

# THE BERMUDA PAROLE BOARD

## DEFINITION

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Parole is the conditional release from imprisonment that entitles the person receiving it to serve the remainder of their term of incarceration under supervision in the community, if all terms and conditions connected with the person's release are satisfactorily complied with.

## MISSION STATEMENT

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To facilitate offenders to become law-abiding citizens through community supervision and support designed for successful reintegration.

## PHILOSOPHY

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We believe that there is good and bad in everyone.  
Every offender was once someone's baby boy or girl;  
is someone's father, mother, sister or brother.  
We believe that even the worst offender can change (i.e., be rehabilitated).  
People can – and do – change.  
We believe that sometimes people cannot help themselves.  
This is when those who can help must step forward.

## MANDATE

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The Parole Board is an independent body empowered to make decisions governing the time, terms and conditions of release of incarcerated persons by assessing the risk they pose to the community and to themselves.

The Bermuda Parole Board was created by The Parole Board Act, 2001 (Date of Assent, 9 March 2001); Commencement Date, 1 October 2001 (Notice No. BR43/2001; gazetted 24 August 2001).

The Bermuda Parole Board is appointed by the Minister with responsibility for the Department of Corrections and is charged with releasing men and women, who are eligible by virtue of certain established criteria, to serve the remainder of their sentence under community supervision.

The Act stipulates that three members of the five-member Board must each represent one of these related areas: (1) law, (2) psychology, and (3) penal/institutional or aftercare.

The Board evaluates the likelihood that a period of supervision will contribute positively to the successful reintegration of the individual into the community. The timing and conditions of release are based upon a review of all relevant data coupled with one or more face-to-face interview(s) with the applicant.

The Board works collaboratively with other agencies of the criminal justice system (i.e., Courts, Correction facilities, Programme providers and aftercare professionals) to identify appropriate ways to achieve the goals of reducing recidivism, preventing crime and protecting society.

## **THE BERMUDA PAROLE BOARD**

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The Bermuda Parole Board is governed by:

- The Parole Board Act, 2001
- The Criminal Code Act 1907
- The Prisons Act 1979
- The Prison Rules, 1980
- The Senior Training School Act 1951
- The Young Offenders Act 1950

## INTRODUCTION

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Pursuant to Section 8 of The Parole Board Act, 2001, this Annual Report is submitted to the Minister of Justice on the performance of duties of the Board between the period 7 January 2012 and 10 December 2012.

The Board's administrative office is located at 3rd Floor, 129 Front Street, Hamilton HM 12.

As stipulated by the Act, the Board meets a minimum of twice a month on a rotational basis at one of the Island's three correctional facilities. In addition, the Board holds Reviews, Breach Hearings and Joint Meetings with our partners, including the Department of Corrections, the Department of Court Services, and special meetings when needed.

The law requires that the Board meets with incarcerated persons who are eligible for parole consideration three months prior to their parole eligibility date (PED), and in 2012, the Board was able to meet with all such persons between three months before their PED.

Given the demands placed upon partner agencies to produce dossiers each month, in this regard, the Parole Board is proud of its 2012 accomplishments. Such achievements, though, were realized through the cooperation and commitment to duty each month by the Department of Corrections and Court Services personnel who diligently met with and interviewed the men and women eligible for consideration for parole.

## THE 2012 YEAR

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In the 2012 year a new panel was installed except for one member from the previous board. Jeremy Lodge, a clinical psychologist was joined by Ashfield DeVent, Chairman, Edward Dyer, Tim Marshall and Larry Smith. Following a brief period of coming up to speed on the role of the board, the new members quickly settled in to the task at hand. During the year, the Board reviewed more than 131 cases, and, of those, carefully chose to release only 32 persons (those deemed appropriate).

Great consideration is put into each release. The complexity of the Board's decisions include the facts of the crime, past history, treatment needs, community and family support, risk to re-offend and input by the Department of Corrections and the victim.

By law, most sentences are reduced by more than half (Early Release Date [ERD]) as soon as an offender enters the prison system. It should be noted that the majority of all prisoners will eventually be released, either by parole or on completion of their sentence.

Research and experience reveal that waiting until offenders finish their sentence and then releasing them with no supervision is a dangerous precedent. It is much more prudent to release an individual with enough time to help set up a successful transition back to society with the watchful guidance of a parole officer. These individuals are going to come back into



our community as our neighbours, and positive re-entry takes time.

A gradual release might mean a stay in a transitional facility. Finding appropriate housing, a job, community-based treatment, fiscal planning and family reunification are all part of the re-entry process. Regarding parole, most experts agree that monitoring after release is an essential part of a successful reintegration. The Board began to use the electronic bracelet and found it to be an effective tool for certain clients.

While non-violent offenders may be obvious candidates for the Board to consider; what the public must realize is that even the most heinous offenders will eventually have their sentence expire, and such individuals have a greater need for the close supervision and monitoring that parole provides.

The Parole Board has a profound responsibility, we recognize that taking away (or giving) people their freedom is never to be taken lightly. The safety of the community weighs heavily with the Board. Each deliberation is done with grave consideration.

Unfortunately, human behaviour can never be predicted with 100 per cent accuracy. It is every Parole Board's nightmare that someone it releases will commit a violent offence. If that should happen, one hopes all facts are considered before blaming anyone other than the perpetrator.

## **POLICIES**

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### **a) Release on Parole**

To become eligible for release on parole, an incarcerated person must have served one-third of their court-imposed sentence of imprisonment. The parole eligibility date (PED) is determined by the Commissioner of Corrections and is computed during the sentence computation process.

Prior to release on parole, the parolee will have signed Conditions of Parole set by the Parole Board. These Conditions are designed to ensure that the parolee will not re-offend or otherwise pose a risk to the community.

The process of consideration for parole commences with a recommendation from the Commissioner of Corrections to the Parole Board. The consideration for parole process begins with the Date of Initial Consideration (DOIC), which is electronically determined and validated by the Commissioner of Corrections. When the incarcerated person's DOIC is reached, each partner agency involved in the application process is informed and a parole dossier, containing information and dates, including details of the offence for which he/she was imprisoned, is compiled.

To grant an individual parole, or conversely, to revoke parole, is a charge never taken lightly by the Parole Board. Despite public protestations and criticism, the Board exercises careful consideration of the data presented to it in each dossier, and each application is considered separately and apart from another. The safety of the Bermuda community is a top priority of the Board, and this and other factors are pivotal to its decision to grant parole.

The complexity of the Board's decisions encompasses:

- The facts of the crime
- Past criminal history
- Treatment needs
- Community and family support
- Risks of reoffending
- Completion of core components of a Case Plan
- Reports from the Department of Corrections Psychologists and other experts
- Reports from the Department of Court Services
- BARC reports (Bermuda Assessment and Referral Centre)

When granting parole, the Board considers a number of factors. These include, but are not limited to:

- The nature and seriousness of the current, and previous, offence(s)
- The recommendation(s) of the sentencing judge
- Remorse and/or restitution
- Whether the incarcerated person has taken full advantage of treatment interventions and programmes
- Participation in educational/vocational programmes
- The individual's overall behaviour whilst in prison
- The results of drug tests administered whilst incarcerated
- The prospective parolee's willingness to submit to supervision and the terms of conditions of parole
- A post-release plan, including job prospects, accommodation arrangements and appropriate social support systems

Additionally, the information required to support the decision-making process is contained on a set of forms as follows:

Parole Application Cover Sheet	PB 01
Summary of Evidence Report	PB 02
Report on Overall Institutional Behaviour	PB 03
Applicant's Submission	PB 04
Medical Report	PB 05
Substance Abuse Report	PB 06
Education Report	PB 07
Vocational Training Report	PB 08
History of Violent Offence(s) and Record of Intervention (where applicable)	PB 09
History of Sexual Offence(s) and Record of Intervention (where applicable)	PB 10

Victim Impact Statement(s) (where applicable)	PB 11
Clinical Reports	PB 12
Department of Court Services Report	PB 13
Employment and Accommodation Confirmation	PB 14
Case Plan	PB 15

The Board also request that if all possible a summary of the offence and the judge’s written recommendations can also be included in the package for consideration.

There are occasions when the victim of a crime requests to appear before the Board (or send a letter) to voice their concern(s) relative to the prospective parolee’s release. Such matters are disposed of on a case-by-case basis.

When parole is granted, the parolee is required to abide by and submit to certain conditions whilst in the community. As a result of the Parole Board’s membership with the Association of Paroling Authorities International, and through attendance and participation in its Annual Conference, the Board considered the importance of ensuring that conditions “fit” each parolee and his/her individual needs

### **Conditions of Parole**

When an offender is offered parole, he/she is required to read their particular Conditions of Parole aloud in the presence and hearing of the Board. While each person’s Conditions are specific. Outlined below what are considered:

#### **General Conditions**

**I agree to abide by the following Conditions of Parole in effect for the parole period:**

1. To appear before the Parole Board when required.
2. To be supervised by a designated Officer as assigned by the Department of Court Services.
3. To report to the Supervising Officer at the place and within the times agreed as stipulated by the Supervising Officer.
4. Not to commit another offence against the laws of Bermuda during the period of the Parole Order.
5. Not to deceive, or fail to disclose, any information required by the Supervising Officer or the Parole Board (see note below concerning this particular Condition).
6. To maintain regular employment with (the agreed employer) and to seek the permission of the Supervising Officer before any change of employment of occupation.
7. To reside at the agreed address and to immediately report any loss/or change of accommodation to the Supervising Officer.
8. To refrain from association with persons, places, or things that may lead to illegal activities.

9. To be tested for controlled substances, or intoxicants, when and where directed. Positive test results shall be presumptive evidence of the possession of the said substance or intoxicant.
10. To comply with any further programmes as recommended by the Supervising Officer.

**Special Conditions** are determined by the unique needs of each parolee.

As it pertains to Condition Number 5 above, this became a new General Condition of Parole following the outcome of a Judicial Review held in the Supreme Court in 2010. The Review was called for by a parolee who had his parole revoked following revelations that he had breached his Conditions. The revelations of this case were so startling, that not only did we add a new Condition, but we colour coded our documents so as to make forgeries more difficult. In this case, the Board's decision was upheld, parole was revoked, and the parolee recalled to prison to serve the remainder of his sentence. Since then, the Parole Board has also fine-tuned the Travel Policy as per below to adequately and sufficiently bar and block any parolee from engaging in unscrupulous practices with regard to travel.

### **Travel Policy**

**Permission to travel is a privilege, not a right and is granted only in exceptional circumstances for medical, educational, or compassionate reasons.**

The Board will not entertain permission for vacation travel, or for reasons that are not of critical importance.

Applications for travel must include the following:

- Name of Parolee
- Date of Birth
- Criminal Records Office (C.R.O.) Number
- Address of Parolee
- Place of Employment
- Nature of Offence
- Brief Criminal History
- Sentence and Date
- Date of Parole
- Conditions of Parole
- Parole History
- Date of Intended Departure
- Purpose of Travel
- Travel Itinerary
- Intended Overseas Address
- Name, Address and Age of Travelling Companion (if applicable)
- Date of Intended Return
- Date and Number of Prior Travel Requests

- Warrant of Commitment (or similar document) and Descriptive and
- Conviction Form.

**Applications (where applicable) must also include:**

A proven and certified (by a physician) medical condition(s) that warrants treatment (not available in Bermuda) overseas;

A business interest by condition of being self-employed that is necessary and supported with relevant documentation;

The Travel Policy does not constitute mandatory, or exclusive, criteria for consideration for travel petitions. Non-mandatory guidelines are attached to the travel application which is used by the Department of Court Services when making applications on behalf of parolees.

Travel Requests must meet the conditions of the Parole Board's Travel Policy and must be submitted at least three weeks prior to the intended date of travel. Travel

Requests will not be entertained during the first three months of Parole.

Permission to travel may be withdrawn if violations occur after approval has been given.

The Parole Board received 8 petitions to travel and granted 4 in 2012.

**Release**

The Parole Board continues to date a parolee's release as "on or about" the date of the meeting at which the decision was made [or on the parolee's Parole Eligibility Date (PED)], whichever is later.

The Board remains focused upon conducting parole consideration hearings at least three months prior to a parolee's PED, and in 2012, it was able to get closer to

**MANAGEMENT AND SUPERVISION**

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The most critical element of the parole system is the day-to-day management and supervision of parolees in the community. This remains under the purview of the Department of Court Services (the Ministry of Justice).

The Board is delighted that the disconnect which previously existed has been eliminated; whereas the Parole Board and the Department of Court Services are now listed under the same Governmental Ministry. This has vastly improved the partnership between the two entities, with joint meetings being held once every quarter. These meetings have allowed the





Board and the Department of Court Services to continue to collaborate for the overall good of the parole system.

The Board sees this partnership as an effective way forward for parole-related issues.

## 2012 MEETINGS

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The Board conducted its first parole consideration hearing on 9 January 2012, at HM Westgate Correctional Facility. During the year, a total of 20 regular meetings were held between the Westgate Correctional Facility, the Prison Farm, and the Co-Ed

Facility; It conducted 131 interviews in 2012 (including reviews.)

A total of 32 incarcerated persons were granted parole in 2012; 11 were denied parole; 19 submitted decisions to decline parole; and 16 were deferred and seen again.

Of the 16 incarcerated persons whose parole was deferred in 2012, some had long-term drug addictions and were deferred to receive treatment interventions; some had not completed the core components of their case plan; and many had not secured employment or housing.

The Board conducted 14 reviews; 21 breach hearings and 6 were recalled.

## STATISTICS

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The number of incarcerated persons (including trainees – teenagers at Co-Ed) who (1) appeared before the Board and (2) were granted parole in 2012 (January to December 2010) are listed below:

Month	Westgate		Farm Co-Ed		Trainees			
	(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)
January	11	3	2	0			0	0
February	8	2						0
March	9	0	4	1			0	0
April	8	1	0	0	7	3	0	0
May	8	3			0	0	0	0
June	9	1	6	2	6	1	0	0
July	9	2	0	0	0	0	0	0
August 8	1	0	0	0	0	0	0	
September	6	3	6	2	0	0	1	0
October	0	0	0	0	2	0	0	0
November	3	1	7	3	0	0	0	0
December	7	1	0	0	4	2	0	0
<b>TOTALS</b>	<b>86</b>	<b>18</b>	<b>25</b>	<b>8</b>	<b>19</b>	<b>6</b>	<b>1</b>	<b>0</b>

Between 2005 and 2007 there were marked increases in the number of incarcerated persons granted parole. That number dipped slightly in 2008, and increased again in 2009. The 2010 figure (36) increased by two (*see table below*).

Facility	05/06	06	07	08	09	2010	2011	2012
Westgate	1	7	25	29	19	18	-	18
Farm	3	14	8	2	0	5	-	8
Co-Ed	3	8	5	4	5	3	-	6
Trainees	2	0	8	5	5	2	-	0

•Due to administrative changes, there was no annual report for 2011

## THE YEAR IN REVIEW

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### Breaches

There were total of 21 parole breaches in 2012. What is disturbing is that there was at least one parole breach every month of the year. Of these breaches, two parolees breached their conditions of parole more than once.

January	*
February	*
March	*
April	*
May	*
June	2
July	3
August	2
September	2
October	11
November	1
December	-

\* Due to administrative changes and computer failure, these figures were not available

### Travel Petitions

The Board received eight travel petitions in 2012. Four petitions were granted – to one parolee to represent Bermuda in Chess; two for medical reasons; and one for family funeral.

### Foreign Nationals

As at December 2012, there were 10 foreign nationals incarcerated in Bermuda's Correctional facilities; the majority of which are for drug committing offences. The Board interviews all incarcerated persons (foreign and local) before their Parole Eligibility Date (PED); however, if parole in the Bermuda community is not available to a foreign national, the Board's ability to grant parole is limited.

In 2010, as a result of a Supreme Court Judicial Review, foreign nationals incarcerated in Bermuda were given the same consideration for parole in Bermuda as locals.

As an Overseas Territory, Bermuda's foreign affairs are managed by the Government of the United Kingdom; as such, it is our position that the UK legislative solution to this issue of foreign nationals and parole should be adopted in Bermuda.

### **General**

The Parole Board continued to focus on Professional Development in 2012 with three Board Members attending the annual training conference of the Association of Paroling Authorities International (APAI) in Orlando Florida, USA between 20 and 23 May 2012.

The conference theme, Practicing Smart Justice: Innovative Parole Focused on capturing the global perspective of "Doing more with Less" or enhancing efficiency with appropriate technology for document management, data based and supervision. Other innovations included transitional programmes for inmates, and legislative reforms. A sub-theme of the conference seemed to be on services and consideration for victims and included special presentations by victims' advocates.

The 200+ participants included representation from 18 countries including an especially strong contingent from the Caribbean region thanks to sponsorship from the Foreign and Commonwealth Office that also sponsored the Bermuda contingent. Particularly useful was the special meeting and other opportunities to interact with these delegates and compare practices between these smaller island nations.

The Board's suggestions for further action stemming from this conference include:

1. Development of procedures to allow victims and secondary victims to give input to the parole consideration process;
2. Further explore the feasibility of Restorative Justice interventions in concert with parole procedures;
3. Maintain liaison with delegates from Caribbean islands via the Foreign Commonwealth Office (FCO);
4. Review local parole revocation policies to allow for possible short term revocations (e.g. 30-90 days) for technical violations rather than recall until the end of the sentence.

The Board remains concerned that there are limited options available in Bermuda to drug addicted parolees given the upsurge in crimes directly linked to drug usage.

The Board is very concerned about the Transitional Living Center closing at a time when initial figures seem to indicate that clients who complete the programme have a high chance of not reoffending.

### **Legislative Amendments**

The Parole Board continues to wait for an amendment to Section 12 of the Prisons Act, 2001, which will require that incarcerated persons must serve a minimum of 12 months before being eligible for parole. This measure will have the effect of affording the individual more time to participate in rehabilitative programmes as outlined in their Case Plans, and to be better prepared for the parole consideration hearing.

***The need for such an important amendment has been highlighted since the 2007 Annual Report.***

The Board cannot stress how important it is that these amendments be immediately considered to hopefully begin to reduce the high rate of prison recidivism.

### **THE WAY FORWARD**

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Individuals convicted of crimes and incarcerated in Bermuda have a wide range of profiles and needs. The re-entry journey into the community should commence immediately upon imprisonment, and the Case Plan is the blueprint that outlines core component programmes that should be completed by the parolee in order to ensure successful release on parole and reintegration with society.

The unavailability of programmes mandated by the Case Plan continues to plague the parole process, and 2012 saw several prospective parolees highlight this flaw in their efforts at rehabilitation and prepared for community supervision.

Yet another area of concern is the limited availability of assistance to incarcerated persons (unless they are transferred to the Farm or Transitional Living Centre – TLC) who are required to have a full-time job and proper accommodation before their application for parole can be properly considered. We still believe that a dedicated Corrections Employment Officer could fill this void.

As a transfer to TLC is akin to parole (incarcerated persons are allowed into the community during daylight hours to work or attend school, and must return before nightfall), and it is not involved in this process, the Board feels that the Treatment of Offenders Board (TOOB) should have involvement in this process.

In closing, I want to thank all the Members of the Parole Board. They each bring different skills, different insights and different life experiences; all of which made the 2012 Board outstanding. During the year in question, the Board was faced with difficult and trying circumstances. Through it all, the Board remained professional, tackling all challenges with honour and integrity. Each member served with dedication.

It was a pleasure to have served with each member and to have been served by Mrs. Debra Swan who replaced Mrs. Deanna Durham.