Board. Parole decisions have been considered as matters that demand special expertise, involving observation and treatment of offenders and conditional release under supervision, at a time that emphasises both the protection of the community and the offenders' rehabilitation. This idealistic correctional goal of protecting the community while rehabilitating the offender has served as justification for vesting broad discretionary powers in the boards (Newman, 1975:815).

The underlying philosophy of the parole system is that each individual offender can be treated and rehabilitated while in prison and that, once rehabilitated, he can be placed on parole since he no longer poses a danger to the community (Garber & Maslack, 1977:278).

If the ideal of imprisonment is to rehabilitate offenders in order to become law-abiding citizens, it is the community where the offender comes from and to which he will return after his placement that should be more involved (Mnyani, 1994:1).

## **5.2 CORRECTIONAL SUPERVISION AND PAROLE BOARDS**

### **5.2.1 Powers and Functions**

Structured parole decision-making links specifically the three major components of the parole process: release, supervision and revocation. It demands from Correctional Supervision and Parole Boards to review their current decision-making practices, clearly state their aims and explain and describe their decision-making tools and procedures. In doing so, the board will clearly reveal to the Department of Correctional Services what it expects, for example, with regard to institutional behaviour and programme participation (Rhine et al., 1991:168).

Correctional Supervision and Parole Boards are independent and statutory bodies that have certain decision-making competencies, except in cases of offenders sentenced to life imprisonment, those declared as dangerous criminals and the conversion of sentences of imprisonment into correctional supervision. In such cases, recommendations are submitted to the courts *a quo*, which in turn will make a decision on conditional placement (Department of Correctional Services, [s.a.]; Nxumalo, 1997:46).

The Correctional Supervision and Parole Boards are responsible for the following decisions:

- The placement of offenders on day parole or parole;
- The placement of offenders on medical grounds;
- The placement of offenders, who are sentenced under 276(1)(i) of the Criminal Procedure Act 51 of 1977, on correctional supervision;
- The release of offenders upon the expiry of their full sentences;
- The approval of the conditions of supervision; and
- The amendment of conditions or the revocation of placement on day parole, parole or correctional supervision depending on the seriousness of the violation (Ntuli, 2000:157; South African Police Service, [s.a.]).

These powers, functions and duties of Correctional Supervision and Parole Boards are also stipulated in section 75(1) of the Correctional Services Act 111 of 1998:

*A Correctional Supervision and Parole Board, having considered the report on any prisoner serving a determinate sentence exceeding 12 months submitted to it by the Case Management Committee in terms of section 42 and in the light of any other information or argument may –*

- (a) subject to the provisions of paragraphs (b) and (c), place a prisoner under correctional supervision or day parole or grant parole and, subject to the provisions of section 52, set the conditions of community corrections imposed on the prisoner;*
- (b) in respect of any prisoner having been declared a dangerous criminal in terms of section 286A of the Criminal Procedure Act, make recommendations to the court on the granting of the placement under correctional supervision or day parole or parole and on the period for and, subject to the provisions of section 52, the conditions of community corrections imposed on the prisoner; and*
- (c) in respect of any prisoner serving a sentence of life imprisonment, make recommendations to the court on granting of day parole or parole, and, subject to the provisions of section 52, the conditions of community corrections to be imposed to the prisoner.*

The previous parole system, according to Nxumalo (1997:54), was not without any criticism:

- Parole fails to release the right offenders at the right time;
- The needs of the parolee are not adequately met by post-release services;
- Parole boards rely on information from a profile report submitted by the Case Management Committee. Sometimes these profile reports are inaccurate and fail to provide sufficient information about the offender;
- Parole board members lack sufficient expertise and training, and experience huge volumes of caseloads, preventing them from making proper decisions.

Currently some of the problems experienced by Correctional Supervision and Parole Boards are the late submission of profile reports by the Case Management Committee, the lack of evidence of participation in rehabilitation programmes and existing backlogs to consider cases for parole. Complaints from offenders are that they are not properly informed by the Case Management Committee of parole and its effects, and that the Correctional Supervision and Parole Boards lack uniformity in their decision to approve parole (Erasmus, 2007:41). For example, where two co-accused are serving the same sentence, but are incarcerated at different correctional centres, instances have been recorded of different placement dates owing to the different Correctional Supervision and Parole Board practices (Correctional Services Portfolio Committee, 2007).

### **5.2.2 Composition and Appointment**

Currently there are 52 Correctional Supervision and Parole Boards appointed countrywide. These boards are community based, which means that the majority of members of a board, including the chairperson and vice-chairperson, are from local communities (Erasmus, 2007:40).

Both the chairperson and vice-chairperson of these boards, as respected and credible members of the community, have a huge responsibility resting on their shoulders. They are accountable for decisions made by the board and must therefore have the necessary qualities and abilities to be appointed in this capacity. Equal to this is their good standing in the community or their involvement in community-based structures. Other requirements as part of their contract appointment of three to five years are the possession of a recognised three-year degree/diploma in the social sciences and/or appropriate experience in the field of the criminal justice system. Furthermore, all appointed board members need to be schooled in meeting procedures and

administrative processes and will undergo intensive and sufficient training with regard to relevant legislation and policy governing Correctional Supervision and Parole Boards (Manzini, 2004:4).

The number of vacancies in respect of the chairperson posts in the various regions, as of 31 March 2007, are presented in Table 4 (Erasmus, 2007:40).

Table 4

*Chairperson posts in various regions*

REGION	CHAIRPERSON	
	FILLED	VACANT
Gauteng	4	7
Western Cape	6	4
Eastern Cape	6	2
KwaZulu-Natal	5	3
Free State/Northern Cape	6	1
Limpopo, Mpumalanga, North West	7	1
<b>TOTAL</b>	34	18

In the case of the two community members that are appointed on a part-time basis per board, academic qualifications and expertise in administrative and legal processes are not as crucial as their good standing in the community and their ability to judge fairness within the greater concept of justice. Their role is to represent the interests of the community at large as well as the interests of victims of crime (Manzini, 2004:4). According to Erasmus (2007:40), 77 of these posts were filled as of 30 April 2007, and 27 were vacant.

The composition and appointment of Correctional Supervision and Parole Boards are set out in section 74 of the Correctional Services Act 111 of 1998 as follows:

- (1) *The Minister may –*
  - (a) *name each Correctional Supervision and Parole Board;*
  - (b) *specify the seat for each Board;*
  - (c) *determine and amend the area of jurisdiction of each Board.*
- (2) *The Minister must appoint one or more Correctional Supervision and Parole Boards consisting of –*

- (a) *a chairperson;*
  - (b) *a vice-chairperson;*
  - (c) *an official of the South African Police Service nominated by the National Commissioner of the South African Police Service;*
  - (d) *an official of the Department of Justice and an alternate, both with a legal background, nominated by the Director-General of the Department of Justice;*
  - (e) *two officials of the Department nominated by the Commissioner; and*
  - (f) *two members of the community.*
- (3) *The Commissioner must designate one of the correctional officials referred to in subsection (2)(e) to act as a secretary for a Board.*

Campbell (2006:8) is of the opinion that the close working relationship and collaboration between the other partners of the criminal justice system, the so-called JCPS cluster, is not satisfactory. The representatives from the Department of Justice and South African Police Service, who are *ex officio* members of the Correctional Supervision and Parole Board, are continuously and consistently absent from parole board hearings.

### **5.2.3 Criteria for Parole Selection**

The criteria for parole selection are not meant to be used as the ultimate model. They should rather be seen as a predisposition according to which the Correctional Supervision and Parole Board may serve the interests of the community on the one hand, and those of the offender on the other to the best of their ability and in a responsible manner. Thus, the primary issue is that the Correctional Supervision and Parole Board should, at all times, try to make well-founded decisions by evaluating offenders fairly and justly for parole placement. The highest possible form of professionalism must be practised when dealing with each individual case (Department of Correctional Services, 2004:21).

Table 5 refers to the positive and negative factors the Correctional Supervision and Parole Boards in South Africa consider as criteria for parole selection (Department of Correctional Services, [s.a.]; Department of Correctional Services, 2004:22-25).

Table 5

*Factors affecting parole decisions*

<b>NEGATIVE (AGGRAVATING) FACTORS</b>	<b>POSITIVE (MITIGATING) FACTORS</b>
<ul style="list-style-type: none"> <li>• Aggravating factors of the crime;</li> <li>• Vulnerability of the victim when the crime was committed;</li> <li>• Special relationship and trust that the offender had with the victim, e.g. parent/child;</li> <li>• Offender had sufficient time to refrain from criminality/actions, e.g. various counts of fraud, assaults;</li> <li>• Manner in which the crime was committed, also if lives of others were endangered;</li> <li>• Several victims were involved, and degree of violence inflicted;</li> <li>• Murder was committed with explosives or a dangerous weapon;</li> <li>• Murder was committed to prevent victim from testifying;</li> <li>• Corpse was abused or mutilated;</li> <li>• Murder was lustful and senseless;</li> <li>• Intentionally poisoned or deliberately murdered the victim (ambush, well-planned);</li> <li>• Offender was a leader of gang or group of accomplices or enticed others to participate in murder;</li> <li>• Long history of aggressive criminal behaviour as reflected on SAP69;</li> <li>• Continues with aggressive behaviour in correctional centre;</li> <li>• Involved in another crime which is an integral part of current crime; and</li> <li>• Was on parole or in detention, or had escaped or absconded or on bail pending appeal at the time the crime was committed.</li> </ul>	<ul style="list-style-type: none"> <li>• Participation in programmes dealing with offending behaviour;</li> <li>• Acquisition of skills, e.g. artisan's certificate or particular technical skill;</li> <li>• Improvement of self-control demonstrated by good behaviour and sound work habits;</li> <li>• Meritorious behaviour or outstanding performance rendered for Correctional Services;</li> <li>• Acceptance of new responsibilities;</li> <li>• Assistance with the maintenance of order in correctional centres;</li> <li>• Constructive use of leisure or recreation time;</li> <li>• Positive support systems (regular visits);</li> <li>• Rendering exceptional service to the community;</li> <li>• Positive attempts to develop community's auxiliary resources;</li> <li>• Studying further and acquisition of academic qualification;</li> <li>• Voluntary performance of work assignments;</li> <li>• Significant participation and visible progress in social, psychological or self-help programmes;</li> <li>• Actual improvement in personal circumstances which were the cause of the crime; and</li> <li>• Change in circumstances, e.g. social, economic or environmental factors which led to the crime.</li> </ul>



With reference to the *Motsemme* (case 04/26569) and *Parker* (case 04/9191) judgments, the length of sentence and nature/seriousness of the crime could not be viewed as the main and decisive factors for parole placement (Sloth-Nielsen, 2005:2). The policy directive and manual of the Correctional Supervision and Parole Boards refers to the relationship between the nature of the offence and possible placement on parole. Paragraph 3.3.2 of the Correctional Supervision and Parole Board *manual* (Department of Correctional Services, 2004:21) reads as follows: "Specific attention must be given to the type of crime committed; the length of sentence and the gravity thereof must be counterbalanced with other factors for consideration, including circumstances surrounding the crime rather than the crime itself."

In counterbalancing these positive and negative factors, there are specific factors that also play a role during the consideration process for possible placement on parole, such as:

- Pre-sentence factors:
  - Poor personal, social and employment history;
  - Crime history/criminal prognosis (record of previous convictions or violation of parole conditions);
  - Family and marriage history;
  - Low educational level;
- Comments/remarks made by sentence imposer;
- Nature, seriousness or circumstances of the crime (crime committed in a group context, other accomplices etc.);
- Length of sentence;
- Age of the offender and victim(s);
- Crime pattern and rate of committing crime;
- Post-sentence factors:
  - Criminal offence committed whilst incarcerated (parole can be prolonged by a period of 1-6 months);
  - Any disciplinary offence committed during the first quarter of his sentence;
- Conduct and adaptation during the period of incarceration and acceptance of authority;
- Treatment or rehabilitation programmes which are aimed at addressing and correcting offending behaviour;

- Reports by vocational personnel: social workers, psychologists, educationists, religious workers and health care workers;
- Comments and reports from non-government organisations (NGOs);
- Information from victims;
- Positive support system and monitorable residential address;
- The offender's efforts in finding solutions to personal problems such as drug addiction and low educational level;
- The adequacy of the parole plan, including the environment to which the offender will return, the character of those with whom he will associate, home circumstances and employment prospects;
- Manifestation of remorse and insight into the causes of his past and current criminal conduct; and
- Restorative justice (Department of Correctional Services, [s.a.]; Department of Correctional Services, 2004:25-26; Nxumalo, 1997:69).

The Correctional Supervision and Parole Board approve parole only once it is satisfied that the sentenced offender meets all the stipulated requirements and criteria. Campbell (2006:8) lists some of the factors the Correctional Supervision and Parole Board considers as remorse, the nature and seriousness of the crime, completion of rehabilitative programmes, self-development, spiritual wellness, confirmation of a positive and physical address and restorative justice.

#### **5.2.4 Procedures of a Parole Hearing**

When an offender appears before a Correctional Supervision and Parole Board, a procedural framework for parole hearings must be in place to provide consistency and guidance to board members.

Section 74(6) of the Correctional Services Act 111 of 1998 stipulates that:

*[a]ny decision of a Board must be taken by resolution of the majority of the members present at any meeting of that Board and, in the event of equality of votes, the person presiding shall have the casting vote as well as a deliberative vote.*

Figure 1 shows the parole procedures once an offender reaches his minimum detention period or consideration date for conditional placement.

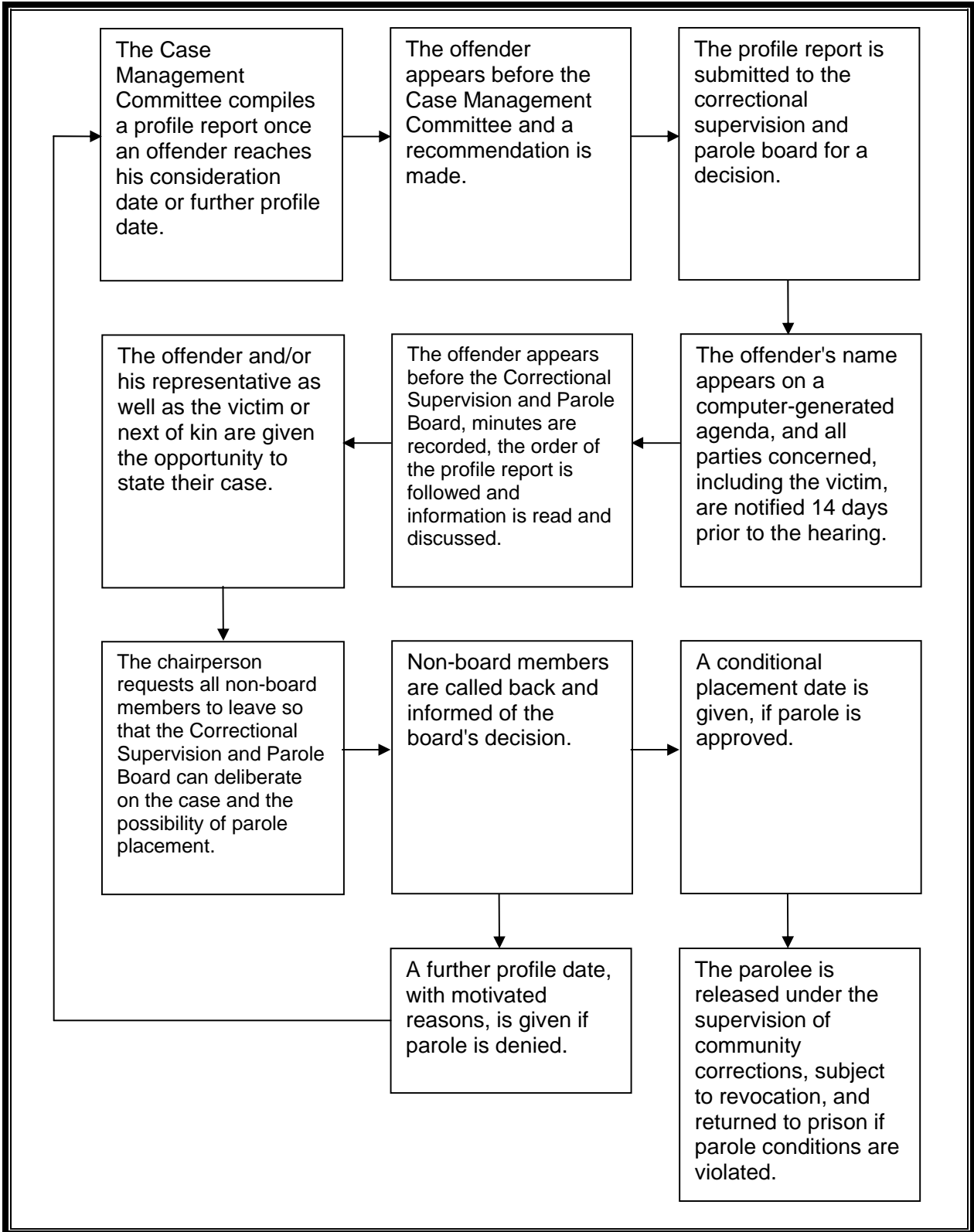


Figure 1. Parole procedures

An offender, after reaching his consideration date or minimum detention period, must first appear before a Case Management Committee. A profile report and recommendation made by the committee is then submitted to the Correctional Supervision and Parole Board for a parole hearing to take place. The offender and all parties concerned must be made aware of the proceedings at least 14 days prior to the hearing. The victim(s), if any, must also be informed in writing of the time, date and venue of the hearing (Department of Correctional Services, 2004:17).

During the hearing, the chairperson or vice-chairperson (if the chairperson is unavailable) must ensure that a quorum is formed. In terms of section 74(4) and (5) of the Correctional Services Act 111 of 1998, five members constitute a quorum, which includes the chairperson or vice-chairperson and an official of the Department of Justice. The minutes of the proceedings are properly recorded and signed by the chairperson and all members present, including the offender. Before the Correctional Supervision and Parole Board deliberate on a case, written or oral representations from a victim(s) or the victim's next of kin and that of an offender and/or his representative are considered. The board must provide comprehensive and proper motivated reasons regarding its decision (Department of Correctional Services, 2004:18).

### **5.2.5 Parole Revocation**

The term “revocation” refers to the “formal termination of a parolee's conditional freedom and the reinstatement of imprisonment” (Cromwell & Del Carmen, 1999:241).

Parole revocation is authorised by the Correctional Supervision and Parole Board and, depending on the nature and severity of the violation of conditions, a parolee is returned to prison to serve the remainder of his sentence.

Non-compliance with the conditions imposed on a parolee is addressed in section 70(1) of the Correctional Services Act 111 of 1998 as follows:

*If the Commissioner is satisfied that a person subject to community corrections has failed to comply with any aspect of the conditions imposed on him or her, or any duty placed upon him or her in terms of any section of this Chapter, the Commissioner may, depending on the nature and seriousness of the non-compliance –*

- (a) reprimand the person;*

- (b) *instruct the person to appear before the court, Correctional Supervision and Parole Board or other body which imposed the community corrections; or*
- (c) *issue a warrant for the arrest of such person.*

According to Clear and Dammer (2003:383), parole can be revoked for two reasons:

- The committing of a new crime; or
- The violation of the conditions of supervision (a technical violation).

They argue that technical violations, such as failing to report a change of address to the community corrections office, are controversial because they involve non-criminal behaviour. In practice, a parolee is returned to prison only if he continuously demonstrates a pattern of non-compliance or is found guilty for committing another crime. Parole revocations seldom result from a single technical violation - prisons are far too overcrowded to make this kind of strictness a common practice (Clear & Dammer, 2003:383).

### **5.3 THE CORRECTIONAL SUPERVISION AND PAROLE REVIEW BOARD**

The Correctional Supervision and Parole Review Board was established nine months after the Minister of Correctional Services formed 52 Correctional Supervision and Parole Boards in 2005. The role of the Parole Review Board is to review parole decisions and resolve parole matters with fairness and objectivity. It performs a management function and supervisory role over decisions taken by the Correctional Supervision and Parole Boards, and creates a platform for offenders to voice their discontentment with the Correctional Supervision and Parole Board's decision. The Minister of Correctional Services, the Honourable Ngconde Balfour at the time of writing, stressed in his speech on the launch of the Parole Review Board that (South African Government Information, 2006):

*[t]he work of the Parole Review Board will be in vain if the offender profiling and interventions with regard to assessment and development of comprehensive rehabilitation programme for offenders does not effectively create conducive conditions for their rehabilitation, parole and social reintegration. The involvement of our communities in this regard, as outlined in the White Paper on Corrections is also very pivotal in ensuring that we break the cycle of crime.*

### 5.3.1 Composition

The Correctional Supervision and Parole Review Board comprises of a team of experts with the necessary skills and experience to improve the current parole system in South Africa (Zama, 2006:10).

Section 76 of the Correctional Services Act 111 of 1998 states as follows:

- (1) *The Correctional Supervision and Parole Review Board is selected from the National Council and consists of –*
  - (a) *a judge as chairperson;*
  - (b) *a director or a deputy director of Public Prosecutions;*
  - (c) *a member of the Department;*
  - (d) *a person with special knowledge of the correctional system; and*
  - (e) *two representatives of the public.*
- (2) *The National Council must appoint the members for each meeting of the Correctional Supervision and Parole Review Board.*
- (3) *The majority of the members of the Correctional Supervision and Parole Review Board constitute a quorum for a meeting of the Board.*
- (4) *A decision of a majority of the members of the Correctional Supervision and Parole Review Board present is a decision of the Board and in the event of an equality of votes on any matter, the member presiding at the meeting has both a deliberative and a casting vote.*

### 5.3.2 Powers

The Correctional Supervision and Parole Review Board has the power to independently review decisions made by Correctional Supervision and Parole Boards. Although the Correctional Services Act 111 of 1998 makes provision that the decision of the Correctional Supervision and Parole Boards is final, the Parole Review Board acts as a mechanism to ensure that these boards do not abuse their powers (Zama, 2006:10).

The powers of the Correctional Supervision and Parole Review Board in respect of cases decided by a Correctional Supervision and Parole Board are set out in section 77 of the Correctional Services Act 111 of 1998:

- (1) *On consideration of a record submitted in terms of section 75 and any submission which the Minister, Commissioner or person concerned may wish to place before the Correctional Supervision and Parole Review Board, as well as such other evidence or argument as is allowed, the Correctional Supervision and Parole Review Board must -*
  - (a) *confirm the decision; or*
  - (b) *substitute its own decision and make any order which the Correctional Supervision and Parole Board ought to have made.*
- (2) *The Correctional Supervision and Parole Review Board must give reasons for its decision, which are to be made available to the Minister, Commissioner, the person and the Correctional Supervision and Parole Board concerned in a specific matter and all other Correctional Supervision and Parole Boards for their information and guidance.*

As indicated in section 75(8) as well as section 77 of the Correctional Services Act 111 of 1998, either the Minister or Commissioner of Correctional Services refers cases to the Parole Review Board if sufficient reasons exist for the belief that the Correctional Supervision and Parole Board has failed in making a proper decision. When the Parole Review Board substitutes a decision made by the Correctional Supervision and Parole Board with a new decision, the reasons for its decision must be communicated to the particular and other Correctional Supervision and Parole Boards. This will provide guidance to these boards and hence lead to a more effective parole system (Cilliers, 2006:iv).

#### **5.4 THE ROLE OF THE VICTIM IN THE PAROLE PROCESS**

The strength of the victims' rights movement can be measured by numerous legislative and policy changes since 1994. These changes were introduced to align South Africa's parole policy with international trends that recognise the role victims play in the parole decision-making process (Muntingh, 2005:4). The parole policy allows for direct input from the victim(s) of the crime (Department of Correctional Services, 2005b:23).

To facilitate and regulate matters with regard to the involvement of victims in Correctional Supervision and Parole Board hearings, provision was made in both section 75(4) of the Correctional Services Act 111 of 1998 and section 299A of the Criminal Procedure Act 51 of 1977. The Department of Correctional Services has also issued directives regulating victim/complainant

participation in Correctional Supervision and Parole Boards, and the manner and circumstances under which complainants may exercise their rights in this regard. In addition, the Department of Justice has published the Minimum Standards on Services for Victims of Crime as well as the Service Charter for Victims of Crime in South Africa, which deal with the rights of victims (Department of Correctional Services, 2006:39; Ramadikela, 2007:28).

Section 299A of the Criminal Procedure Act 51 of 1977 provides for the right of a complainant to make representations in certain matters relating to placement of a sentenced offender on parole, day parole or under correctional supervision. A complainant is understood to be the victim of the crime, or the immediate family in the case of a murder (Muntingh, 2005:4).

Section 75(4) of the Correctional Services Act 111 of 1998 stipulates that:

*[w]here a complainant or relative is entitled in terms of the Criminal Procedure Act, to make representations or wishes to attend a meeting of a Board, the Commissioner must inform the Board in question accordingly and that Board must inform the complainant or relative in writing when and to whom he or she may make representations and when and where a meeting will take place.*

The Correctional Supervision and Parole Board considers a number of factors, which include the offender's entire background, his response to rehabilitation programmes, the circumstances surrounding the crime, the existence and quality of support systems, the probability of reoffending (recidivism), potential risks an offender may pose to the community at large as well as the risk to the complainant/victim. These factors, together with the representation of the complainant, will direct the board's decision and it is therefore important that complainants be provided with an opportunity to become involved in the process. A complainant does not have a vote on the decision of the board, but may be present for the duration of the parole hearing (Burke, 1995:7; Department of Correctional Services, 2005a:5; Ramadikela, 2007:28).

#### **5.4.1 Participation and Involvement of Complainants/Victims in Parole Hearings**

A full model of victim involvement in parole decisions would include, according to Black (2003:2), at least three parts:



- The right to be informed of an upcoming parole hearing;
- The right to make submissions during the hearing; and
- The right to have those submissions considered in parole decisions.

According to Herman and Wasserman (2001:433), victims' rights are designed to ensure that their views are taken into account before parole decisions are made and to help victims prepare themselves for the offender's release. These rights relating to parole include:

- The right to be informed or notified about parole-related events and proceedings;
- The right to be heard on matters relating to the offender's parole and related incidents;
- The right to be present at parole proceedings; and
- The right to an order for restitution as a condition of parole.

#### **5.4.1.1 Notification**

The procedures to inform or notify a complainant/victim of their rights are as follows:

- The court that sentences a person to imprisonment must inform the complainant, if present, of their right to make representations when the offender is considered for parole placement, or to attend any relevant meeting (hearing) of the Correctional Supervision and Parole Board.
- Should the complainant wish to make a representation, they are responsible for informing the Commissioner of Correctional Services of this in writing, and to provide the Commissioner with all relevant information and contact details.
- In turn, the Commissioner is required to inform the relevant Correctional Supervision and Parole Board of the declared intention.
- The duty then rests on the Correctional Supervision and Parole Board to inform the complainant, in writing, when the meeting (parole hearing) will take place with regard to the particular offender (Department of Correctional Services, 2005a:2; Muntingh, 2005:4).

#### **5.4.1.2 Statements**

A complainant submission (representation) to a Correctional Supervision and Parole Board is a statement, written or verbal, that expresses the complainant's views concerning the offence or the offender. Complainant or victim impact statements are statements that give a description of the physical, financial and emotional effects of the crime on the complainant and family members (Black, 2003:1).

Parsonage, Bernat and Helfgott (1992) conducted a pilot study on the effect of victim submissions upon parole decisions. Their study found that the mere presence of a victim impact statement had a significant influence on the parole outcome across all types of offence, offender and victim which predisposed the board towards denying parole (Black, 2003:2).

In another study that examined parole hearings to determine if, and how, victim participation is related to parole decision-making, the results indicated that both victim and offender participation were significantly related to parole decisions (Smith, Watkins & Morgan, 1997:57).

Complainants, through their participation and involvement, contribute positively to the successful reintegration of offenders in significant ways:

- Providing Correctional Supervision and Parole Boards with relevant information to help assess possible risks to the community and victims and, from that, determining specific conditions for parole;
- Offering experience and expertise;
- Encouraging offender accountability;
- Furthering the goals of victim empowerment, safety and restitution; and
- Interacting with offenders directly in programmes that promote victim-offender communication, and programmes like the restorative justice programme which seek to foster reintegration by educating offenders about the impact of crime on its victims and generating remorse that will change offender behaviour in the future (Goff, 1999:126; Herman & Wasserman, 2001:429).

## 5.4.2 Restorative Justice

One of the Department of Correctional Services's strategies towards the enhancement of rehabilitation is the promotion of a restorative justice approach. This creates a platform for communication between the victim, offender and community and thus facilitates the healing process (Department of Correctional Services, 2005b:59).

Restorative justice is about addressing the hurts and needs of both victims and offenders in such a way that both parties, as well as the communities which they are part of, are healed (Batley, 2005:21).

Restorative justice is a form of restitution and it builds on the objective of reintegration by focusing on the victim in a process of reparation (Stevens, 2006:23).

Singh (2002:51) defines restorative justice as a systematic response to wrongdoing that emphasises healing the wounds of victims, offenders and communities caused by crime.

According to Bowen and Boyack (Batley, 2005:117), the objectives of restorative justice are:

- To promote the victim's healing from the effects of the crime;
- To engage with offenders to establish accountability for the consequences of their actions;
- To develop an appreciation of the impact of the offence on the victim;
- To encourage and facilitate the provision of appropriate forms of reparation by offenders to victims and the community;
- To seek reconciliation between the victim and offender where possible; and
- To strive to integrate the victim and offender into the community.

Zehr (c2002:23) regards the following as "pillars" of restorative justice:

- Harms and needs of victims and communities;
- Obligations of offenders and society to put right; and
- Engagement of stakeholders (victims, offenders and community members).

A safer society can be created only if victims learn to feel safe themselves by responding to the harms caused by crime and playing a part in the decision-making process regarding parole placement of an offender (Plaatjies, 2005:236). Active community participation is also essential in creating safe and healthy communities. The community as a whole, not the justice system in isolation, has the ability and resources to effectively respond to the harms of crime and to ultimately restore victims and reintegrate offenders into the community as law-abiding and contributing citizens of society (Stevens, 2006:24). Corrections is therefore a societal responsibility and restorative justice offers a practical way for families and communities to get involved in responding to crime and heal its effects (Batley, 2005:23).

## **5.5 CONCLUSION**

The Correctional Supervision and Parole Boards play a vital role in the entire parole process and it is essential that the appointed community members have the necessary skills, experience and training to assist them in making proper parole decisions.

Extensive empirical research is needed on the current parole decision-making process and to observe at close range how parole decisions are made. This includes the powers of the Correctional Supervision and Parole Boards and how they are exercised, the procedures followed, the criteria applied for parole selection, and the kind of information supporting parole decisions.

Further research is also needed on victim/complainant participation in the parole process. There are important questions regarding the impact of victim submissions on parole decisions, the satisfaction of victims with the process and the actual content of victim submissions.

The scope of the Correctional Supervision and Parole Board's powers and the consequences of its decisions are enormous. No other part of the criminal justice system concentrates such authority into the hands of so few.

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## CHAPTER 6

### ANALYSIS AND DISCUSSION OF DATA

#### **6.1 INTRODUCTION**

The researcher conducted semi-structured interviews with the aid of an interview schedule as the main method of collecting data. The primary advantage of a semi-structured interview schedule is that it provides for relatively systematic collection of data and contains questions or themes important to the researcher (De Vos, 1998:300). According to Saib (2004:71), semi-structured interviews provide uniform information which ensures comparability of data.

A sample of eight Correctional Supervision and Parole Boards, within the Gauteng region, was drawn out of a potential population of 52 boards (nationwide). The participants, who were either chairpersons or vice-chairpersons of a Correctional Supervision and Parole Board per management area, were selected by means of a purposive sampling technique (as discussed in Chapter 1).

Firstly, the researcher, after the participants were selected, handed an informed consent form (Annexure A) to every participant, which explained the purpose, procedures, risks and the participants' rights in the study. The participants then indicated their willingness to participate in the study by signing a copy of the document. Secondly, the researcher went through the semi-structured interview schedule to ensure that the participants understood the questions or contents before they responded. The participants were assured that the information disclosed would be treated as confidential.

The semi-structured interview schedule (Annexure B) entailed asking pre-established closed and open-ended questions of every participant in the same sequence. The questions in the interview schedule were compiled based on a literature study and the researcher's knowledge of the topic (parole) and target population (Correctional Supervision and Parole Boards). The interview schedule was divided into two sections. Section A required biographical data of the

participant, such as age group, gender, marital status, level of qualifications, current post and previous experience. Section B comprised questions relating to parole placement.

## **6.2 DATA ANALYSIS**

In preparing qualitative data for analysis it must be coded or organised in some way (Wilkinson, 2000:77). In other words, the role of analysis is to bring data together in a structured and meaningful way by subjecting it to some form of coding process.

Coding for computer analysis generally consists of assigning a code number to each answer category. It is much easier to store and retrieve numbers than it is letters or words, hence the necessity to change categories from word or sentence responses to numbers (Bailey, c1987:333). The responses of the participants in the semi-structured interview schedules were coded to provide numerical descriptions (Annexure C). According to Welman and Kruger (2001:195), the qualitative analysis of the contents of such interviews can be reported in a quantitative way.

The analysis was aimed at producing a means of describing the sampled population of chairpersons or vice-chairpersons interviewed (section A) and establishing an overview of the participant's reaction to questions posed (section B) in the semi-structured interview schedule (Annexure B).

The SAS/Basic and SAS/STAT modules of the SAS statistical software package, Version 11.1, were used to perform all statistical analyses and data manipulation. The data was then presented, numerically, in either a table or a chart. Validation of the captured data was also checked with the aid of one-way frequency tables.

## **6.3 BIOGRAPHICAL DATA**

An analysis of the biographical data, section A of the semi-structured interview schedule, provides a profile description of either the chairperson or vice-chairperson of a Correctional Supervision and Parole Board.

Table 6

*Age group*

	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
<b>24 – 34</b>	1	12.50	1	12.50
<b>35 – 44</b>	4	50.00	5	62.50
<b>45 – 54</b>	1	12.50	6	75.00
<b>55 – 64</b>	2	25.00	8	100.00

The results in Table 6 indicate that of the eight participants, 50% fell within the age group 35-44 years.

Table 7

*Gender*

	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
<b>Male</b>	7	87.50	7	87.50
<b>Female</b>	1	12.50	8	100.00

Table 7 shows that 88% or seven of the interviewed participants were male. One should keep in mind that this distribution is in line with the inmate or prisoner population, more than 95% of whom is male.

Table 8

*Marital status*

	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
<b>Single</b>	1	12.50	1	12.50
<b>Married</b>	6	75.00	7	87.50
<b>Divorced</b>	1	12.50	8	100.00

Table 8 indicates that 75% of the interviewed participants were married, while 12.5% or one participant was single. The participant who was single fell within the age group 24-34 years.

Table 9

*Level of qualifications*

	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
<b>No tertiary education</b>	1	12.50	1	12.50
<b>Diploma/degree</b>	3	37.50	4	50.00
<b>Postgraduate</b>	4	50.00	8	100.00

Table 9 describes the level of qualifications of each participant. Part of the requirements for a community member to be appointed as a chairperson or vice-chairperson of a Correctional Supervision and Parole Board is that he or she must be in possession of a recognised three-year degree or diploma in the social sciences, as discussed in Chapter 5 (Manzini, 2004:4).

The results in Table 9 show that 88% of the participants had either a diploma or higher tertiary qualification, but it raises a concern that one participant had no tertiary qualification.

During the financial year 2006/07 of the Department of Correctional Services, 51 911 cases for parole placement, including placement under correctional supervision, appeared before the 52 Correctional Supervision and Parole Boards. Of these cases, 26 736 were approved for placement on parole and/or under correctional supervision, which constitutes 51.5% compared to an objective of 50% (Department of Correctional Services, 2007:60).

A demographic description of the Correctional Supervision and Parole Boards within the Gauteng region (Department of Correctional Services: National Head Office, 2008b) is summarised as follows in Table 10:

Table 10

*Correctional Supervision and Parole Boards: Gauteng region*

<b>Management Area</b>	<b>Chairperson</b>	<b>Vice-Chairperson</b>	<b>Secretary</b>
<b>Baviaanspoort</b>	<b>Vacant</b>	Filled	Filled
<b>Boksburg</b>	<b>Vacant</b>	Filled	Filled
<b>Johannesburg</b>	Filled	<b>Vacant</b>	Filled
	Filled	<b>Vacant</b>	Filled
<b>Krugersdorp</b>	<b>Vacant</b>	Filled	Filled
<b>Leeuwkop</b>	<b>Vacant</b>	Filled	Filled
	<b>Vacant</b>	<b>Vacant</b>	Filled
<b>Modderbee</b>	<b>Vacant</b>	Filled	Filled
<b>Pretoria</b>	Filled	Filled	Filled
	<b>Vacant</b>	Filled	Filled
<b>Zonderwater</b>	<b>Vacant</b>	Filled	Filled

Table 10 shows the vacant and filled posts in respect of the chairperson, vice-chairperson and secretary for each Correctional Supervision and Parole Board per management area.

Erasmus (2007:40) indicates that the number of vacant posts for chairpersons within the Gauteng region were seven as of 31 March 2007. The researcher found that this poor situation had not changed much when the interviews were conducted during October 2007. Therefore, interviews could only be conducted with one chairperson, each from Johannesburg and Pretoria management areas, as 73% of these posts were still vacant, while the vice-chairperson of the Correctional Supervision and Parole Boards in the other six management areas were selected for the study.

Both the vice-chairperson and chairperson of a Correctional Supervision and Parole Board have the same functions, receive the same training and are appointed from local communities (Department of Correctional Services, 2004:13). Section 74(4) of the Correctional Services Act 111 of 1998 clearly states that if the chairperson is absent from a Correctional Supervision and Parole Board meeting, the vice-chairperson must preside at that meeting. Thus, in justifying the results of the study, semi-structured interviews could be conducted with either the chairperson or vice-chairperson of a Correctional Supervision and Parole Board, as both had the very same responsible role and functions regarding decision-making for parole placement.

Table 11

*Demographic description of management areas: Gauteng region*

Management Area	Number of Correctional Centres	Total Offenders		Percentage Overcrowded
		Sentenced	Unsentenced	
Baviaanspoort	03	2 079	0	126
Boksburg (including Heidelberg)	04	2 914	1 867	172
Johannesburg	04	4 672	6 700	234
Krugersdorp	01	1 551	1 300	162
Leeuwkop	04	4 796	0	164
Modderbee (including Devon and Nigel)	03	4 018	2 208	157
Pretoria (including Odi and Atteridgeville)	06	4 944	4 571	164
Zonderwater	02	3 194	0	198
<b>Total for Gauteng</b>	<b>27</b>	<b>28 168</b>	<b>16 646</b>	<b>177</b>

Table 11 presents a demographic description, as of 24 February 2008, of the number of correctional centres/prisons and inmate/prisoner population imprisoned at each management area within the Gauteng region (Department of Correctional Services: Regional Office, Gauteng, 2008). The aim is to give some indication regarding the magnitude of the workload that Correctional Supervision and Parole Boards must face in making decisions for conditional placement.

Nxumalo (1997:54) argues that previous parole boards had experienced huge volumes of caseloads that prevented them from making proper parole decisions (see 5.2.1). Leeuwkop management area, for example, houses a total of 4 796 sentenced offenders, collectively in four correctional centres, but only one appointed vice-chairperson of the Correctional Supervision and Parole Board is available to attend to all cases for conditional placement.

The above scenario at Leeuwkop management area might present or suggest a possible formula of **more caseloads** → **less time available** → **improper/incorrect decisions**, which could be detrimental to the success of the entire parole process. One vice-chairperson of an

understaffed Correctional Supervision and Parole Board could find it difficult to successfully, under pressure, attend to all the parole applications of four correctional centres or prisons simultaneously.

During the interview, participants had to list any previous experience that was relevant to their current post of chairperson or vice-chairperson, as reflected in Figure 2.

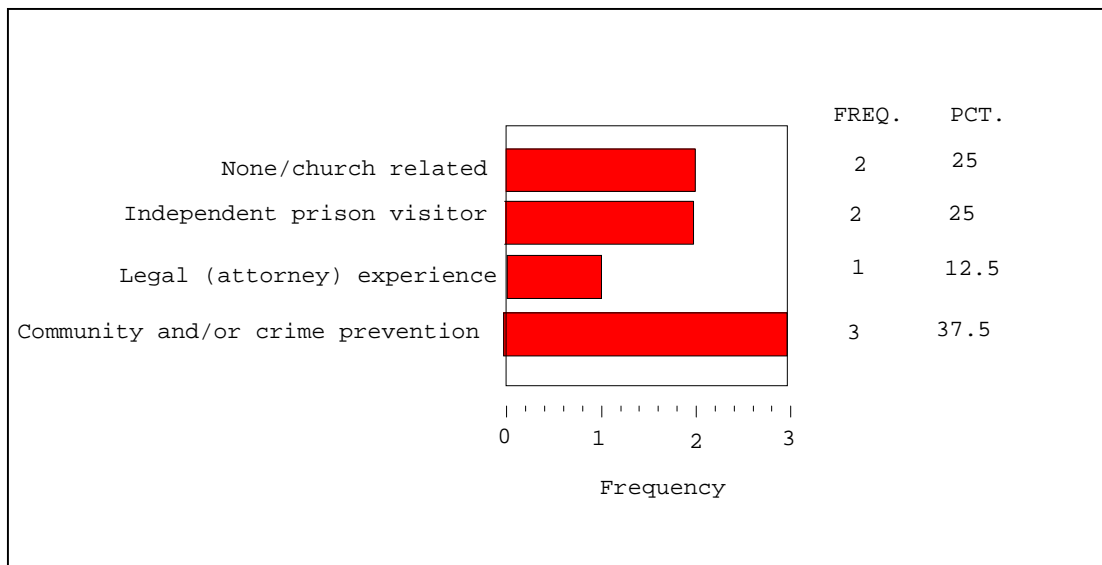


Figure 2. Previous experience

In Chapter 5, the researcher discussed the requirements for a person to be appointed to a Correctional Supervision and Parole Board, and apart from community involvement, appropriate experience in the field of the criminal justice system is essential (see 5.2.2). The results in Figure 2 indicate that 25% of the participants had either none or church related experience, which is not in line with the requirements for their appointment.

#### 6.4 QUESTIONS RELATING TO PAROLE PLACEMENT

An analysis of the data in section B of the semi-structured interview schedule provided the researcher with information of participants' experiences, perceptions and knowledge of the parole process.

### 6.4.1 Documents attached to a Profile Report

Participants had to indicate how important it was for documents, as shown in Figure 3, to be attached to a profile report (G326) of an offender (see 4.4.1). If they were of the opinion, for example, that a document could be left out without influencing valid parole decisions, they had to mark it as 'not important'.

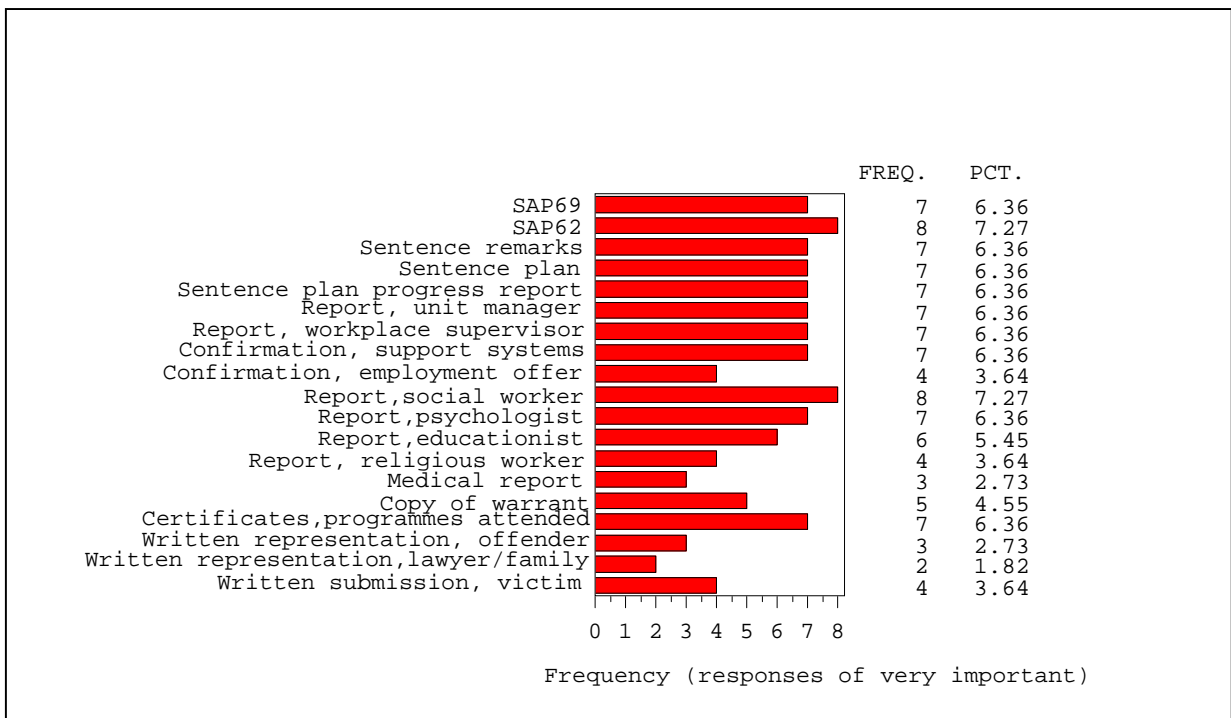


Figure 3. Documents attached to a profile report

Figure 3 shows the frequency of responses marked by participants as 'very important'. The results seem to indicate that the SAP62 (crime description) and social worker's report formed very important documentation attached to a profile report. These were followed in no particular order by the SAP69 (record of previous convictions), sentence remarks, sentence plan, sentence plan progress report, certificates of programmes, confirmation of support systems and reports by the unit manager, workplace supervisor and psychologist. Written representations by the offender and/or his lawyer or family, and a medical report were seen as less important when making decisions for parole placement.



A police report (SAP62) briefly describes the circumstances surrounding the crime(s), as well as any remarks made by the person who imposed the sentence. It is very important to study the modus operandi employed in every offence to have a clear picture of what the offender has done and what the cause of his offence was. The Correctional Supervision and Parole Board must take note of the degree of violence/aggression and the type of weapon used, whether the crime was planned, the influence of alcohol or drugs, the age and sex of the victim and if the crime took place within a group context. Each offence is a segment of the offender's personality which may help to prognosticate future behaviour (Giardini, 1959:135).

A ratio of 1:595 social workers to sentenced offenders, as concluded in Chapter 4 by Cilliers and Smit (2007:98), gives a clear picture of the shortage of professional staff the Department of Correctional Services is currently experiencing. The Correctional Supervision and Parole Boards place an enormous responsibility on the few social workers available to provide them with reports on the suitability of placing an offender on parole. This may also contribute to social workers trying to cope daily with their stressful circumstances. It is the opinion of the researcher that, under these circumstances, reports might become stereotyped and lose their intended value to Correctional Supervision and Parole Boards.

#### **6.4.2 Those Present at a Correctional Supervision and Parole Board Hearing**

Participants were asked who was present when they chaired a Correctional Supervision and Parole Board hearing. The results in Table 12 seem to indicate that the chairperson/vice-chairperson, secretary, offender as well as community representatives are always present at a Correctional Supervision and Parole Board hearing.

Table 12

*Those present at Correctional Supervision and Parole Board hearing*

	<b>Always</b>	<b>Sometimes</b>	<b>Never</b>	<b>Total</b>
<b>Chair/Vice-chairperson</b>	8	0	0	8
<b>Secretary</b>	8	0	0	8
<b>Offender</b>	8	0	0	8
<b>Community representative</b>	7	1	0	8
<b>SAPS representative</b>	0	3	5	8
<b>Dept of Justice representative</b>	0	1	7	8
<b>Legal representative, offender</b>	0	8	0	8
<b>Family/friends, offender</b>	0	5	3	8
<b>Victim/complainant</b>	0	2	6	8
<b>Total</b>	31	20	21	72

Pogrebin, Poole and Regoli (West-Smith, Pogrebin & Poole, 2003:350) concluded from their study on parole decision-making in 1986 that the overriding factor in parole decisions was not the relative merits of the offender's case, but the structure or composition of the parole board itself. Table 2 (see 2.4.3) and section 74(2) of the Correctional Services Act 111 of 1998 refer to the composition of the Correctional Supervision and Parole Board.

The results in Table 12 confirm that there is a lack of representation from both the Department of Justice and the South African Police Service, not to mention the involvement or participation of the victim/complainant. If the structure of the Correctional Supervision and Parole Board is indeed the overriding factor in parole decisions, then South Africa has a serious problem. A quorum, in terms of section 74(5) of the Correctional Services Act 111 of 1998, constitutes five members, who include the chairperson or vice-chairperson and an official of the Department of Justice. The results raise further questions as to whether a quorum for Correctional Supervision and Parole Board hearings are legally formed, if the rights of victims are recognised in parole decision-making and whether victims, if present at court, are properly informed of their right to be present at a Correctional Supervision and Parole Board hearing.

### 6.4.3 The Importance of Community Members' Viewpoints in Parole Decisions

Participants were asked why the viewpoints of community members, who form part of the Correctional Supervision and Parole Board, were so vital in parole decision-making and also to provide examples of any inputs from community members during a Correctional Supervision and Parole Board hearing.

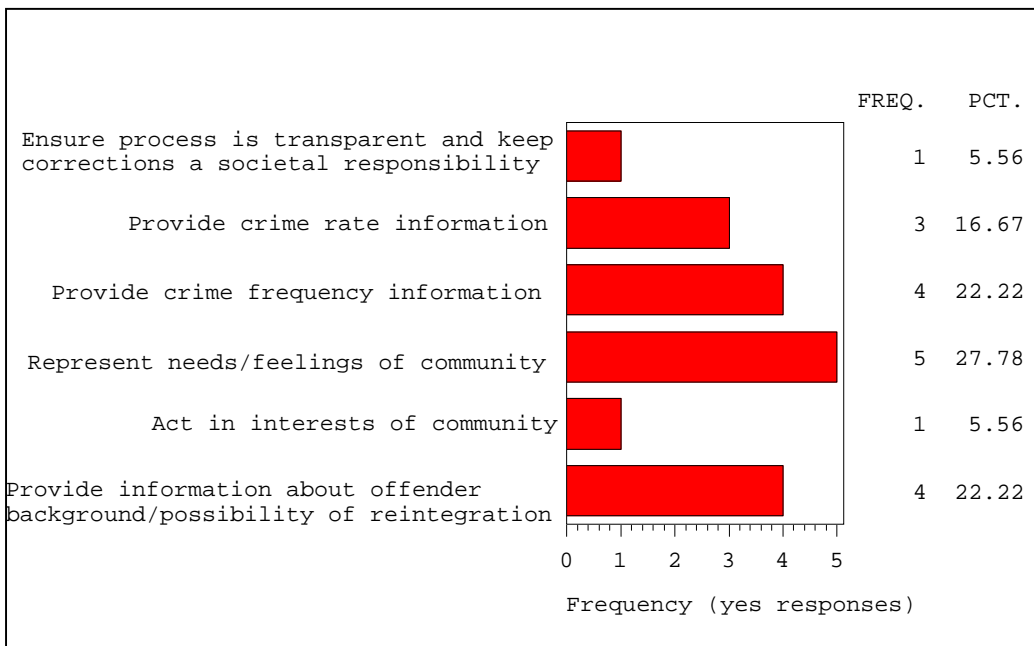


Figure 4. Input of community members in parole decisions

The results of the responses in Figure 4 show that 28% felt that community members represented the needs and/or feelings of the community, followed by providing information on the frequency of specific crimes that are committed in their communities and the possibility of an offender reintegrating into the community. We need to ask the question: How can community members sitting on these boards represent a community if an offender is placed out on parole within a community that is different or away from their own?

#### 6.4.4 Training and Number of Training Days

Another question posed to participants was: “Did you receive training prior to accepting your position as chairperson or vice-chairperson and, if yes, approximately how many days were spent on training?” During the interviews some of the participants indicated that they only received training after, not prior to, accepting the position as chairperson or vice-chairperson, and the researcher had to adapt the question referring to training received.

Table 13

*Training*

	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
<b>Yes</b>	8	100.00	8	100.00

Table 13 shows that all participants had received training prior to or after accepting the post of chairperson or vice-chairperson of the Correctional Supervision and Parole Board.

Table 14

*Number of training days*

	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
<b>7 days</b>	4	50.00	4	50.00
<b>6 days</b>	2	25.00	6	75.00
<b>5 days</b>	2	25.00	8	100.00

Table 14 indicates the number of training days the chairperson or vice-chairperson received and it seems that a week’s training was the norm.

Currently in South Africa, as indicated, the training of appointed chairpersons and vice-chairpersons consists of a week’s orientation and after that they basically learn on the job with coaching from more experienced colleagues. In contrast, newly appointed members of the National Parole Board in Canada must take an intensive three-week orientation course before they are allowed to sit on a parole board. Their training includes visits to the community corrections offices, correctional centres and halfway houses. They then start to review cases with the help of a

more experienced parole board member. A test at the end of the orientation period determines their acquired knowledge and skills. The next phase is field, or on-the-job, training. During this period, which lasts about six months, the new board member will only be allowed to vote on cases with the assistance of an experienced member. In addition to the initial training, every member receives a further 15 days of professional development every year in the form of workshops, conferences and self-development courses (Correctional Services of Canada. National Parole Board, 2007).

#### **6.4.5 Number of Profiles/Caseloads and Time Spent on Each Case**

In 1974, Garber and Maslack made a study of tape recordings of 100 randomly selected California parole hearings. Their results revealed, through a detailed content analysis, that these hearings took the form of a "short, unstructured diagnostic interview with an emphasis on psychological assessment". They further suggested that the decisions which follow parole hearings are made prior to the hearing or, mostly, within the first few minutes. They concluded that a decision was based solely on information in a profile report of an offender and not on information uncovered during the hearing or that parole board members had become so skilled in identifying various "types" of offenders that they were immediately able to classify individuals in terms of those who were ready for parole and those who were not. Psychological factors played a major role in over half of the hearings. If a psychological problem was identified during the hearing, there was no need to consider other information since the obvious decision was to keep the offender in prison for further treatment of the problem (Garber & Maslack, 1977:275).

The number of profiles/caseloads a Correctional Supervision and Parole Board manages per week is given in Table 15, and Table 16 refers to the amount of time spent on each case when an offender is considered for parole placement.

Table 15

*Number of profiles/caseloads per week*

	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
<b>25 – 30</b>	3	37.50	3	37.50
<b>31 – 40</b>	3	37.50	6	75.00
<b>41 – 50</b>	1	12.50	7	87.50
<b>61 – 80</b>	1	12.50	8	100.00

According to Table 15, 75% of the interviewed participants indicated that they managed between 25 and 40 profiles per week, while 25% between 41 and 80 profiles.

Table 16

*Time spent on each case*

	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
<b>10 – 20 minutes</b>	4	50.00	4	50.00
<b>35 minutes</b>	2	25.00	6	75.00
<b>45 minutes</b>	1	12.50	7	87.50
<b>50 – 55 minutes</b>	1	12.50	8	100.00

The results in Table 16 show that 50% of the participants spent 10 – 20 minutes on each case, 25% approximately 35 minutes, while another 25% between 45 and 55 minutes in considering an individual offender for possible placement on parole.

The researcher found that during the interview, the participants who indicated they took 45 – 55 minutes on each case had only 25 – 30 profiles/caseloads to manage per week as a Correctional Supervision and Parole Board. Significantly, those who had 41 – 50 and 61 – 80 profiles/caseloads to manage per week indicated that as a Correctional Supervision and Parole Board, they could spend only 10 – 20 minutes on each case. It is unacceptable for a Correctional Supervision and Parole Board to spend less time on a specific case as a result of having a bigger caseload to manage.

#### **6.4.6 Main Factors affecting Parole Decisions**

The previous criminal record of the offender is regarded by many as one of the most reliable criteria for parole selection. Every Correctional Supervision and Parole Board considers previous offences from the standpoint of their seriousness and danger to society. A police report (SAP69(c)) contains a list of previous convictions that indicate a higher probability with regard to relapse into crime. Other indicators are repeated offences and a short period of time between offences from an early age. Statistics have shown that age at the time of the first arrest has some bearing on parole success (Giardini, 1959:133-134).

The influence that various items of information contained in an offender's file or profile report appear to have had on the Illinois parole board's decisions to grant or deny parole was examined in a study on the parole decision-making process (Heinz, Heinz, Senderowitz & Vance, 1976:3-11). The findings indicated that prior criminal record, prior employment experience and age at release were among the more accurate predictors of parole success. Measures of intelligence or the amount of education and a stable employment record before sentencing had a highly significant correlation with the parole decision. A poor work record in terms of quality and duration of continuous employment would most probably result in denial of parole.

Two characteristics of the offender's criminal record that appeared to have a significant influence on the Illinois parole board's release decisions were the number of prior convictions and the seriousness of the current committed offence(s). Participation in educational programmes and record of disciplinary transgressions while in prison also played an important role in the board's decisions. They were more impressed with evidence of a desire for self-improvement through education, but a record of transgressions significantly reduced the chances of parole being approved (Heinz et al., 1976:3-11).

An analysis of post-hearing questionnaires and case files from 1 035 actual parole decisions revealed that the parole board in Pennsylvania considered institutional behaviour and predictions of future risk behaviour relevant to rehabilitation and community protection as criteria or measures for parole release decisions (Carroll, Wiener, Coates, Galegher & Alibrio, 1982:199-224).

Research by Haesler and Metchik (1992) suggested that good behaviour while incarcerated does not necessarily mean that an offender will successfully adapt to the community and be law-abiding

following a favourable early-release decision. Offenders are led to believe that good institutional behaviour is an important criterion for release, but is secondary to the background characteristics of the offender. Rather than positive behaviour being a major consideration for release, as offenders are told, only misbehaviour is taken into account and serves as a reason to deny parole (Champion, 2002:324; West-Smith et al., 2003:352).

Offenders are also being told to complete certain programmes before a Correctional Supervision and Parole Board can make a parole release decision. Requiring offenders to participate in programmes may be more important for institutional control than for the rehabilitation of the offender (West-Smith et al., 2003:352). In contrast with what offenders are being told, Erasmus (2007:21-22) reports that the lack of programmes available to offenders is affecting the functioning of the Case Management Committees and Correctional Supervision and Parole Boards, which are unable to recommend and approve the placement of offenders on parole. These offenders have not completed the required vocational and rehabilitation programmes.

Participants were asked: “What are the main factors that can influence the Correctional Supervision and Parole Board’s decision for parole placement?”

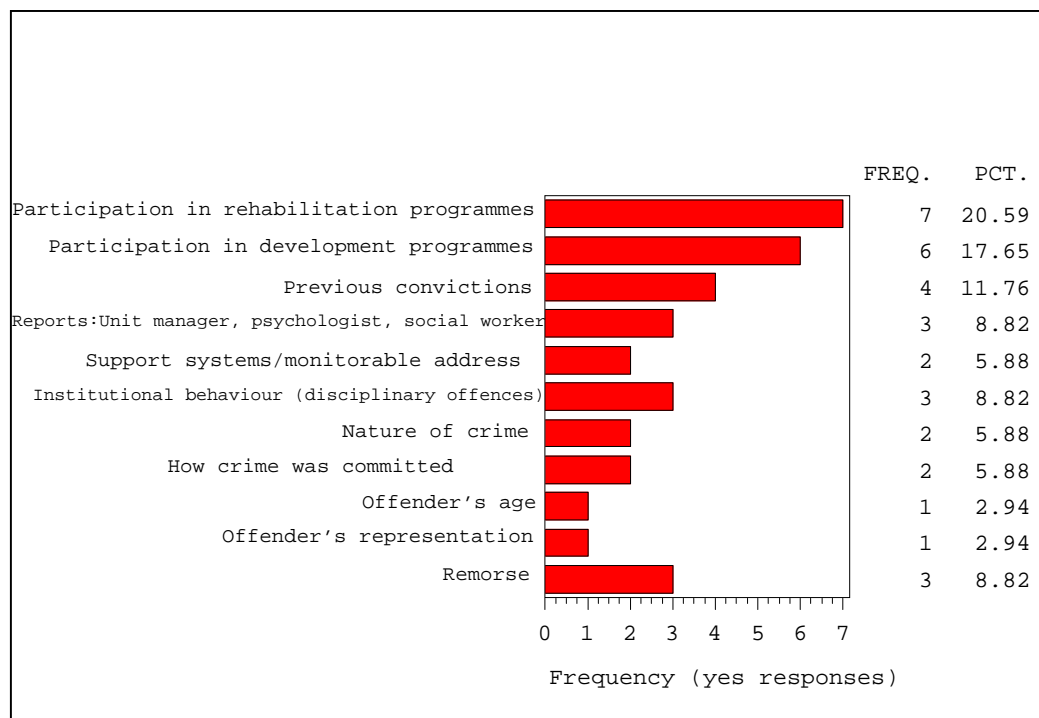


Figure 5. Main factors affecting parole decisions



In Figure 5 the results, which are presented according to the frequency of yes responses, seem to indicate that participation in rehabilitation programmes addressing the offending behaviour, participation in development programmes (education and skills training) and previous convictions are the most important factors that might influence decisions for parole placement.

One of the problems the Correctional Supervision and Parole Boards experience, as highlighted by Erasmus (2007:41) in Chapter 5, is the lack of evidence of participation in rehabilitation programmes. The Judicial Inspectorate of Prisons further indicates that only 11% of sentenced offenders were actively involved in vocational and rehabilitation programmes (Erasmus, 2007:21-22). A reason might be that these programmes, as discussed earlier, are not offered on a regular basis owing to a shortage of professional staff, especially social workers, educationists and psychologists. From this it can be postulated that if participation in rehabilitation and development programmes is indeed one of the factors that influences the Correctional Supervision and Parole Board's decision for parole placement, the result might be denial of parole for the above reasons.

#### **6.4.7 Barriers affecting Parole Decisions/Placement**

The readiness of the community to receive and accept the offender back can be determined from considering factors such as the family attitude or support system, employment opportunities, type of environment and community bias or stigmatisation.

As Winthrop (Witmer, 1927:56) puts it:

*The cardinal principle of good parole work, or of any effective care of prisoners after release, is the preparation of the environment into which they will go. This involves primarily the prisoner's relation with his family, with prospective employers, and with former associates.*

The purpose of parole is to adjust the offender to the community in which he will remain after being released from prison (Witmer, 1927:56).

In a study (Heinz et al., 1976:9) on the parole decision-making process, the findings indicated that parole decisions were closely associated with the prospects of employment after release, marital

status and family commitments. An important sign of acceptance by the community was the willingness and responsibility of the offender's family to take him back. Married offenders with regular correspondence and visits from the family were positive factors for parole selection (Giardini, 1959:146).

It is often the case that factors outside of prison are better predictors of parole success. In one study by Anderson, Schumacker and Anderson in 1991 that examined 760 adult prison releases, it was found that only 177 of them became parole violators. Positive results were reported about parolees' success, and factors such as favourable employment opportunities, marital status, participation in academic or vocational training programmes while on parole and prior problems with drug or alcohol abuse appeared to be crucial in determining success (Champion, 2002:324).

Parolees released from prison face a multitude of difficulties that create obstacles for them to successfully reintegrate into their communities. Many employers feel reluctant to hire ex-offenders owing to stigmatisation or they view a conviction as evidence of untrustworthiness. In some cases, the only place they can turn to for support is their criminal peer group. The social characteristics of neighbourhoods or environment – particularly poverty and residential instability – can also influence the level of crime. It is not surprising that most parolees fail, and rearrests are most common in the first six months after release (Clear & Dammer, 2003:376; Petersilia, 2000:3-4; Petersilia, 2001:364:366). According to Van Ness and Strong (2002:105), one of the most difficult challenges an ex-offender encounters is finding employment. Other difficulties include peer pressure, low self-esteem, unrealistic expectations, fear of failure and addictive behaviours.

The results of the participants' responses to the question "What are the barriers that hamper successful parole decisions/placement on parole?" are presented in Figure 6.

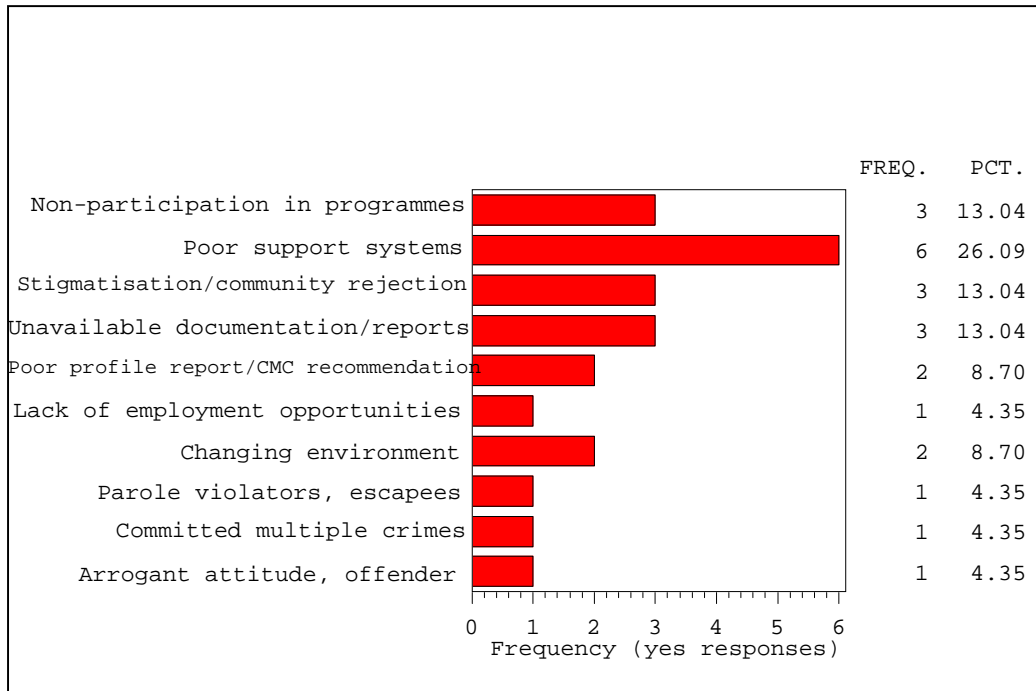


Figure 6. Barriers affecting parole decisions/placement

From Figure 6, the most important barriers that seem to affect parole decisions/placement are first of all, poor support systems, followed by non-participation in any programmes, lack of reports or unavailability of documents attached to a profile report and stigmatisation or rejection from the community.

Offenders have historically returned to the communities from which they were sentenced, generally to live with family members, attempt to find a job and successfully avoid future criminality. The environment to which they return is drastically different from the one they left regarding availability of employment, family support, community resources and willingness to assist ex-offenders (Seiter & Kadela, 2003:361). The unique prison environment in which offenders are assessed for purposes of placing them in an environment different from that of the assessment poses a challenge to the Correctional Supervision and Parole Boards (Lidovho, 2003:376).

The White Paper on Corrections (Department of Correctional Services, 2005:63) clearly states that the vast majority of South Africa's offenders originate from communities and families that are plagued by poverty, hunger, unemployment, crime, a distorted value system and absent figures of authority and care.

South African research done in 2003 (Muntingh, 2005:26) emphasised the critical importance of families during imprisonment and upon release. The research evaluated a Tough Enough Programme, which is a prison-based programme run by the National Institute for Crime Prevention and the Reintegration of Offenders (NICRO), and some of the following observations were made regarding families:

- Two-thirds of the participants had experienced unconditional acceptance by their families since their release from prison;
- Families and friends were identified as the main source of support; and
- The family was one of the main factors that motivated a change in participants' lives.

Muntingh (2005:28) feels that the family is a key ingredient in the successful reintegration process of an offender, and the White Paper on Corrections (Department of Correctional Services, 2005:65) also recognises that the family is the primary level at which corrections should take place.

#### **6.4.8 Risk Factors considered for Parole Placement**

In asking, "Which risk factors are considered before placing an offender on parole within the community?" the participants seemed to indicate that the chances of relapse/reoffending (recidivism) was mostly considered before an offender was placed on parole.

The results of which risk factors the Correctional Supervision and Parole Board considers are presented as follows in Figure 7:

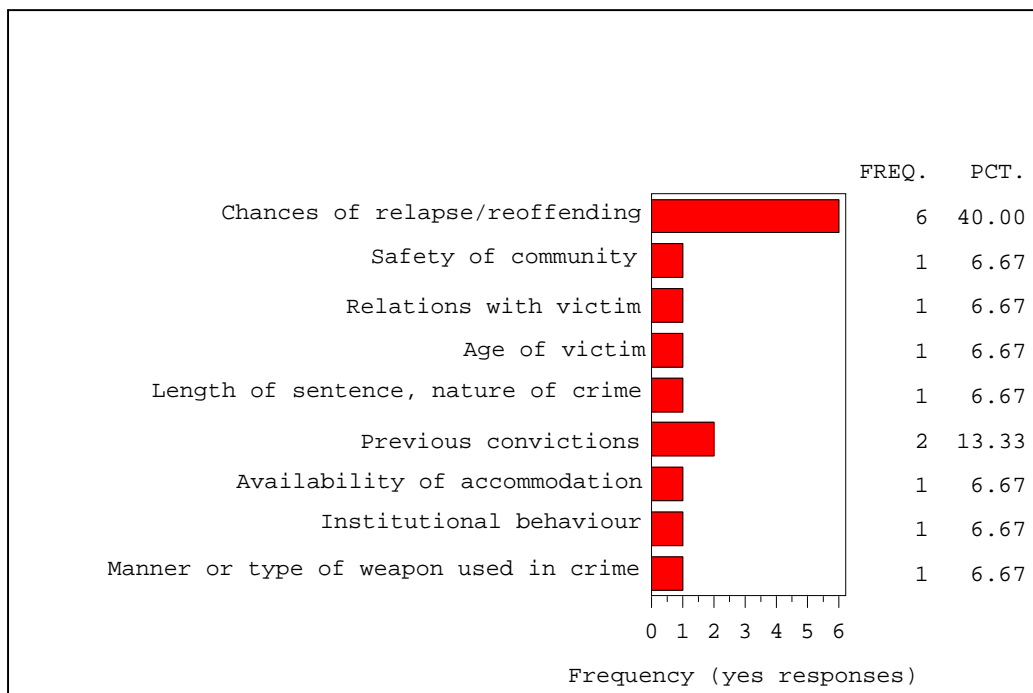


Figure 7. Risk factors considered in parole placement

Besides the chances of reoffending (recidivism) as a risk factor, previous convictions also played a role as both a risk factor to be considered before parole placement, and one of the main factors that might influence the Correctional Supervision and Parole Board's decision for parole placement (see 6.4.6). One can conclude that the board will more likely deny parole if a sentenced offender has previous convictions or a prior criminal history recorded against him. It seems that the board considers previous convictions as an indicator or factor of increased risk that the offender might commit another offence/crime if returned to the community while on parole.

In the White Paper on Corrections (Department of Correctional Services, 2005:64), dysfunctional families are considered to be the main contributor to reoffending or for ex-offenders to relapse to a life of crime. It confirms why the Correctional Supervision and Parole Boards see poor support systems (see 6.4.7) as the main barrier to successful placement on parole.

The White Paper on Corrections (Department of Correctional Services, 2005:145-146) further acknowledges that there is no reliable data in South Africa on recidivism or a system in place for monitoring and analysing recidivism.

#### 6.4.9 Parole Conditions

Here, the aim was to try and establish when the conditions of parole are explained to the offender by the Correctional Supervision and Parole Board.

Table 17

*When parole conditions are explained*

	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
Before parole hearing	1	12.50	1	12.50
After parole hearing	4	50.00	5	62.50
During & after parole hearing	2	25.00	7	87.50
CMC's responsibility	1	12.50	8	100.00

The results in Table 17 show that parole conditions are explained to the offender 50% of the time after a parole hearing, while 25% of the participants indicated during and after a parole hearing. 'During' means only when an offender queries or seeks clarification about a specific aspect of a parole condition, before the parole hearing is adjourned.

#### 6.4.10 Parole Decisions concerning Co-accused and Foreign Offenders

Parole selection operates on the assumption that no two offenders are alike and, therefore, "no specific criteria can be developed which will apply to all cases" (Garber & Maslack, 1977:263). Every case has its own merits, and the unique and individual qualities of each offender must be considered in parole placement. Although certain factors are considered, the final decision is a discretionary one, taking into account the unique nature of the offender's circumstances (Morris & Beverly, 1975:80).

When asked how a Correctional Supervision and Parole Board dealt with a case where a co-accused was involved, all the participants responded that every case was dealt with on its own merits. If both the co-accusers are imprisoned at the same correctional centre, the Correctional Supervision and Parole Board will try and see them together or simultaneously. If not, the whereabouts of the other co-accused and information relevant to parole placement, such as

whether they are serving the same sentence, available recommendations, participation in rehabilitation programmes, must be checked before a decision can be made.

Erasmus (2007:41) found in a study by the Judicial Inspectorate of Prisons that two accused serving the same sentences, for example, could have different release dates with no apparent difference between their profile reports. The Correctional Supervision and Parole Boards lack uniformity in their decision-making to approve placement on parole.

The process with regard to the treatment of foreign offenders in South African correctional centres in terms of admission, detention, human rights and privileges of offenders is exactly the same as the treatment of offenders who are South African nationals. The only exception is the procedure for placement of offenders on parole. A foreign offender will be deported to his homeland, only if a deportation order is available, and he is not allowed to return to South Africa before the parole period expires and also not without the necessary permission or correct documentation (South African Police Service, [s.a.]).

Figure 8 refers to the responses of participants when asked to explain their approach to parole decisions concerning foreign offenders.

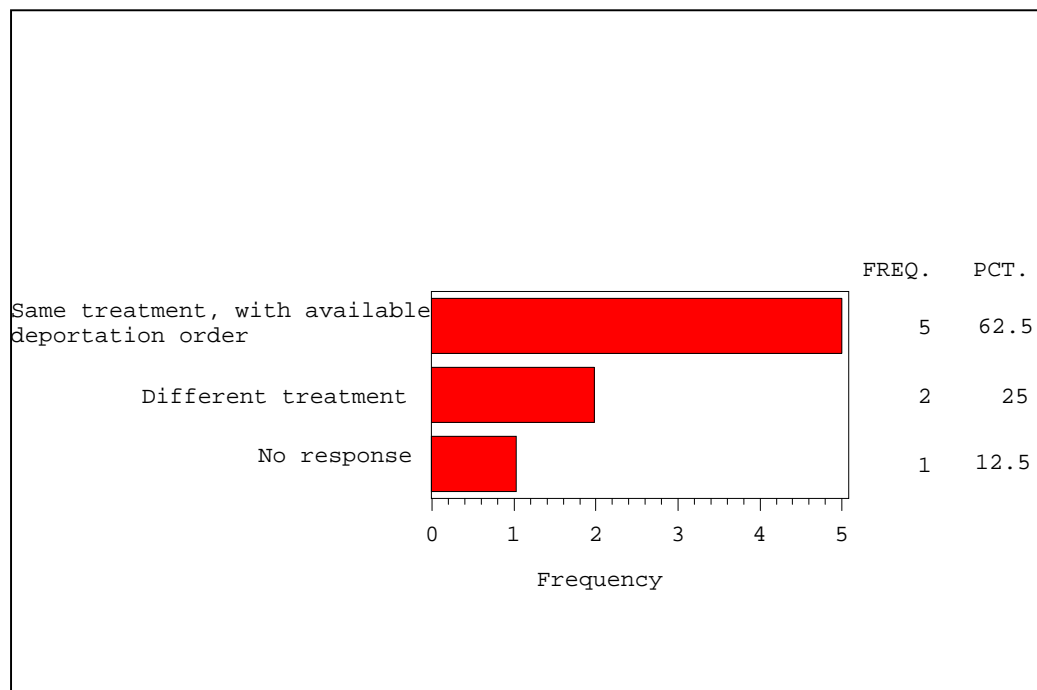


Figure 8. Treatment of foreign offenders

The results in Figure 8 indicate that when it comes to consideration for parole placement, the majority or 62.5% of the participants treated foreign offenders the same as offenders who were South African citizens. The only condition was that a deportation order or warrant of removal also had to be available before placement on parole could be approved. A further 25% indicated that they treated foreign offenders differently in their approach to parole decision-making.

#### **6.4.11 The Impact of an Offender's Representation**

During a Correctional Supervision and Parole Board hearing, as part of the procedures (see 5.2.4), an offender will be given the opportunity to present his case and try to convince the board that he is rehabilitated, poses no danger to society and is suitable to be placed out on parole.

The study of Garber and Maslack (1974), as discussed earlier, concluded among other things that a parole decision was based solely on information in a profile report and not on information uncovered during the hearing. Therefore, their results indicate that an offender's representation has no impact on the board's decision. In hearings where parole was approved, the focus of attention was more on the offender's parole plans, his prior experiences on parole and his psychological state. The offender generally responded in a minimal way to the questions that were asked, but made affirmative statements about his future behaviour. In contrast, where the outcome was a denial of parole, questions were directed toward the offender's current disciplinary offences and his rehabilitation efforts (Garber & Maslack, 1977:274-275).

Participants were asked: "What is the impact of an offender's representation on parole decision-making?" The results of their responses are presented in Figure 9.



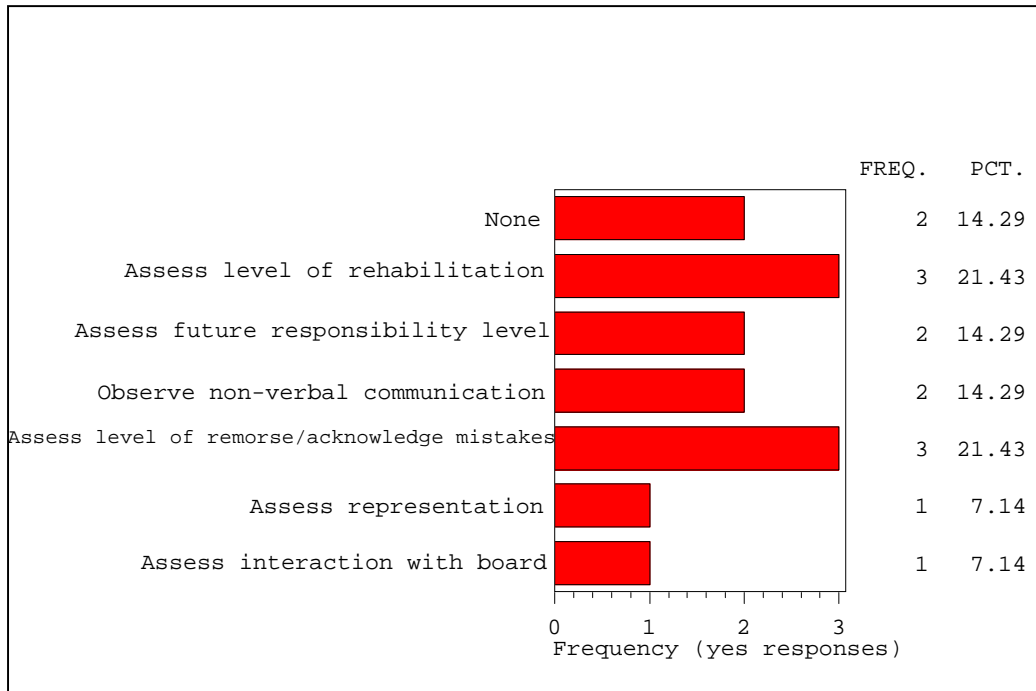


Figure 9. Impact of an offender's representation

According to Figure 9, the impact an offender's representation has on parole decision-making is mainly for the Correctional Supervision and Parole Board to assess the offender's level of rehabilitation and his level of remorse (acknowledgement of mistakes).

#### 6.4.12 Parole Revocation and Reasons

Participants were asked to indicate how many cases of parole revocation they had dealt with and also to provide some reasons for the revocations. Only the reasons for parole revocation are presented in Figure 10.

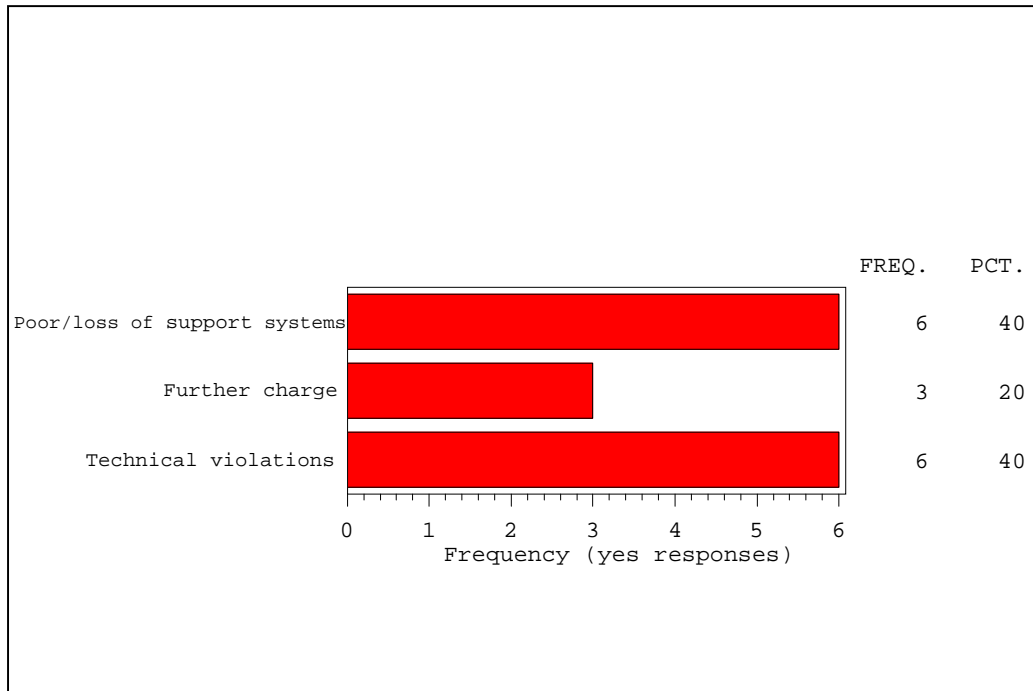


Figure 10. Reasons for parole revocation

The most important reasons for parole revocation seem to be a poor/loss of support systems and/or technical violations (see 5.2.5).

The researcher found it difficult to determine exactly how many cases of parole revocation each Correctional Supervision and Parole Board had dealt with for a specific period. The interviewed participants responded either with a percentage or with a total number of cases. However, for the Gauteng region during 2006/07, a total of 6 331 offenders were placed on parole, and 310 absconded or failed to report (Department of Correctional Services: National Head Office, 2008a).

#### 6.4.13 Suggestions for Improving the Parole System

As a last question, participants were asked if they had any suggestions to improve the parole system. Their suggestions are summarised as follows:

- Improve working conditions;
- More intensive, continuous or alternative form of training;

- More involvement from the Department of Justice and South African Police Service;
- Proper guidelines;
- Review the current contract system of three to five years;
- Review the format of the profile report;
- Lack of resources available; and
- Improve after-care services.

## **6.5 CONCLUSION**

It is clear from the results of the study that the Department of Correctional Services must urgently give more attention to the following issues: vacant posts of chairperson and vice-chairperson that still need to be filled according to the set requirements, Correctional Supervision and Parole Boards that are currently not well presented owing to the continuous absence of representatives from the Department of Justice and the South African Police Service, the lack of involvement of victims and acknowledgement of their rights, training of chairpersons and vice-chairpersons, uniformity of parole criteria and procedures, and post-release (after-care) services.

The parole system of South Africa reflects the principles of social reintegration, and communities must start to assume larger roles in ensuring that corrections do take place, that offenders are rehabilitated and as a result successfully reintegrated into their communities (Department of Correctional Services, 2005:83).

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## CHAPTER 7

### FINDINGS AND RECOMMENDATIONS

#### **7.1 INTRODUCTION**

Wigston (2000:255) states that the key requirement of a research report is that it must report findings as accurately as possible. These two scientific norms, reporting and accuracy, will be met by sharing scientific knowledge with others and honesty in research. The report needs to be structured in such a way that the readers can clearly understand what the researcher did, why he or she did it and what he or she found. In other words, the research report is not the only record of the research process, but also a summary of what was found.

Therefore, in this chapter recommendations are made against the background of what the researcher found during the investigation.

#### **7.2 FINDINGS**

##### **7.2.1 Finding 1: Overcrowding**

The problems caused by prison overcrowding do not create an effective and conducive environment for rehabilitation or enhance the successful reintegration of offenders into the community.

In 2.6.3 it was explained that the functions of parole associated with corrections are to control prison overcrowding and to save costs. The daily cost of imprisonment is much higher compared to supervision within the community.

The Judicial Inspectorate of Prisons, during their national inspections, also identified overcrowding related problems in most prisons, such as a lack of staff, poor infrastructure, severe overcrowding, lack of rehabilitation programmes, lack of vocational and recreation facilities and inadequate health care (Erasmus, 2007:7).



### **7.2.2 Finding 2: Community Service**

Community service provided by a parolee as a condition of parole is referred to as a form of 'symbolic restitution'. The parolee must perform 'free labour' to benefit or compensate the community. Restoration for the harm done through crime is produced through work, benefiting the entire community and not just a specific victim. Community service restitution is both punitive and rehabilitative. In a punitive sense, the parolee's time and freedom are restricted until the task is completed. It is rehabilitative in that it allows parolees to do something constructive, to increase their self-esteem, to reduce their isolation from the community and to benefit society through their efforts (Cromwell & Del Carmen, 1999:6; Stevens, 2006:198).

Community service, as specified in section 60 of the Correctional Services Act 111 of 1998, is one of the conditions that may be set by a Correctional Supervision and Parole Board if not ordered by the court.

### **7.2.3 Finding 3: Vocational Personnel**

In preparing individual cases for the Correctional Supervision and Parole Board, the Case Management Committee together with available vocational personnel, as a multidisciplinary committee, play a significant role in motivating and recommending an offender to be placed on parole.

Cilliers and Smit (2007:98), as discussed in Chapter 4, report a serious shortage of social workers and psychologists within the Department of Correctional Services. The lack of vocational personnel is affecting the abilities of Correctional Supervision and Parole Boards to consider individual aspects of a case. For example, where an offender is sentenced for a sexual offence, a psychologist's report is especially important and necessary to indicate whether the offender still poses a danger or risk to the victim and community.

According to Kalideen (2006:1), many offenders are being paroled without seeing a psychologist or social worker owing to the critical shortage of staff and lack of available rehabilitation processes. This ultimately is in direct violation of the Department of Correctional Services's own requirements for an offender to be placed on parole.

#### **7.2.4 Finding 4: Correctional Supervision and Parole Review Board**

The composition and powers of the Correctional Supervision and Parole Review Board were addressed in 5.3 of this study.

Section 76 of the Correctional Services Act 111 of 1998 stipulates that the members of the Correctional Supervision and Parole Review Board must be appointed from the National Council and consist of:

- A judge as chairperson;
- A director or deputy director of Public Prosecutions;
- A member of the Department of Correctional Services;
- A person with special knowledge of the correctional system; and
- Two representatives of the public.

Section 75(8) of the Correctional Services Act 111 of 1998 states that a decision of the Correctional Supervision and Parole Board is final, except that the Minister or Commissioner of Correctional Services may refer the matter to the Correctional Supervision and Parole Review Board for reconsideration. A record of the Correctional Supervision and Parole Board proceedings must be submitted to the Correctional Supervision and Parole Review Board.

It is the viewpoint of the researcher that the members of the National Council may be inundated with work and not always be in a position to review or deal with parole matters immediately that are referred to them for reconsideration.

Amendments as proposed in the Correctional Services Amendment Bill to these sections of the Correctional Services Act 111 of 1998 were also adopted by Parliament (Correctional Services Portfolio Committee, 2008).

### **7.2.5 Finding 5: Victims/Complainants**

The role of the victim in the parole process was discussed in detail in Chapter 5, 5.4.

The strength of the victims' rights movement can be measured by numerous legislative and policy changes since 1994. These changes were introduced to align South Africa's parole policy with international trends that recognise the role victims play in the parole decision-making process (Muntingh, 2005b:4). The parole policy allows for direct input or submissions from the victim(s) of the crime (Department of Correctional Services, 2005b:23).

To facilitate and regulate matters with regard to the involvement of victims in Correctional Supervision and Parole Board hearings, provision was made in both section 75(4) of the Correctional Services Act 111 of 1998 and section 299A of the Criminal Procedure Act 51 of 1977. The Department of Correctional Services has also issued directives regulating victim/complainant participation in Correctional Supervision and Parole Boards, and the manner and circumstances under which complainants may exercise their rights in this regard. In addition, the Department of Justice has published the Minimum Standards on Services for Victims of Crime as well as the Service Charter for Victims of Crime in South Africa, which deal with the rights of victims (Department of Correctional Services, 2006:39; Ramadikela, 2007:28).

The role in the case of the two community members that are appointed on a part-time basis per Correctional Supervision and Parole Board is to represent the interests of the community at large as well as the interests of victims of crime (Manzini, 2004:4).

Correctional Supervision and Parole Boards consider a number of factors, which include the offender's entire background, his response to rehabilitation programmes, the circumstances surrounding the crime, the existence and quality of support systems, the probability of reoffending (recidivism), potential risks an offender may pose to the community at large as well as the risk to the complainant/victim. These factors, together with the representation of the complainant, will direct the board's decision and it is therefore important that complainants be provided with an opportunity to become involved in the process. A complainant does not have a vote on the decision of the board, but may be present for the duration of the parole hearing (Department of Correctional Services, 2005a:5; Ramadikela, 2007:28).

### **7.2.6 Finding 6: Level of Qualifications**

A key objective of the Department of Correctional Services, according to the White Paper on Corrections (Department of Correctional Services, 2005b:88), is to make a meaningful contribution to the promotion of the community's responsibility for correction.

Correctional Supervision and Parole Boards are community based, which means that the majority of members of such a board, including the chairperson and the vice-chairperson, are appointed from local communities (Erasmus, 2007:40).

Both the chairperson and vice-chairperson of Correctional Supervision and Parole Boards are accountable for decisions made by the board and must therefore have the necessary qualities and abilities to be appointed in this capacity. Equal to this is their good standing in the community or their involvement in community-based structures. Other requirements as part of their contract appointment of three to five years are the possession of a recognised three-year degree/diploma in the social sciences and/or appropriate experience in the criminal justice system. Furthermore, all appointed board members need to be schooled in meeting procedures and administrative processes and will undergo intensive and sufficient training with regard to relevant legislation and policy governing Correctional Supervision and Parole Boards (Manzini, 2004:4).

Results from Chapter 6 regarding the level of qualifications indicate that one participant from a Correctional Supervision and Parole Board had no tertiary qualification. The results also indicate that 25% had either none or only church related experience. These members were appointed from communities upon whose shoulders vast responsibility has been placed to make the right decisions for parole placement. Parole decisions are influenced by the type of qualification and amount of experience members of a Correctional Supervision and Parole Board possess.

### **7.2.7 Finding 7: Vacant Posts**

Erasmus (2007:40) indicates (as discussed in Chapter 5 of the study) that as of 31 March 2007, there were seven posts vacant for chairpersons of Correctional Supervision and Parole Boards within the Gauteng region. The researcher also found that during October 2007, 73% of these posts were still vacant (refer to Table 10).

### **7.2.8 Finding 8: Composition**

Representatives from the Department of Justice and the South African Police Service, who are *ex officio* members of a Correctional Supervision and Parole Board, are constantly absent from Correctional Supervision and Parole Board hearings (Campbell, 2006:8). The Correctional Services Portfolio Committee also indicated during a meeting held on 27 May 2007 that many of the places they had visited did not have Correctional Supervision and Parole Boards that were well represented (Correctional Services Portfolio Committee, 2007a).

The composition and appointment of Correctional Supervision and Parole Boards are stipulated in section 74(2) of the Correctional Services Act 111 of 1998, and were further demonstrated in Table 2 of Chapter 2 in this study.

In terms of section 74(5) of the Correctional Services Act 111 of 1998, a quorum for a Correctional Supervision and Parole Board hearing constitutes five members, one of whom is an official of the Department of Justice. However, results presented in 6.4.2 confirm that there is indeed a lack of representation from both the Department of Justice and the South African Police Service.

### **7.2.9 Finding 9: Training Programme**

Training for appointed chairpersons and vice-chairpersons of a Correctional Supervision and Parole Board consists of one week's orientation, according to the results found in 6.4.4., while incumbents will basically learn on the job with coaching from more experienced colleagues.

### **7.2.10 Finding 10: Backlogs**

The magnitude of the workload that current Correctional Supervision and Parole Boards face was discussed in detail in Chapter 6, 6.3 of this study.

Nxumalo (1997:54) argues that previous parole boards had experienced huge volumes of caseloads that prevented them from making proper parole decisions.

Problems experienced by the Correctional Supervision and Parole Boards include the late submission of profile reports by the Case Management Committees and existing backlogs or huge volumes of cases still to be considered for conditional placement (Erasmus, 2007:41).

The results set out in 6.4.5 indicate that if a Correctional Supervision and Parole Board has more profiles to manage per week, it spends less time on each case. In trying to reduce the existing backlogs, valuable time needed to consider an offender properly for possible placement on parole is lost.

The Correctional Services Amendment Bill (B32 of 2007) awaits signature from the President before a Correctional Services Amendment Act can come into effect (Dissel, 2008:1). One of the proposed amendments is that the Correctional Supervision and Parole Board only consider a profile report of a sentenced offender serving a determinate sentence of more than 24 months (Correctional Services Portfolio Committee, 2008). Currently, as discussed in this study, the Case Management Committee submits profile reports of offenders with sentences exceeding 12 months to the Correctional Supervision and Parole Board.

#### **7.2.11 Finding 11: Profile Reports**

As explained in 4.4.8, section I of the currently used profile report reads “Recommendation of the Parole Board”, and the setting of supervisory conditions refers to maximum, medium or minimum, both aspects erroneously in the researcher's opinion.

At every correctional centre, an offender's case is managed and prepared for parole consideration by the Case Management Committee. The committee is therefore responsible for the completion of profile reports, recommendation and submission of profile reports regarding parole placement to the Correctional Supervision and Parole Board for a decision. This aspect was discussed fully in Chapter 4.

According to Luyt (1999:134), the quality of a prepared profile report will influence the quality of the decision taken by a Correctional Supervision and Parole Board. Nxumalo (1997:54) indicates that profile reports are sometimes inaccurate and fail to provide sufficient information about the offender. Another problem experienced by the Correctional Supervision and Parole Boards is the lack of evidence of participation in rehabilitation programmes (Erasmus, 2007:41).

The reasons might be that the certificates of programmes attended are not attached to the profile report, or because of the lack of social workers who can provide rehabilitation programmes to all sentenced offenders.

The results in 6.4.1 indicate that the Correctional Supervision and Parole Boards see most of the documents attached to a profile report as important. The ones that stood out were the SAP62 (crime description), SAP69 (record of previous convictions), social worker's report, psychologist's report and certificates of rehabilitation programmes attended.

According to the results discussed in 6.4.7, non-participation in programmes and unavailability of documents or lack of reports attached to a profile report again confirm what the Correctional Supervision and Parole Boards see as barriers affecting their decision-making for parole placement.

#### **7.2.12 Finding 12: Guidelines for Parole Decisions**

The significance of the existence of Correctional Supervision and Parole Boards is determined by two factors: the rationale for parole placement, and assessment criteria used to release offenders on parole (Lidovho, 2003:376). Correctional Supervision and Parole Boards use different methods and criteria to determine which offenders should be placed on parole and the amount of risk such placement would pose on the community (Clear & Dammer, 2003:387).

The bulk of parole decision-making focuses almost exclusively on the discretion of Correctional Supervision and Parole Board members and the factors that affect their decision to grant or deny parole (West-Smith, Pogrebin & Poole, 2003:348).

Results in 6.4.6 indicate that participation in rehabilitation and development programmes, and previous convictions or criminal history are the main factors that might influence the Correctional Supervision and Parole Board's decision for parole placement.

Results in 6.4.7 show that a lack of or a poor support system and non-participation in programmes are barriers that might affect the decision-making of Correctional Supervision and Parole Boards. It is clear that non-participation in programmes can lead to denial of parole

placement, and that pre-sentence factors (previous convictions) and post-sentence factors (support systems) can play a significant role in parole decision-making.

Offenders regard participation in rehabilitation programmes as a method to influence the Correctional Supervision and Parole Board (Cilliers & Smit, 2007:99). According to Clear and Dammer (2003:387), offenders know that if they show they are rehabilitated, and learn to manipulate the system, they will have a better chance of parole placement.

Correctional Supervision and Parole Boards lack uniformity in their decision-making to approve parole placement (Erasmus, 2007:41). In Sloth-Nielsen's presentation to the Correctional Services Portfolio Committee on 4 September 2007, she stated that four Correctional Supervision and Parole Boards in one region gave four different answers after being given a factual situation and asked to calculate parole consideration dates. She also stated that where two co-accused are serving the same sentence, but are incarcerated at different correctional centres, instances have been recorded of different placement dates being given owing to the different Correctional Supervision and Parole Board practices (Correctional Services Portfolio Committee, 2007b).

### **7.2.13 Finding 13: Recidivism**

Recidivism is concerned with the reconviction rate of offenders released from custody. Recidivist rates are generally used to test whether the different programmes undertaken within a correctional centre contribute towards reoffending or whether other forms of community-based punishment are more effective at reducing further reoffending (McLaughlin & Muncie, 2003:341). Recidivism is defined as a return to prison for a criminal offence or the commitment of a new crime other than a technical violation of parole (Stevens, 2006:16).

The White Paper on Corrections in South Africa (Department of Correctional Services, 2005b:71) stipulates that the Department of Correctional Services is responsible for facilitating the correction of offending behaviour in a safe, secure and humane environment in order to achieve rehabilitation and to avoid recidivism.

The chairpersons or vice-chairpersons of Correctional Supervision and Parole Boards indicated, according to 6.4.8, that placing an offender out on parole is a risk factor if chances are that he



might reoffend or commit another crime (recidivism). A shortcoming is the fact that South Africa does not have a scientific system or mechanism in place to determine the reconviction rate of parolees and to test whether the term of imprisonment and the different rehabilitation programmes undertaken while in prison contribute to a decrease in reoffending (Cilliers & Smit, 2007:99). The White Paper on Corrections in South Africa (Department of Correctional Services, 2005b:145) also acknowledges that there is no reliable data available on recidivism.

#### **7.2.14 Finding 14: Foreign Offenders**

Parole decisions concerning foreign offenders were discussed in detail in 6.4.10. The process with regard to the treatment of foreign offenders in correctional centres is currently the same as for those who are South African citizens. The only difference is that for foreign offenders a deportation order is needed as part of the condition for parole placement (South African Police Service, [s.a.]). The results indicate the inconsistency that exists between Correctional Supervision and Parole Boards when it comes to parole decisions concerning foreign offenders.

#### **7.2.15 Finding 15: Further Research**

Further research is needed in specific areas of the parole process, such as the parole decision-making process, post-release services and the impact of the restorative justice programme.

### **7.3 RECOMMENDATIONS**

Recommendations are made based on the rationale of the investigation and are aimed at addressing each of the research findings discussed above. None of the recommendations are prescriptive to any organ of government, but will have relevance in terms of potential implementation in the Department of Correctional Services and may potentially contribute to the effectiveness of the parole system. Some recommendations may also be applicable to other government departments and could be considered within the integrated justice system.

#### **7.3.1 Recommendation 1: Overcrowding**

Correctional Supervision and Parole Boards can respond to overcrowding in a number of ways. Firstly, by increasing the frequency of parole hearings, more offenders will be considered for

placement within the community. Secondly, the criteria for parole eligibility can be revised from serving a half to a third of the sentence. Lastly, alternatives can be found to imprisonment after revocation of parole, such as increasing the level of parole supervision or amending the parole conditions.

In reducing the problem of prison overcrowding, the courts can play a much greater role by imposing suspended sentences for a period up to five years, on condition that the offender either pay compensation, render a specific service to the victim, attend a specific treatment programme, or do community service.

Amnesties or special remission of sentences, in temporarily relieving the problem of overcrowding, can be implemented for special categories of offenders, such as first offenders sentenced for economic crimes to less than five years with or without the option of a fine.

### **7.3.2 Recommendation 2: Community Service**

The researcher recommends that all sentenced offenders who are placed on parole, where practicably possible, be compelled to do community service as a constructive contribution to serve the community. The community where the offender comes from and to which he will return after his placement should become more involved and may benefit from such community service.

Community service orders, instead of imprisonment, may be ordered by the court for a fixed number of hours at institutions such as hospitals, schools, churches, police stations and senior citizens homes. These institutions or organisations are made responsible for the supervision or control of the offender and therefore promote the community's accountability for correction.

### **7.3.3 Recommendation 3: Vocational Personnel**

The Department of Correctional Services urgently needs to appoint more social workers and psychologists, not only to assist the Case Management Committees in recommending, but also the Correctional Supervision and Parole Boards in approving conditional placement of offenders. Appointing these specialists to dedicated positions as members of the Case Management Committee should be considered to integrate the specialist services into the committee.

The working conditions of social workers and psychologists should be investigated to the effect that available and better rehabilitation services are offered to the offender. The services of these specialist groups should be maintained at all costs.

#### **7.3.4 Recommendation 4: Correctional Supervision and Parole Review Board**

It is recommended that the appointment of members for the Parole Review Board not be limited only to members of the National Council. Consideration should also be given to the appointment of retired judges and/or directors of Public Prosecutions and other retired legal practitioners on an ad hoc basis.

It is recommended that section 75(8) of the Correctional Services Act 111 of 1998 be amended. A sentenced offender should be given the right to refer a decision made by the Correctional Supervision and Parole Board to the Correctional Supervision and Parole Review Board.

The researcher, by considering the Correctional Services Amendment Bill (B32 of 2007), agrees with the proposed amendments of sections 75(8), 76 and 77 of the Correctional Services Act 111 of 1998.

#### **7.3.5 Recommendation 5: Victims/Complainants**

Further research is needed on victim/complainant participation in the parole process. There are important questions regarding the impact of victim submissions on parole decisions, the satisfaction of victims with the process and the actual content of victim submissions.

#### **7.3.6 Recommendation 6: Level of Qualifications**

It is important for the Department of Correctional Services to ensure that community members who are appointed as chairpersons or vice-chairpersons of Correctional Supervision and Parole Boards have the necessary experience in fields such as penology, criminology, psychology, social work and other professions closely related to the criminal justice system.

It is further recommended that the chairperson have a legal qualification or some legal background, because legal representation for an offender is allowed during Correctional Supervision and Parole Board hearings.

### **7.3.7 Recommendation 7: Vacant Posts**

It is recommended that the Department of Correctional Services urgently pay attention to all current vacant posts at Correctional Supervision and Parole Boards, and that only experienced and legally qualified members from the community be appointed as chairpersons.

### **7.3.8 Recommendation 8: Composition**

The researcher recommends that the composition of the Correctional Supervision and Parole Boards, in terms of section 74(2) of the Correctional Services Act 111 of 1998, be amended to include members from community policing forums, an official from the office of community corrections and an official from the Department of Social Development. It is the opinion of the researcher that the amendment will be more practical and cost-effective if the representatives from the Department of Justice and South African Police Service are replaced.

The composition of the Correctional Supervision and Parole Board should consist of the following members:

- Chairperson - Community member with a legal qualification
- Vice-chairperson - Community member with criminal justice qualifications or experience
- Secretary - Official from the Department of Correctional Services
- Other members - Official from the office of community corrections
  - Representative from the Department of Social Development
  - Two representatives from community policing forums

Reasons for including the above members as part of the composition of Correctional Supervision and Parole Boards are listed below:

- The **office of community corrections** is involved in setting or altering parole conditions and supervision phases of parolees.
- **Community policing forums** consist of organisations and institutions such as schools, ratepayers associations, civic organisations, businesses and religious institutions, working in partnership with the local police. Their purpose is to create and maintain a safe and secure environment for citizens living in the community policing forum's area (Cape gateway. Easy access to government information and services, [s.a]). The number of probationers and parolees per supervisory officer is currently 1:46 versus the target of 1:30 (Department of Correctional Services, 2007:61). Community policing forums can form part of a new parole model or "neighbourhood parole" to assist the office of community corrections in the supervision of parolees in the community.
- The **Department of Social Development** provides services such as poverty relief, child abuse and neglect programmes, prevention and treatment of substance abuse, youth development, HIV and AIDS programmes, home- and community-based care and support programmes, victim-empowerment programmes, social crime prevention and welfare services. It works in partnership with NGOs, faith-based organisations, the business sector, organised labour and other role players in the spirit of *Batho Pele* or 'People First' (South African Government Information, [s.a]).

It is further recommended that section 74(5) of the Correctional Services Act 111 of 1998 be amended so that only four members constitute a quorum, not including an official of the Department of Justice.

### **7.3.9 Recommendation 9: Training Programme**

It is the opinion of the researcher that one week's training for members sitting on Correctional Supervision and Parole Boards is not sufficient. They need to be trained with the necessary skills to assist them in making proper parole decisions.

The researcher recommends that newly appointed members of Correctional Supervision and Parole Boards undergo an intensive and revised four-week training course with schooling in meeting and administrative procedures, before being allowed to chair Correctional Supervision and Parole Board hearings or vote on parole matters. A further recommendation is that the

Department of Correctional Services perhaps implement or learn from a training system used to appoint members for the National Parole Board in Canada (Correctional Services of Canada. National Parole Board, 2007).

A training programme that is more structured and measurable will give Correctional Supervision and Parole Board members confidence and make them feel much more secure in their parole decision-making. The training course can be divided into two stages. The first stage would consist of a two-week orientation period that includes visiting bordering communities, correctional centres or Case Management Committees and the community corrections office. During this period they could be schooled in meeting procedures and receive training in terms of relevant legislation and policies governing Correctional Supervision and Parole Boards. A test at the end of the orientation period would determine their acquired knowledge and skills. The next stage would be field or on-the-job training. During this period, lasting for another two weeks, the new Correctional Supervision and Parole Board members would start to review cases with the help of an experienced member.

### **7.3.10 Recommendation 10: Backlogs**

To reduce existing backlogs and provide Correctional Supervision and Parole Boards with enough time to consider individual cases for parole placement, the researcher recommends the following:

- The Case Management Committee should submit profile reports only of offenders who are recommended a date for conditional placement. A further profile date, which must not be set for more than two years in the future, will still ensure that the offender appears before the Case Management Committee at regular times. The offender will only then appear before a Correctional Supervision and Parole Board if a placement date is recommended.
- The Case Management Committee should submit profile reports to the Correctional Supervision and Parole Board only of offenders that are sentenced to imprisonment exceeding 24 months. In other words, the responsibility will rest on the shoulders of the head of the correctional centre to consider cases for conditional placement of offenders sentenced to 24 months or less. The researcher, in considering the Correctional Services Amendment Bill (B32 of 2007), agrees with the proposed

amendments of sections 38(2), 42(2)(a) and (e) and 75(1) and (7) of the Correctional Services Act 111 of 1998.

### **7.3.11 Recommendation 11: Profile Reports**

The researcher makes the following recommendations:

- Amend “Recommendation of the Parole Board” to “Recommendation of the Case Management Committee” in section I of a profile report (G326) and delete the supervisory conditions of “maximum, medium or minimum”.
- Sensitise the Case Management Committees again to the importance of preparing profile reports correctly and ensuring that all the relevant documents or reports are attached for Correctional Supervision and Parole Boards to make the right parole decisions.
- The Department of Correctional Services must ensure that the SAP62 and SAP69 documents are obtained and attached before sentenced offenders are admitted to a correctional centre. These documents will assist Correctional Supervision and Parole Boards to determine the possible risk an offender might pose to the community when placed on parole.

### **7.3.12 Recommendation 12: Guidelines for Parole Decisions**

The researcher recommends that Correctional Supervision and Parole Boards adopt a uniform approach to parole decision-making. Clear and transparent parole guidelines should be developed primarily to reduce the inconsistent decision-making about early releases of offenders with similar crime and sentence profiles. Parole guidelines will create uniformity in parole decisions and can be used to objectively weigh factors known to be associated with recidivism (Petersilia, 2001:372). Participation in development and rehabilitation programmes, in the researcher’s opinion, must be compulsory for offenders and not be considered as the bargaining factor for parole placement. Other factors such as previous convictions and support systems play a much larger role in making decisions for parole placement.

### **7.3.13 Recommendation 13: Recidivism**

The researcher recommends that further research be conducted to determine the recidivism rate and whether it can be used as a measurement for parole success or failure. According to Beck (Muntingh, 2005a:29), the following three questions in relation to recidivism must be answered when conducting research:

- What is counted as recidivism?
- What is the time frame of measurement?
- What is the basis for making sense of the data?

Community-based alternatives such as halfway houses and work release programmes should be explored to minimise reoffending or recidivism.

### **7.3.14 Recommendation 14: Foreign Offenders**

It is recommended that clear and specific parole decision-making guidelines be put in place for foreign offenders. This will enable Correctional Supervision and Parole Boards to achieve uniformity in their decision-making regarding parole placement. Further research is also needed to study the supervision and conditions of parole placement and to determine how many foreign offenders are returning to South Africa before their parole or sentence period expires.

### **7.3.15 Recommendation 15: Further Research**

Further research is recommended regarding:

- The success of restorative justice as a compulsory treatment programme, before specific offenders are placed on parole, and its effect on the relationships between the offender, victim and community;
- Post-release (after-care) services in assisting parolees to successfully reintegrate and adapt into their community; and
- An empirical study and/or a comparative analysis of the current parole decision-making process in South Africa.



## 7.4 CONCLUSION

The purpose of parole is to adjust the offender to the community in which he will remain after being released from prison (Witmer, 1927:56). According to Muntingh (2002:2), successful offender reintegration as a crime reduction strategy should be the overall purpose of the criminal justice system.

The researcher would like to conclude with one of his own quotations, and one other, as a final thought for the study:

*“Success of parole depends on the ability of a parolee to adapt and for society to accept”*

And

*“The degree of civilization in a society can be judged by entering its prisons”*

- Fyodor Dostoyevsky

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## ANNEXURE A

### INFORMED CONSENT FORM

**1. TITLE OF THE RESEARCH**

The parole process from a South African perspective.

**2. PURPOSE OF THE STUDY**

The aim of this study is to investigate and describe the process of parole placement and more specifically the viewpoint from the Correctional Supervision and Parole Board on parole decision making.

**3. PROCEDURES**

To achieve the above-mentioned aim use will be made of semi-structured interviews with the Chairperson or Vice-Chairperson of a Correctional Supervision and Parole Board. This entails the asking of pre-established open-ended questions of every participant.

**4. RISKS**

There are no risks involved in participating in this study and your participation will not result in any form of disadvantage.

**5. PARTICIPANT'S RIGHTS**

Participation in this study is voluntary and you may withdraw from the study at any stage or for any reason.

**6. CONFIDENTIALITY**

The information you provide will be used for research purposes only. I would like to assure you that your identity and personal information will be kept confidential.

Any questions or concerns you should have can be directed to Mr Francois Christiaan Marthinus Louw at 082-675-7558.

Please indicate your willingness to participate in this study by signing a copy of this document.

I understand the contents of this document and the nature of the study. I hereby agree to take part in the study.

-----  
SIGNATURE OF PARTICIPANT

-----  
DATE

-----  
SIGNATURE OF RESEARCHER

-----  
DATE



**SEMI-STRUCTURED INTERVIEW SCHEDULE**

**INSTRUCTIONS:**

1. Kindly respond to all questions in black ink.
2. Mark with an "X" where relevant.
3. Please provide information on a separate page if not enough space is provided.
4. The interview schedule consists of 2 sections.  
Section A: Biographical Data.  
Section B: Questions relating to parole placement.

\* All information will be treated as confidential!

**SECTION A  
BIOGRAPHICAL DATA**

1. Date of interview: \_\_\_\_\_/\_\_\_\_\_/2007

2. Age Group:

1	2	3	4	5
24-34	35-44	45-54	55-64	65+

3. Gender:

1	2
Male	Female

4. Marital Status:

1	2	3	4	5
Single	Married	Divorced	Widowed	Other

5. Level of Qualifications:  
(Please specify)

1	2	3
Highest Grade at School	Diploma/Degree	Post Graduate Qualification



6. Management Area:

6.1	Leeuwkop	
6.2	Johannesburg	
6.3	Krugersdorp	
6.4	Boksburg	
6.5	Modderbee	
6.6	Pretoria	
6.7	Baviaanspoort	
6.8	Zonderwater	

7. Current Post:

1	2
<b>Chairperson</b>	<b>Vice-Chairperson</b>

8. Please list previous experience relevant to your current post:

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**SECTION B  
QUESTIONS RELATING TO PAROLE PLACEMENT**

1. Please indicate how important it is that the following documents are attached to a profile report (G326) of an offender. If you are of opinion that a document may be left out without influencing valid parole decisions, you will mark not important, for example.

		1	2	3
		<b>Very important</b>	<b>Important</b>	<b>Not Important</b>
1.1	SAP69 – Record of previous convictions.			
1.2	SAP62 – Crime description			
1.3	Sentence Remarks			
1.4	Sentence Plan			
1.5	Sentence Plan Progress Reports			
1.6	Report by Unit Manager			
1.7	Report by Workplace Supervisor			

	<b>Very important</b>	<b>Important</b>	<b>Not Important</b>
1.8 Confirmation of support systems			
1.9 Confirmation of employment offer			
1.10 Report by Social Worker			
1.11 Report by Psychologist			
1.12 Report by Educationist			
1.13 Report by Religious Worker			
1.14 Medical Report			
1.15 Copy of Warrant			
1.16 Certificates of Programmes attended			
1.17 Written representation by offender			
1.18 Written representations by offender's family/ lawyer			
1.19 Written inputs from victim(s)			

2. When chairing a Correctional Supervision and Parole Board hearing, who are present during the hearing?

	<b>1 Always</b>	<b>2 Sometimes</b>	<b>3 Never</b>
2.1 Chairperson / Vice-Chairperson			
2.2 Secretary			
2.3 Offender			
2.4 Representative(s) from the community			
2.5 Representative from the SAPS			
2.6 Representative from the Department of Justice			
2.7 Legal representative of the offender			
2.8 Family / friends of the offender			
2.9 Victim / Complainant			

3.1 Why is the viewpoints of community members of such vital importance in parole decision making?

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3.2 Please give examples of inputs from community members:

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4. Did you receive training prior to accepting your position as Chairperson / Vice-Chairperson?

1 Yes	2 No

If yes, approximately how many days, weeks or months were spent on training?

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5. How many case loads/profiles of offenders do you manage per week?

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6. Approximately how much time is spent on each case?

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7. What are the main factors that can influence the Correctional Supervision and Parole Board's decision for parole placement?

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8. What are the barriers that hamper successful parole decisions/placement on parole?

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9. Which risk factors are considered before placing an offender on parole within the community?

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10. When are the conditions of parole explained to the offender?

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11. How do you deal with a case where a co-accused is involved?

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12. Explain your approach to parole decisions concerning foreign offenders:

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13. What is the impact of an offender's representation on parole decision making?

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14. How many cases of parole revocation have you dealt with? Please provide some reasons for the revocation.

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15. Do you have any suggestions that may improve the parole system?

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*THANK YOU FOR YOUR PARTICIPATION!!*



CODED RESPONSES OF THE SEMI-STRUCTURED INTERVIEW  
SCHEDULE

**INSTRUCTIONS:**

1. Kindly respond to all questions in black ink.
2. Mark with an "X" where relevant.
3. Please provide information on a separate page if not enough space is provided.
4. The interview schedule consists of 2 sections.

Section A: Biographical Data

Section B: Questions relating to parole placement

\* All information will be treated as confidential!

**SECTION A  
BIOGRAPHICAL DATA**

1. **Date of interview:** \_\_\_\_\_ / \_\_\_\_\_ / 2007

2. **Age Group:**

1	2	3	4	5
24-34	35-44	45-54	55-64	65+

3. **Gender:**

1	2
Male	Female

4. **Marital Status:**

1	2	3	4	5
Single	Married	Divorced	Widowed	Other

5. **Level of Qualifications:**  
(Please specify)

1	2	3
Highest Grade at School	Diploma/Degree	Post Graduate Qualification

**6. Management Area:**

1.	Leeuwkop	
2.	Johannesburg	
3.	Krugersdorp	
4.	Boksburg	
5.	Modderbee	
6.	Pretoria	
7.	Baviaanspoort	
8.	Zonderwater	

**7. Current Post:**

1	2
<b>Chairperson</b>	<b>Vice-Chairperson</b>

**8. List previous experience relevant to your current post:**

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**SECTION B  
QUESTIONS RELATING TO PAROLE PLACEMENT**

1. Please indicate how important it is that the following documents are attached to a profile report. In your opinion that a document may be left out without influencing valid parole decisions, you will mark

	1	2	3
	<b>Very important</b>	<b>Important</b>	<b>Not Important</b>
1.1 SAP69 – Record of previous convictions			
1.2 SAP62 – Crime description			
1.3 Sentence Remarks			
1.4 Sentence Plan			
1.5 Sentence Plan Progress Reports			
1.6 Report by Unit Manager			

<b>Very</b>	<b>Important</b>	<b>Not</b>
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	<b>important</b>		<b>Important</b>
1.7 Report by Workplace Supervisor			
1.8 Confirmation of support systems			
1.9 Confirmation of employment offer			
1.10 Report by Social Worker			
1.11 Report by Psychologist			
1.12 Report by Educationist			
1.13 Report by Religious Worker			
1.14 Medical Report			
1.15 Copy of Warrant			
1.16 Certificates of Programmes attended			
1.17 Written representation by offender			
1.18 Written representations by offender's family/lawyer			
1.19 Written inputs from victim(s)			

**2. When chairing a Correctional Supervision and Parole Board hearing, who are present during the**

	1	2	3
	<b>Always</b>	<b>Sometimes</b>	<b>Never</b>
2.1 Chairperson/Vice-Chairperson			
2.2 Secretary			
2.3 Offender			
2.4 Representative(s) from the community			
2.5 Representative from the SAPS			
2.6 Representative from the Department of Justice			
2.7 Legal representative of the offender			
2.8 Family / friends of the offender			
2.9 Victim / Complainant			



**3.1 Why is the viewpoints of community members of such vital importance in parole decision making**

		1	2
		Yes	No
3.1.1	Ensure process is transparent and to keep corrections a societal responsibility		
3.1.2	Provide crime rate information		
3.1.3	Provide information on which crimes are committed the most		
3.1.4	As representatives, they reflect the feelings and/or needs of the community		
3.1.5	Act in the interest of the community		
3.1.6	Provide information or background about offenders and possibility of reintegration		

**3.2 Please give examples of inputs from community members:**

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**4. Did you receive training prior to accepting your position as Chairperson / Vice-Chairperson?**

1	2
Yes	No

**If yes, approximately how many days were spent on training?**

1	2	3
7	6	5

**5. How many case loads/profiles of offenders do you manage per week?**

1	2	3	4	5
25-30	31-40	41-50	51-60	61-80

**6. Approximately how much time is spent on each case?**

1	2	3	4
<b>10-20 minutes</b>	<b>35 minutes</b>	<b>45 minutes</b>	<b>50 – 55 minutes</b>

**7. What are the main factors that can influence the Correctional Supervision and Parole Board's decisions?**

		1	2
		<b>Yes</b>	<b>No</b>
7.1	Participation in rehabilitation programmes that addresses the offending behaviour		
7.2	Participation in development programmes (education and skills training)		
7.3	Previous convictions		
7.4	Reports from Unit Manager, Social Worker and/or Psychologist		
7.5	Support systems or monitorable address		
7.6	Behaviour/conduct while incarcerated (Disciplinary Offences)		
7.7	Nature of crime		
7.8	Manner how crime was committed		
7.9	Offender's age		
7.10	Offender's representation		
7.11	Offender shows to be remorseful		

**8. What are the barriers that hamper successful parole decisions/placement on parole?**

		1	2
		<b>Yes</b>	<b>No</b>
	Not attended or involvement in any programmes		
	Poor support systems		
	Stigmatisation or rejection from community		
	Lack of reports or unavailability of documents, attached to a profile report		
	Poor profile report and/or poor recommendations from CMC		
	Lack of employment opportunities		
	Innovations or changing environment		

	1	2
	Yes	No
Parole violators and escapees		
Committed multiple crimes		
Offenders who appear arrogant before the CSPB		

**9. Which risk factors are considered before placing an offender on parole within the community?**

	1	2
	Yes	No
9.1 Chances of relapse/re-offending		
9.2 Safety of the community		
9.3 Relations with victim(s)		
9.4 Age of the victim(s)		
9.5 Length of sentence and nature of crime		
9.6 Previous convictions of similar nature		
9.7 Availability of accommodation		
9.8 Behaviour/conduct in a correctional centre		
9.9 The manner or type of weapon used to commit crime		

**10. When are the conditions of parole explained to the offender?**

1. Before a parole hearing	
2. After a parole hearing and placement on parole was approved	
3. During and after a parole hearing	
4. CMC's responsibility but will make him aware of certain conditions	

**11. How do you deal with a case where a co-accused is involved?**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**12. Explain your approach to parole decisions concerning foreign offenders:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**13. What is the impact of an offender's representation on parole decision making?**

	1	2
	Yes	No
No impact		
Able to assess levels of rehabilitation and for him to proof he is rehabilitated		
Able to assess his future responsibility or intention towards the community		
Able to observe non-verbal communication		
Able to assess level of remorse and whether he acknowledge his mistakes		
Able to assess whether his representation is convincing		
Able to observe his ability to interact with Board members		

**14. How many cases of parole revocation have you dealt with?**

\_\_\_\_\_

\_\_\_\_\_

**Please provide some reasons for the revocation:**

	1	2
	Yes	No
Poor or loss of support systems		
Further charge		
Violation of certain parole conditions		

**15. Do you have any suggestions that may improve the parole system?**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*THANK YOU FOR YOUR PARTICIPATION*

**- CONFIDENTIAL -****Annexure****Cover sheet for G326**NAME OF THE CMC  
\_\_\_\_\_

Enquiries: \_\_\_\_\_

Tel no : \_\_\_\_\_

**The Chairperson  
Correctional Supervision and Parole Board**  
\_\_\_\_\_Attached please find a G326 with regard to the possible consideration for parole/recommendation for placement under correctional supervision for the following offender:

Name of offender : \_\_\_\_\_

Registration Number : \_\_\_\_\_

**1. The following documents are attached in sequence :**

NO	DOCUMENT NAME	NO OF PAGES	DATE OF DOCUMENT
1.	G326 – Profile report		
2.	SAP69(a) Record of previous convictions		
3.	SAP62 – Crime description		
4.	Sentence Remarks		
5.	Sentence plan		
6.	Sentence plan progress reports		
7.	Report by unit manager		
8.	Report by work place supervisor		
9.	Confirmation of support a systems		
10.	Confirmation of employment offer		
11.	Report by Social Worker		
12.	Report by Psychologist		
13.	Report by Educationist		
14.	Report by Religious Worker		
15.	Medical Report		
	Add additional reports		

**2. The case of the offender has/not previously been considered by the CSPB. See detail of previous considerations:**

Date of previous decision	Decision by CSPB (Attached previous decisions : G326)

**3. All documentation attached has been classified “confidential”**CHAIRPERSON: CMC  
INITIALS AND SURNAME  
DATE: \_\_\_\_\_SECRETARY: CMC  
INITIALS AND SURNAME  
DATE: \_\_\_\_\_

**COVERING PAGE FOR APPROVAL/DISAPPROVED OF PROFILE REPORT: DETERMINATE SENTENCE(S)**

**A. TO THE CHAIRPERSON: CORRECTIONAL SUPERVISION AND PAROLE BOARD/HEAD CORRECTIONAL CENTER**

In terms of the provisions of Section \*42(2) / \*42(2)(e) / \*79 of the Correctional Services Act no. 111 of 1998, the enclosed profile report of the following offender is submitted for your consideration.

<b>Registration Number</b>	<b>Surname and First Names</b>
_____	_____
1. Placement on Day Parole (Category ..... ) on ..... to .....	
2. Placement on Parole/Medical Parole on ..... to .....	
3. Placement under Correctional Supervision on ..... to .....	
4. Release after full sentence has expired on .....	
5. Further profile report requested on ..... for reconsideration.	

.....	.....	.....
<b>Chairperson: Case Management</b>	<b>Title</b>	<b>Date</b>

**Committee** .....

**Surname and Initials :** .....

**B. TO THE CHAIRPERSON: CASE MANAGEMENT COMMITTEE**

In terms of the provisions of section 73 of the Correctional Services Act, No 111 of 1998 the recommendation submitted by the Case Management Committee is \*approved / disapproved / amended as follows :-

1. Placement on Day Parole (category ..... ) on ..... to .....
2. Placement on Parole / Medical Parole on ..... to .....
3. Placement under Correctional Supervision on ..... to .....
4. Release after total sentence has expired on .....
5. Further profile report requested on ..... for reconsideration

**+ MOTIVATED REASONS FOR DECISION IN RESPECT OF 1 TO 5 ABOVE :** .....

.....

.....

.....

.....

.....	.....	.....
<b>* Chairperson : Correctional Supervision and Parole Board / Head Correctional Centre</b>	<b>Title</b>	<b>Date</b>

**Surname and Initials :** .....

\* Delete if not applicable.  
 + Should space be inadequate use a separate annexure.  
 Note : This form must be completed in black ink.

**Department Correctional Services**  
**G326 – PROFILE REPORT : SENTENCED OFFENDER**

Registration Number _____ G326 Number : _____ Completion Date : _____
Serial Number : _____ Distribution : _____ Name of Correctional Centre : _____

**A. PERSONAL PARTICULARS**

1. Name : _____	2. * Identity Number / Date of birth : _____
3. Gender : _____	4. Current Age : _____
5. Marital State : _____	6. Qualification(s) : _____
7. Citizenship : _____	8. Place of Birth : _____
9. If place of birth is outside RSA, how and when was citizenship obtained? _____	
10. If deportable, furnish full particulars : _____ _____	
11. Accomplice(s) : *Yes/No _____ If YES complete G326 (e)	
12. Representation : *Yes/No _____ if YES, attach previous representations and replies	
13. Security Classification : _____ From : _____	
14. Privilege group _____ From : ____/____/____	
15. Current workplace : _____ From : ____/____/____	

\* Delete if not applicable

Registration Number : \_\_\_\_\_ Surname and First Names : \_\_\_\_\_

**B. CURRENT SENTENCE(S), DESCRIPTION OF CRIME(S) AND RECORD OF ESCAPE(S)  
IN CHRONOLOGICAL SEQUENCE**

<b>Case No. / Sent Date / Warrant No.</b>	<b>Court and Place of Sentence</b>	<b>Offence(s) committed and description of offence</b>	<b>Sentence as reflected on warrant(s)</b>
SH 120/06 2006/08/30  1.	REGIONAL COURT TEMBISA	Housebreaking and theft.	Two (2) years imprisonment

Effective Sentence Period : Two (2) years imprisonment.

\* = Delete if not applicable



Registration Number : \_\_\_\_\_ Surname and First Names : \_\_\_\_\_

**C. CALCULATIONS**

	YYYY/MM/DDDD	YYYY/MM/DDDD	YYYY/MM/DDDD
1. Maximum Release Date	2008/08/29		
2. Special Remission of Sentence (Reference) Reason :			
3. Amnesty (s)			
4. Sentence Expiry Date	2008/08/29		
5. ½ of Sentence Period	2007/08/29		
6. Non Parole Period	2007/08/29		
7. 1/6 of Sentence Period	2006/12/29		
8. ¼ of Sentence Period	2007/02/28		
9. 1/3 of Sentence Period	2007/04/29		
10. Minimum Detention Period	2007/08/29		
11. 2/3 of Sentence Period	2007/12/29		
12. ¾ of Sentence Period	2008/02/28		
13. 4/5 of Sentence Period	2008/04/04		
14. Profile Submission Date (2 months prior to minimum)	2007/06/29		

**D. CERTIFICATION**

Sentences / Calculations certified as correct.

\_\_\_\_\_

Chairperson : Case Management Committee Title \_\_\_\_\_ Official Date Stamp \_\_\_\_\_

Surname and Initials : \_\_\_\_\_

\_\_\_\_\_

\* Chairperson: Correctional Supervision and Parole Board/Head Correctional Center Title \_\_\_\_\_ Official Date Stamp \_\_\_\_\_

Surname and Initials : \_\_\_\_\_

**\*E. PREVIOUS CONVICTIONS (SAP69c attached)**

1. \*On/Since \_\_\_\_\_ to \_\_\_\_\_ there were \_\_\_\_\_ previous convictions recorded against the offender

Exposition of counts : Sexual : \_\_\_\_\_

Aggression: \_\_\_\_\_

Escapes : \_\_\_\_\_

Drugs : \_\_\_\_\_

Economical: \_\_\_\_\_

Other : \_\_\_\_\_

2. \*Longest / most severe sentence served/imposed : \_\_\_\_\_ sentence

3. Number of previous correctional supervision sentence(s) \_\_\_\_\_

4. Number of previous sentences converted to correctional supervision : \_\_\_\_\_

**\*F. REVIEW**

1. \*Time since previous placement / release to date of current crime / conditions violated \_\_\_\_\_

2. Number of previous placements \_\_\_\_\_ G306 issued : \_\_\_\_\_

3. Occasions neglected to comply with suspension condition \_\_\_\_\_

\* Delete if not applicable

Registration Number : \_\_\_\_\_ Surname and First Names : \_\_\_\_\_

**G. DISCIPLINARY OFFENCE(S)**

\*Yes / No \_\_\_\_\_ if YES, see attached form G363(a)

**\*H EVALUATION (Report / Progress reports must be attached) - \*Yes/No**

**1. Medical : \*Yes / No**

- a. Problem area(s) :
- b. Date(s) and type(s) of intervention(s) :
- c. Outcome(s) of intervention(s) :

**2. Social Worker : \*Yes / No**

- a. Problem area(s) :
- b. Date(s) and type(s) of intervention(s) :
- c. Outcome(s) of intervention(s) :

**3. Psychological : \*Yes / No**

- a. Problem area(s) :
- b. Date(s) and type(s) of intervention(s) :
- c. Outcome(s) of intervention(s) :

**4. Educational : \*Yes / No**

- a. Attitude towards participation in education / training programmes :
- b. Training / skills obtained :
- c. Qualifications obtained and date :
- d. Trade test passed (if applicable) and date :
- e. Qualification upon admission and current qualification

**5. Spiritual : \*Yes / No**

- a. Problem area(s) :
- b. Date(s) and type(s) of intervention(s)
- c. Outcome(s) of intervention(s) :

**6. \* Head of Section : General behaviour and adaptation : Report attached / not attached.**

**7. \* Offender's representation is attached / not attached.**

**8. \* Input(s) from victim(s) attached / not attached.**

**9. \*Representations by family, lawyers, etc. attached / not attached.**

Registration Number : \_\_\_\_\_ Surname and First Names : \_\_\_\_\_

**I. RECOMMENDATION OF THE PAROLE BOARD (COMPLETE BY HAND)**

1. Depending on continuous good behaviour, it is recommended that the offender be placed on day parole (category \_\_\_\_\_) from \_\_\_\_\_ to \_\_\_\_\_ in which case \*he/she completed \_\_\_\_\_ years \_\_\_\_\_ months \_\_\_\_\_ days of \*his/her sentence.

2. Depending on continuous good behaviour, it is recommended that the offender be placed on parole after \_\_\_\_\_ to \_\_\_\_\_ for purposes of reintegration and supervision in which case \*he/she completed \_\_\_\_\_ years \_\_\_\_\_ months \_\_\_\_\_ days of \*his/her sentence.

3. \*He/She complies with the standard conditions as specified per day parole order / G374-form during the period of day parole/ parole.

3.1 Additional conditions : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Supervisory conditions : a) Maximum \_\_\_\_\_ Medium \_\_\_\_\_ Minimum \_\_\_\_\_  
b) Home Confinement/House Arrest

5. It is recommended that the offender, on completion of \*his/her sentence, be released on \_\_\_\_\_

6. It is recommended that a further profile be submitted on \_\_\_\_\_

7. Motivation for approval :  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**J. COMMUNICATION PLAN**

1. + \_\_\_\_\_ Communication plan attached – well-known newsworthy case.

2. + \_\_\_\_\_ Communication plan not attached – unknown case.

3. + \_\_\_\_\_ Communication plan attached – newsworthy case. The fact that \*his/her conversion of sentence to \*correctional supervision/reference to court a quo/placement/release considered and not approved by you, should be disclosed.

\* = Delete if not applicable

+ = Indicate which is applicable

Department Correctional Services  
CORRCENT  
Disciplinary Offence Register

G363(a)

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\*\*\* No Record Found \*\*\*

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Signature – Production Worker : \_\_\_\_\_  
Checker : \_\_\_\_\_  
Controller : \_\_\_\_\_

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\*\*\* End of Report \*\*\*

**Department Correctional Services**  
**CORRCENT**  
**Assessment – Per Offender**

Date :

Report Number : \_\_\_\_\_

Registration Number : \_\_\_\_\_

Surname : \_\_\_\_\_

First Names : \_\_\_\_\_

Specialist	Program	Date from	Date to	Concluded	Reason Concluded
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\*\*\* No Records Found \*\*\*

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Signature – Production Worker : \_\_\_\_\_

Checker : \_\_\_\_\_

Controller : \_\_\_\_\_

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\*\*\* End of Report \*\*\*

**ANNEXURE E**

REGISTRATION NUMBER: \_\_\_\_\_ SURNAME AND FIRST NAMES: \_\_\_\_\_

**J. CONDITIONS RELATED TO COMMUNITY CORRECTIONS**

It is recommended in terms of the provisions of section 42(2)(vi) or (vii) of the act that the offender be subjected to the following conditions in terms of Section 52 of the Act read in conjunction with section 2 and Section 50 of the Act. These conditions are subject to the approval/amendment by the Correctional Supervision and Parole Board/Head Correctional Centre.

**1. MONITORING (Sect 68)**

Phase 1 / Phase 2 / Phase 3 / Phase 4

Conventional Monitoring

Motivation/ Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2. HOUSE DETENTION (Sect 58 and 59)**

Exceptions for the absolute minimum period: Employment, Obtaining employment, Programme attendance, Perform community services, visits to the Community Corrections office and other valid reasons as approved by the Head of Community Corrections. Strict control must be exercised, e.g. proof of obtaining employment.

Hours of house detention: \_\_\_\_\_

2.2.1 To be stipulated by Supervision Committee

Overhaul duration of house detention: \_\_\_\_\_

2.3.1 Until expiration of sentence: \_\_\_\_\_

**3. COMMUNITY SERVICE (Sect 60)**

\_\_\_\_\_ hours per month (total number of hours \_\_\_\_\_)

Institution: \_\_\_\_\_

**4. SEEKS EMPLOYMENT (Sect 52(1)(c) and Sect 61)**

Motivation/ Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**5. ACCEPTS EMPLOYMENT AND REMAINS EMPLOYED (Sect 52(1)(d) and Sect 62)**

Employer (if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Motivation/Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REGISTRATION NUMBER: \_\_\_\_\_ SURNAME AND FIRST NAMES: \_\_\_\_\_

**J. CONDITIONS RELATED TO COMMUNITY CORRECTIONS (continued)**

6.	<b>COMPENSATION (As determined by the court) (Sect 52(1)(e), (2)(a) and (c) and Sect 63)</b>  6.1 Pays R_____ per month/once off compensation or damage to victim(s). 6.1.1 Victim(s): _____ Motivation/Remarks: _____ _____ _____ _____
7.1	<b>TREATMENT, DEVELOPMENT AND SUPPORT PROGRAMMES (Sect 52(1)(f), Sect 52(1)(q) and Sect 64). IN CASE OF A CHILD SEE Sect 69(1) and (2)</b>  7.1 Treatment Programmes: _____ _____ Motivation/Remarks: _____ _____ _____  7.2 Development Programmes: _____ _____ Motivation/Remarks: _____ _____ _____  7.3 Support Programmes: _____ _____ Motivation/Remarks: _____ _____ _____  7.4 The Supervision Committee may specify additional programmes according to need (Sect 64/2).
8.	<b>MEDIATION WITH VICTIM(S) (Sect 52(1)(g):</b> _____ _____ Motivation/Remarks: _____ _____ _____ _____

REGISTRATION NUMBER: \_\_\_\_\_ SURNAME AND FIRST NAMES: \_\_\_\_\_

**J. CONDITIONS RELATED TO COMMUNITY CORRECTIONS (continued)**

9. **FAMILY GROUP COUNSELLING (Sect 52(1)(g):** \_\_\_\_\_

\_\_\_\_\_

Motivation/Remarks: \_\_\_\_\_

\_\_\_\_\_

10. **FINANCIAL CONTRIBUTION TO THE COST OF COMMUNITY CORRECTIONS (Sect 52(1)(h), Sect 54(1)(b), Sect 65)**

Motivation/Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. **RESTRICTED TO MAGISTERIAL DISTRICT(S) OR PART THEREOF (Sect 52(1)(l):** \_\_\_\_\_

\_\_\_\_\_

Motivation/Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. **FIXED RESIDENTIAL ADDRESS (Sect 52(1)(j) and Sect 66):** \_\_\_\_\_

\_\_\_\_\_

Motivation/Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

13. **PROHIBITION ON THE USE/MISUSE OF ALCOHOL AND DRUGS NOT PRESCRIBED BY A MEDICAL PRACTITIONER (Sect 52(1)(k), Sect 57(5) and Sect 67):**

\_\_\_\_\_

Motivation/Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



REGISTRATION NUMBER: \_\_\_\_\_ SURNAME AND FIRST NAMES: \_\_\_\_\_

**J. CONDITIONS RELATED TO COMMUNITY CORRECTIONS (continued)**

14. **PROHIBITION ON COMMITTING ANY CRIMINAL OFFENCE (Sect 52(1)(l):** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Motivation/Remarks: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

15. **PROHIBITION ON VISITING SPECIFIC PLACES (Sect 52(1)(m):** \_\_\_\_\_

\_\_\_\_\_  
Motivation/Remarks: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

16. **PROHIBITION ON CONTACT WITH SPECIFIC PERSONS (Sect 52(1)(n):** \_\_\_\_\_

\_\_\_\_\_  
Motivation/Remarks: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

17. **PROHIBITION ON THREATENING/INTIMIDATING PEOPLE BY WORD OR ACTIONS (Sect 52(1)(o):** \_\_\_\_\_

\_\_\_\_\_  
Motivation/Remarks: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

18. **THE PARENT(S)/GUARDIAN(S) HAS/HAVE NOT BEEN INFORMED OF THE CHILD'S PROPOSED PLACEMENT IN TERMS OF SECTION 51(3):**

Reasons: \_\_\_\_\_

\_\_\_\_\_  
Remarks by Parent(s)/Guardian(s): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

19. **SUPERVISION (Sect 57)**

In accordance to Section 57.3, I am subjected to being searched by a correctional official.

In accordance to Section 57.4, I am aware of the fact that I may not threaten, abuse, obstruct or deliberately avoid a correctional official.

In accordance to Section 57.6, I am aware of the fact that I may be required to attend and participate in meetings regarding my behaviour with supervision officials or a Supervision Committee. In accordance to Section 117(e), I am aware of the fact that should I abscond and thereby avoid being monitored, I make myself guilty of an offence and I am liable of a conviction to a fine or imprisonment for a period not exceeding ten years or to imprisonment without the option of a fine or both.

REGISTRATION NUMBER: \_\_\_\_\_ SURNAME AND FIRST NAMES: \_\_\_\_\_

**J. CONDITIONS RELATED TO COMMUNITY CORRECTIONS (continued)**

20. **RECOMMENDED CONDITIONS BY CASE MANAGEMENT COMMITTEE:** \_\_\_\_\_

In accordance with section 42 of the Act, I concur with my recommended conditions under community corrections and understand and accept the recommended conditions applicable and undertake to give my full cooperation pending the Correctional Supervision and Parole Board's/Head Correctional Centre's final approval/disapproval.

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE OF OFFENDER: \_\_\_\_\_ DATE: \_\_\_\_\_

-----  
\*CHAIRPERSON: CASE  
MANAGEMENT COMMITTEE

-----  
TITLE

-----  
OFFICIAL DATE STAMP

SURNAME AND INITIALS: \_\_\_\_\_

In accordance with Section 52(1) and (2) of the Act, I concur with and understand and accept the amended/ approved conditions applicable and undertake to give my full cooperation and further understand that should I violate any condition I may be returned to a Correctional Centre to serve the remainder of my sentence.

Remarks: \_\_\_\_\_  
\_\_\_\_\_

SIGNATURE OF OFFENDER: \_\_\_\_\_ DATE: \_\_\_\_\_

-----  
\*CHAIRPERSON: CORRECTIONAL  
SUPERVISION AND PAROLE BOARD  
\*HEAD CORRECTIONAL CENTRE

-----  
TITLE

-----  
OFFICIAL DATE STAMP

SURNAME AND INITIALS: \_\_\_\_\_

**K. COMMUNICATION PLAN**

1. + \_\_\_\_\_ Communication plan attached – well-known newsworthy case.
2. + \_\_\_\_\_ Communication plan not attached – unknown case.
3. + \_\_\_\_\_ Communication plan attached – newsworthy case. The fact that \*his/her conversion of sentence to \*correctional supervision / reference to court a quo / placement / release considered and not approved by you, should be disclosed.

\* Delete if not applicable  
+ Indicate which is applicable



## correctional services

Department:  
Correctional Services  
REPUBLIC OF SOUTH AFRICA

Private Bag X136, PRETORIA, 0001 Poyntons Building, C/O Church and Schubart Street, PRETORIA  
Tel (012) 307 2000, Fax (012) 328-5111

1 August 2007

**Mr. F.C.M. Louw**  
**P.O. Box 9302**  
**Weltevreden Park**  
**Roodepoort**  
**1715**  
**Fax: (011) 260-0241**

Dear Mr. F.C.M. Louw

### **RE: FEEDBACK ON THE APPLICATION TO CONDUCT RESEARCH IN THE DEPARTMENT OF CORRECTIONAL SERVICES ON “PAROLE DECISIONS BY THE CORRECTIONAL SUPERVISION AND PAROLE BOARD IN PERSPECTIVE WITH SPECIFIC REFERENCE TO GAUTENG REGION”**

It is with pleasure to inform you that your request to conduct research in the Department of Correctional Services on the above topic has been approved.

The **Correctional Administration: Corrections: Gauteng Region: Mr. J. M. Jansen Van Rensburg** has been appointed as your internal guide. You are requested to contact her at telephone number **(012) 420-0100** before the commencement of your research project.

Your attention is drawn to the following:

- The relevant Area and Regional Commissioners where the research will be conducted will be informed of your proposed project.
- It is your responsibility to make arrangements for your visiting times.
- Your identity document and this approval letter should be in your possession when visiting the centres.
- You are required to use the terminology utilized in the White Paper on Corrections in South Africa (February 2007) should be adhered to.
- You are not allowed to use any audio, digital, photographic, or video equipment during your visits to the Correctional Centres.
- You are required to submit your final report to the Department for approval by the Commissioner of Correctional Services before publication of the report.
- Should you have any enquiries regarding this process, please contact the Directorate Research for assistance at telephone number 012-305 8619/8686/ 8627 or 307-2359.

**RE: FEEDBACK ON THE APPLICATION TO CONDUCT RESEARCH IN THE DEPARTMENT OF CORRECTIONAL SERVICES ON “PAROLE DECISIONS BY THE CORRECTIONAL SUPERVISION AND PAROLE BOARD IN PERSPECTIVE WITH SPECIFIC REFERENCE TO GAUTENG REGION”**

Thank you for your application and interest to conduct research in the Department of Correctional Services.

Yours faithfully

( *signed* )

**DC: POLICY CO-ORDINATION & RESEARCH  
Ms. T.M. Magoro**