Parole Board Canada:

Pre-Reading Material (ATRA & Decision Framework)

by Ralph C. Serin (Carleton University)

At both an international and domestic level, parole continues to be relied upon to ensure the timely and safe transition of offenders from the confines of incarceration to community supervision. In this manner, it acts as a toll booth for offenders as they pass from prison back to the community. Parole decision makers, informed by law and policy, and on a case-by-case basis, determine the amount of toll required. Moreover, parole is currently enjoying a sort of renaissance, with the development of a National Parole Resource Centre in the United States, and the creation of a series of working papers by the National Institute of Corrections regarding evidence-based practice in parole. Finally, the nature of the transition of offenders to the community is being increasingly recognized as critical to offenders' success; hence, parole can play a significant role in enhancing public safety, encouraging offenders on the path towards rehabilitation, easing the pressures of prison over-crowding, and contributing to fiscal savings. All of these should promote confidence in the purpose and role of parole.

Purpose of Decision Framework

Beginning in 2003, NPB undertook a program of research in collaboration with Ralph Serin, Director of the Criminal Justice Decision-Making Laboratory and member of the Forensic Psychology Research Center at Carleton University to develop and validate a structured parole decision making approach. The goal was to have an approach that reflected evidence-based practice, that would enhance transparency and consistency in decision making, and that would provide guidance to Board members. Importantly, this framework is intended to structure decision making but it is not a substitute for the decision. Its strengths are in its standardization of decision making and the provision of a rationale for a decision for an individual case.

From the onset of this work, the goals have been:

1. Consistency
   Ensuring all Board members focus on the factors empirically demonstrated to be linked to risk and to likelihood of re-offending

2. Efficiency & accuracy
   Guiding and focusing on empirically relevant factors to ensure efficient decision making and to increase decision accuracy.

3. Quality decisions & reports
   Defining a due diligence model of decision making that can withstand external review and criticism

4. Increased level of comfort and confidence
   Training has indicated that both Board members and Parole Officers find the Framework a helpful approach that solidifies their work.

5. Decreased liability in the event of false negatives
   Defining a standard of practice and then adhering to it, will insulate the Board from criticism in the event of negative community outcomes, presumably because circumstances AFTER the decision go awry.

6. Greater transparency
   Providing a concrete model for making parole decisions that appear less capricious will increase public confidence.

In essence, the Framework was developed to be a roadmap to effective decision making, intended to navigate the extensive policy documents regarding factors to consider. It is a *process* assisting the decision maker to analyze and critique the case before them. Importantly, parole release involves making judgments, hence discretion is required. Use of the Framework does not restrict discretion but it is important that parole decisions are consistent and discriminating. That is, Board members should arrive at similar decisions for the same case, and they should be able to distinguish between cases representing good and bad parole risks.

Context

While numerous instruments have been developed to predict offenders' risk of re-offending, legislation and policy typically dictate that results from such instruments not be considered in isolation in rendering release decisions. That is, risk assessment is not a substitute for the decision; some high(er) risk cases may be granted parole and some low(er) risk may be denied parole. What is required is a case analysis of the individual, not just an indication of risk group membership. Indeed, in addition to risk, parole decision-makers must consider factors outlined in their guiding policy and legislative documents, which typically include such factors as psychological adjustment, institutional adjustment, rehabilitation progress, release plans, and victim impact statements.

PBC's current policy manual lists nearly seven pages of factors requiring consideration. Unfortunately, these documents offer little instruction on *how* to weigh these differing factors. As a result, reconciling broad objectives (public safety and offender rehabilitation), imprecise procedural guidelines (what factors are *most* important), and case-specific factors (type of crime and public response to notorious cases) can pose serious challenges to evidence-based practice in parole decision-making

A review of the literature indicates that the majority of paroling authorities consider:

- criminal history and severity
- sentence length
- institutional adjustment
- program participation

- interpersonal characteristics such as motivation
- community support and release plan

Despite the nuances of parole board policies or structures, a review of parole decision-making literature to date by Caplan (2007) reveals that parole release decisions are primarily a function of institutional behaviour, crime severity, criminal history, incarceration length, mental illness, and victim input. Furthermore, victim input against parole release remains highly significant in explaining the *denial* of parole for parole-eligible inmates when controlling for other significantly influential factors. Citing earlier work, Caplan (2007) singled out institutional behaviour and offence history as the most important factors considered in parole decision making. Offenders with more extensive criminal histories or more serious institutional misbehaviour were less frequently granted discretionary parole, and when they were granted release, it was typically after having served a greater proportion of their sentence.

It is important to note that the Decision Framework adopted by PBC is more inclusive than these earlier approaches and that it does include these commonly considered factors.

Components of Decision Framework (see User Manual for more complete descriptions)

Risk Assessment

The initial step is to determine an offender's likelihood of re-offending. This is best obtained from a review of a validated risk instrument (one that is appropriate for the type of offender; so a sex offender requires a specialized sex offender risk assessment). This provides an indication of group membership. For instance, for the SIR-R, there are 5 risk bins, with a different probability of failure associated with each bin. That is, SIR-R scores are related to different risk estimates of future re-offending.

Success Rate for Groups of Offenders Scoring:

+6 to +27
4 out every 5 offenders will not commit an indictable offense after release (80% success)

+1 to +5
2 out of every 3 offenders will not commit an indictable offense after release (66% success)

-4 to 0
1 out of every 2 offenders will not commit an indictable offense after release (50% success)

-8 to -5
2 out of every 5 offenders will not commit an indictable offense after release (40% success)

-30 to -9
1 out of every 3 offenders will not commit an indictable offense after release (33% success)

Within a risk grouping, there are factors that might influence a Board member's determination of an offender's suitability for parole. This is the purpose of reviewing the case domains. This means that the Framework integrates group-based estimates of risk such as determined by the SIR-R1 and other risk instruments with a case-specific analysis of an offender's suitability for release. In general, it is preferable to consider the more conservative risk estimate in the case of multiple (appropriate) instruments. This risk assessment becomes the anchor for the parole decision but is not the *actual* decision (i.e., some low risk cases might be denied parole and some high risk cases might be granted parole, based on the subsequent analysis).

Research Summary

> ➤ Second (SIR-R) and third (LSI-R) generation risk scales have *greater* predictive accuracy than *unstructured* clinical opinion.
> ➤ These instruments have comparable predictive accuracy to other popular approaches (HCR-20, VRAG, PCL-R) that are used by CSC staff.
> ➤ Using multiple risk instruments does not increase predictive accuracy.
> ➤ Specialized risk scales for sexual, mentally disordered and domestic violence cases are better suited to cases with these characteristics and should be used where appropriate.

Case Analysis

Board members review factors in terms of whether they are aggravating (increased risk), mitigating (decreased risk) or no impact (consistent with other offenders). An analysis of the case in this manner, through file review, starts the decision process. The following factors were distilled from the research literature on risk assessment and parole decision making:

1. Criminal/Parole History

Considers pattern and seriousness of prior criminal and community supervision history.

Research Summary

> ➤ History is a strong predictor of future behaviour - a pattern of early onset of crime, multiple incarcerations, prior breaches, and criminal versatility are all related to increased likelihood of future crime.
> ➤ Offenders whose crimes increase in severity are of increased concern.
> ➤ Absence of crime-free periods between arrests/incarcerations reflect stability of criminality and higher likelihood of repetition.

Bottom Line:
- Relative to other offenders, does the criminal history seem aggravating in terms of severity, escalation, chronicity?
- Does the offender have a pattern of prior breaches of supervision?

2. Ability to Control Behaviour

Considers factors that affect the offender's ability to restrain and regulate their impulsive behaviour.

Research Summary

> ➢ Poor self-regulation is common among offenders - crime is an "in the moment" phenomenon.
> ➢ Substance abuse (in particular), impulsivity, and poor problem solving are common in offenders and all contribute to offenders' inability to control their behaviour. These result in higher likelihood of re-offending.
> ➢ Other factors such as cognitive distortions, entitlement, and sexual deviance may also over-ride an offender's ability to make good (i.e., prosocial) decisions.

Bottom Line:
  – Does the offender appear to have considerable difficulty controlling their behaviour?
  – To what extent do procriminal peers, anger, substance use, impulsivity, sexual deviance, callousness, and sense of entitlement significantly dictate their behaviour?

3. Responsivity

Determines if programming is appropriate for gender and culture, as well as dosage based on offender's risk level. Literacy and language skills are also relevant, as is motivation level of the offender.

Research Summary

> ➢ Programming that targets criminogenic needs yields the greatest reductions in re-offending. Targeting multiple needs yields even greater reductions in re-offending.
> ➢ Programming that considers risk (higher dosage for higher risk cases; low dosage for low risk cases) also increases program effectiveness.
> ➢ Programming that considers gender and culture will increase motivation and rates of completion, thereby improving effectiveness.
> ➢ Overall, programming such as that provided by CSC yields reductions in re-offending for program completers, consistent with international research (10-29%).
> ➢ Skilled staff and program integrity contribute to program success.
> ➢ Program effectiveness varies somewhat by program domain.

Bottom Line:
  – Have culture and gender been addressed in terms of programming?
  – Have programs been provided that reflect the offender's level of risk?
  – Have the programs actually addressed the *primary* criminogenic needs based on *your* analysis of the case?

4. Institutional/Community Behavior

Considers compliance with rules throughout current sentence.

Research Summary

> ➢ Research has indicated that poor institutional adjustment and community behaviour is related to post-release recidivism.
> ➢ Minor infractions, committed some time earlier in the offender's sentence, may be less predictive given the nature of this research.
> ➢ Good institutional adjustment is *not* predictive of successful outcome.

Bottom Line:
- Is there <u>evidence</u> of poor adjustment?
- Recent good behaviour does not negate earlier poor adjustment.
- One or two minor charges would be viewed as "no impact", especially if some time ago

5. Offender Change

Considers completion of correctional plan, program participation and *evidence* of change in attitude and behaviour.

Fundamental to such programming is evidence that the offender has changed and has benefited from their participation in programming (i.e., they are no longer the same individual who began this sentence).

Research Summary

> ➢ Successful program completion is an important correctional strategy to manage the risk of offenders prior to and during their release to the community.
> ➢ Program completers, relative to non-completers and dropouts, have improved outcomes.
> ➢ Except in terms of measures of antisocial attitudes, there is limited evidence that pre-post measures of change in CSC programs (and elsewhere) are predictive of post-program outcome.

Bottom Line:
- Is there <u>evidence</u> of change (beyond self-report)?
- Is the change <u>sufficient</u> to allay criminal history concerns?
- Does the change reflect an understanding of the impact of the crime on the victim(s)?

6. Release Plan

Considers the nature and viability of the offender's release plan and the conditions necessary to manage risk.

Research Summary

> ➢ The time of initial release is the period of greatest risk to fail (50% of offenders who fail do so in the first 3 months of release).
> ➢ Front-loading of resources (providing aftercare at time of release) increases the success of offenders transitioning from prison to the community.
> ➢ Factors such as job stability, quality (prosocial) relationships, prosocial peers, good supervision, and abstinence all contribute to crime desistance (i.e., parole success).
> ➢ Research regarding the appropriate weighing of victim information is non-existent. Greater victim representation leads to higher denial rates.

Bottom Line:
- Is the release plan <u>viable</u> and <u>sufficient</u> for this offender?
- What checks are in place should deterioration occur?
- How *different* is this plan from previous release plans? If there were previously community resources, has the offender now sufficiently changed to heed them?

7. Case-Specific Factors

Considers unique factors that should inform the release decision and that are not reflected in the earlier factors.

Research Summary

> ➢ Offence paralleling behaviour is a termed used to describe repetition of the dynamics of the crime.
> ➢ This can represent itself in gaining or maintaining access to a preferred victim group, continuation of offence-specific fantasies, or maintain cognitive distortions that lead to criminality, albeit in a diminished manner due to the confines of prison or parole supervision. These are markers that offender change has not occurred and that risk remains.
> ➢ There is no definitive research that addresses the issue of offence notoriety or severity of victim impact, but these could be considered case-specific factors in isolated cases.

Bottom Line:
- Is there something else about this case that warrants consideration?
- How would you incorporate this unique information into your rationale for your decision?

8. Interview Impressions

The file review will likely raise certain questions or issues that Board members will wish to pursue and clarify within the interview. Interviews assist in providing due process in decision making and to motivate offenders to continue on their correctional plan. The interview is a place

where the Board member might inquire about the offender's understanding of the impact of their crime on others.

Research Summary

> ➢ The evidence for interviews having predictive validity is not strong.
> ➢ Interviews can be used to clarify offence-specific issues and to ascertain the degree of change that may have occurred.
> ➢ Using interview information, alone, to over-ride more grounded estimates of risk, is potentially problematic.

Bottom Line:
- Interviews are not the strongest indicators of performance, hence Board members should be wary of over-riding aggravating factors based solely on interview impressions.

Reconcile Discordant Information

It is possible that there will be varying opinions from different sources. It is imperative that the Board member notes when there is discordant information (i.e., different estimates of risk from different risk instruments; different recommendations from different members of the CMT or mental health professionals) and addresses how this is reconciled in their decision.

Bottom Line:
- In the event of parole failures, it will appear that the Board member(s) have, at worst, ignored accurate information, or at best, failed to sufficiently consider it. Noting it in your reason for decision will limit such criticism.

Applying the Framework

1. Remind yourself of the statistical risk estimate (using the one appropriate for the type of offender).
2. Review ratings for the 7 content areas.
3. Using the domain ratings, analyze, organize and make/write your reasons for your recommendation.

Note: The purpose is not to simply add up the number of aggravating or mitigating factors to arrive at your decision. It is to use this information to guide your decision and to facilitate your analysis of the case.

Mental note: The recommendation should "fit" with how you have evaluated the case. The framework is intended to structure case analysis and provide an outline for writing a reason for decision.

Background and Research

Despite stellar performance reports in terms of parolee success (see Annual Performance Report; 90%+ success), public opinion surveys suggest the majority of Canadians (61%) have relatively low confidence in parole in terms of public safety concerns.

Parole release involves making judgments, hence discretion is required. Research, however, is required to demonstrate that parole decisions are consistent and discriminating. This does ntot mean that Board members must *always* agree but that in general, they would independently arrive at similar decisions for the same case, and they would distinguish between cases representing good and bad parole risks.

Over the past 6 years, with PBC support, research has been conducted to refine and validate the Framework. In short, beginning with a pilot and 4 subsequent studies, the Framework has been demonstrated to be: i) reliable (inter-rater agreement at 85%); ii) applicable to all offenders (women, Aboriginals, high risk cases, Lifers, BOI cases, offenders serving short sentences); iii) more accurate (decreasing false positives and false negatives than current practice (on average, improvements between 2.5% and 42%); iv) consistent with policy and legislation; v) well received in new Board member training; vi) does not result in a marked increase in the time required for Board members to arrive at a decision. Finally, this final version was co-developed with Jean Sutton and PBC can use the Framework without cost.

Based on these findings and features, PBC has adopted the Framework as a standard approach for parole decisions. Training regarding the use of the Framework is to be provided at ATRA and an implementation plan is being finalized.

Summary

In short, the Framework is:
- ➤ A standardized and structured approach or decision process that has been empirically validated,
- ➤ Reflects PBC policy,
- ➤ Intended to inform and insulate paroling authorities from undue or ill-informed criticism.
- ➤ A due diligence model, grounded in evidence-based practice, which defines a quality parole decision.

In this manner, it is possible that two offenders serving the same sentence for the same crime, and with similar risk estimates on the same risk instrument, could receive different (defensible) parole decisions.

What the Framework is Not

It is equally important to dispel potential misconceptions regarding the Framework. It is *not*:
  ➢ Prescriptive, meaning it does *not* describe what the decision is, rather just the factors to consider.
  ➢ A numerical scale that yields a decision.
  ➢ A substitute for a decision; different Board members can arrive at different decision based on their analysis of the case because they have weighted certain factors differently.
  ➢ Specific to a type of offender or offender who commits a specific crime.
  ➢ Dependent on a particular risk scale to be used as an anchor.