

BUILDING PUBLIC CONFIDENCE IN PAROLE BOARDS: FINDINGS FROM A FOUR-COUNTRY STUDY

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Abstract

Parole and parole boards play critical roles in criminal justice systems. With parolee numbers and imprisonment rates increasing in many countries, parole decision-making is a crucial contributor to prison populations sizes and, more broadly, public confidence in the operation of correctional systems. This article examines public understanding of and confidence in parole from the perspectives of parole board members and other parole authority staff. It aims to determine whether and, if so, how, public opinion influences parole decision-making and how parole boards feel they can or should respond to this. It draws on in-depth interviews with 80 parole board members and other relevant staff from 14 jurisdictions in Australia, New Zealand, Canada and Scotland.

INTRODUCTION

Parole and parole boards play critical roles in criminal justice systems, with parole decision-making a crucial contributor to prison populations sizes and, more broadly, public confidence in the operation of correctional systems. Parole has long been the subject of public criticism (Roberts, Nuffield and Hann 2000; Petersilia 2003), with concerns it amounts to ‘unmerited leniency’ (Doob, Webster and Manson 2014: 305), a perception that may undermine the public’s confidence that the criminal justice system can impose and enforce appropriate punishments. In recent years, public concerns have reached new heights, in large part due to highly publicised cases of parole ‘failure’, including the murder of Jill Meagher by a parolee in Victoria, Australia (see XXX 2013; XXX 2016) and the controversial decision to parole serial sex offender John Worboys in the United Kingdom (UK) (see XXX 2018b).

Public confidence is said to be a requirement of the legitimacy of judicial authority in democracies and emblematic of broader issues, such as trust in government and its legitimacy (e.g., Hamilton and Black 2019). Loss of confidence has, in some jurisdictions, led to the complete abolition of parole and, in others, to political and legislative interventions that restrict decision-makers’ discretion, question their independence and/or reveal a growing aversion to risk (XXX 2018a). The politicisation of parole in several Australian jurisdictions has seen parole boards’ discretion restricted, resulting in fewer prisoners being eligible for or granted release on parole (XXX; Moffa, Stratton and Ruyters 2019). These Australian reforms are examples of what Petersilia (2003: 17) termed a ‘politically expedient way’ to appease the apparently growing public concern about offenders’ release on parole.

Parole authorities and the public

The functions and practices of parole boards have long occupied a problematic, sensitive and precarious space within the criminal justice system. Unlike courts, they are of relatively recent origin and lack courts’ legitimacy of history, transparency, and comparative freedom from political interference. As decision-makers with statutory authority, parole board are intended to operate at arm’s length from correctional authorities but are often dependent on them. They occupy a legally ambiguous space between the judiciary and the executive. As determiners of offenders’ liberty, their decision-making process is often secret or opaque, but their failures are public. Unlike courts, they can be easily abolished or re-constituted, as a consequence of their failures. As mass-imprisonment, characterised by previously unseen increases in the volume and social

concentration of imprisonment has taken root ([Garland 2001](#); [Leigh 2020](#)), and parole boards have become increasingly visible to the public, as a result of media scrutiny, their role as a release valve for increasingly overcrowded prisons has come to the public's attention.

Building on a larger study of public attitudes towards parole (XXX; 2020; XXX 2018; XXX 2018a; 2018b), this article examines public confidence from the perspectives of parole authority members and other staff. It aims to determine whether and, if so, how, public opinion directly or indirectly influences parole decision-making and how parole authorities can or should respond to this. It draws on in-depth interviews with 80 parole board members and other relevant staff in Australia, New Zealand, Canada and Scotland. While there are differences between and within these countries, we selected them because they have all retained a discretionary parole system, despite moves elsewhere, particularly in the United States (US), towards determinate or fixed-term sentencing and the abolition of discretionary parole release (Rengifo and Stemen 2015). These countries also have a shared history, with respect to criminal justice responses to crime from the mid-1980s, coinciding with the rise in penal populism and a 'drift toward punitiveness' (Roberts et al. 2003: viii), despite variations in the nature and extent of the crime problem.

Do public attitudes matter to parole authorities?

While presumptions about what the public thinks about parole may have the power to influence parole policies and legislation, little is known about whether the public's or sometimes, more specifically, victims' views matter to parole authorities and members themselves (McLachlan 2021). Rhine, Petersilia and Reitz (2017: 8) suggested that the 'public's increased attention to crime policy has not been lost on parole boards' and, in fact, in the US, boards can feel pressure to reduce their rates of release following high-profile incidents of parole failure. This sentiment on the part of boards is not new in the US, as Kastenmeir and Eglit's (1973) earlier review of parole decision-making indicated that, even if a prisoner were assessed as being ready for release according to the formal criteria, concern about public opinion could deter a board from making a decision to release. Similar observations were made in the UK, with Morris et al. (1975) finding that 'risk' and 'desert' were important decision-making factors, but that 'risk' involved not only risk to the public, but also to the image of the parole board, should the offender re-offend upon release. In Canada, Polowek (2005) found that about 40% of parole board members felt public opinion had an influence on their decision-making. Conversely, 56% and 4% respectively said it had a 'minor' or 'no' influence. Finally, Griffin's (2018) study of the Irish Parole Board found that members consistently referred to public opinion when considering the release of life sentence prisoners.

These studies suggest that parole board members are not immune from public attitudes and criticism. How much such attitudes matter to parole boards will likely change over time, as parole comes in and out of the public consciousness, likely peaking in the aftermath of high-profile parole events. However, the increasing politicisation of parole and the emergence of 'parole populism' (Moffa et al. 2019) is likely to mean that public views on parole may become more difficult for board members to ignore.

What to do about public confidence in parole

In response to ongoing criticism of their work, parole boards have grappled with the need to be more transparent and accountable to the public. Indeed, the Association of Paroling Authorities International has commented that ‘paroling authorities today recognize the need to be more visible and accountable to the public, and to make known the valuable role that they play within the criminal justice system’ (2003: 27). In the wake of the Worboys’ scandal in the UK, the need for public trust in parole authorities and accountability in parole decision-making is greater than ever. As Guiney (2018: 2) highlighted:

the parole system has always operated on the basis of public trust; the renewal of this contract demands that victims and the general public have a far better understanding of how decisions are made. A wide-ranging agenda is long overdue, but this must be delivered in a way that is consistent with the overarching aims of the parole system.

How parole boards should respond to public opinion is a matter of some controversy (Griffin 2018). Loader (2011) has described three perspectives about the connection between public attitudes and confidence, on the one hand, and criminal justice policy, practices and procedures on the other. Under the *cognitive deficit* model, the public is largely ignorant or uninformed about crime and criminal justice responses to it, leading to overly punitive views and a general lack of confidence. This perspective calls for better education, as research indicates that increased public knowledge of the justice system is associated with higher levels of confidence (e.g., Hamilton and Black, 2019). However, such education does not produce long-lasting effects (Indermaur et al. 2012). The public might also be less influenced by ‘knowledge’ in relation to subjects as emotionally charged as punishment, because they are likely to filter incoming messages through pre-existing and deep-seated emotional or moral positions (Silver and Silver 2017). Alternatively, an *insulationist* model considers it is necessary to keep a distance between a largely uninformed, punitive and unruly public and criminal justice responses to crime. Those who hold this view maintain that public opinion should be ignored and responses to crime left in the hands of capable and informed experts. In this vein, Roberts, Feilzer and Hough have asserted that ‘parole boards’ decisions about release should not be shaped by public opinion’, although they acknowledged the need for ‘some degree of public support for, or at least acceptance of, criminal justice policies’ (2012: 282). Finally, the *redirection* model points to more participatory means of engaging with the public about criminal justice issues, including ‘citizens’ juries, panels and assemblies, deliberative polling and forums, experiments in e-consultation and democracy, and participatory resource allocation’ (Loader 2011: 357). More recently, Dzur, Loader and Sparks (2016) have argued that democratic theory provides a means of re-orienting penal practice, by reimagining and reconstructing criminal justice institutions through the active participation of the public, while Turner (2016) has forcefully asserted that deliberative practices should be preferred to other means of capturing public opinion in shaping penal policy.

In this paper, we discuss participants’ views about how the public understands parole, as well as the necessity of engaging with the public, to build their knowledge of parole and confidence in parole board decision-making and the strategies used by their board for that purpose. As our findings reveal, participants saw the benefit of educating and engaging members of the public with respect to parole decision-making, noting that with increased transparency and accountability public confidence would likely increase. Parole boards used a variety of engagement strategies to increase public involvement, ranging from more passive approaches like maintaining a website and publishing parole determinations, to more active forms of interaction.

METHODS

This study involved 80 in-depth interviews with parole board members and related staff from 14 parole authorities in state and federal jurisdictions in Australia, New Zealand, Canada and Scotland. Participant recruitment followed initial contact with and approval by each board's secretariat and/or chairperson (or president) and took place over several months in 2018-19.

The authors conducted all interviews, using a semi-structured instrument covering participants' views about public knowledge of and attitudes towards parole, the perceived influence of public opinion on decision-making processes, and whether and how public confidence in parole could be increased. Face-to-face interviews were conducted in most Australian jurisdictions and New Zealand (69%, n=55), or via Zoom/telephone elsewhere (n=25, 31%). The interviews were 30-80 minutes long (averaging 50 minutes). Digital recordings were transcribed verbatim and deidentified.

The interviews were analysed using a two-stage process of line-by-line open coding and grouping codes into conceptual categories and themes, looking for patterns, linkages and negative cases (Brodsky 2008). We used thematic analysis to systematically identify patterns in participants' views. This enabled us to discern key differences in how participants grappled with the interface between parole, parole board decision-making, and the public.

To maintain participants' confidentiality and anonymity, we do not attribute verbatim comments to identifiable individuals and jurisdictions, but instead employ a numbered coding scheme.

The sample

The 80 participants included a range of full- and part-time members, as well as board chairs/presidents and deputies, and communication directors. The composition of parole boards varied by jurisdiction. All were convened by a chairperson (variably known as the president or presiding member). Often the chairperson was a former or current judicial member or had extensive legal or governmental background. They were joined by between one to four full- and part-time members, typically with a professional background in forensic psychiatry, policing, corrective services, medicine, criminology and/or social work. Some boards included specialised roles, such as Indigenous or victims' representatives and/or community members, to represent more general community interests in parole decision-making.

FINDINGS

How do parole authorities view public attitudes?

'The poorly informed and arguably rabid public'

Participants expressed a range of views about their perceptions of public sentiment toward parole and board decision-making. Some noted that 'there isn't one public opinion' (043); rather, public views varied based on geography (e.g., regional/rural/urban), education, or political affiliation. However, a predominant theme was that a monolithic public held a persistent view about parole as the 'easy option' (006), 'a form of sentencing discount...or getting off quite lightly, not finishing a term of imprisonment' (011). Participants' presumption that there is a singular public voice, calling for harsh treatment of offenders, may be partly due to the use of general population survey-

based approaches to researching public opinion (Turner 2018), but has also often been invoked in speeches and comments by politicians, supporting the need for harsher penalties in the name of public confidence (XXX 2020)

Underpinning this undifferentiated and negative public view was what some participants described as widespread public ignorance of parole and its purposes. Accordingly, many suggested that increasing public understanding could lead to a greater ‘appreciation’ of parole as a form of early supervised release. This would lead to improved reintegration and, ultimately, increased public safety, as well as confidence in the board’s role in ‘balancing competing factors’ to make decision for release. As one participant noted:

the poorly informed and arguably rabid public is in another league. The general public have a limited understanding of parole. They have a limited understanding of how effective parole can be, in my opinion...the greater appreciation of the work of such entities as parole boards...The greater the level of understanding, then the greater level of appreciation of the need to balance the competing factors. (007)

Parole is uniquely challenging for members of the public to understand

Some participants linked this perceived widespread public ignorance to a limited understanding of the criminal justice system more broadly. However, participants also felt that the operation of parole itself represented a distinct gap in public knowledge relative to other parts of the criminal justice system. As one participant noted, members of the public did not grasp the key ‘virtue’ of parole because they drew information from distorted popular depictions of the process:

Parole is a complex issue to discuss, because understanding the virtue of parole means understanding the virtue of supervision by a parole officer and understanding the sorts of things that parole officers do...But understanding how powerful supervision is, I think it’s too subtle for [the public]. (035)

Similarly, the ‘complexity’ of parole release was often viewed as an obstacle to public understanding:

As concept, I think it’s complex...the weight of evidence, I guess, is the key distinction between how I would make a decision and how someone with no legal training would make a decision, because they would look at the nature of the events. If it’s highly reprehensible to them, then they’re going to say ‘no, you can’t get out, I don’t want you in my community’. (026)

Further, the ‘closed door’ nature of most parole board decision-making (076) means the public has limited exposure to authentic parole decision-making processes. For some, this was an inevitable function of the nature of parole decision-making:

We’re performing an administrative task on the part of the Executive. We have very strict constraints in terms of what we can say and what we can’t say, and there is very little we can say. So, people don’t understand it, and nor could they be expected to. (054)

One participant contrasted the public’s limited access to parole board decision-making with their ability to engage directly in jury trials: ‘you can see the moment when the penny drops for the jury...and they say: “Now I understand what the system does for the community”’ (009). Few members of the public have any direct experience with parole. Participants noted that there is ‘not a great deal of interest...unless people have been directly affected by parole’ (071). Members of

the public with more direct exposure to such decision-making, including prisoners, victims and their families and support persons, had a more nuanced understanding of the process. As one participant noted: ‘nothing changes people’s views like having skin in the game’ (020).

Public emotion

Researchers have pointed to the importance of understanding the influence of public emotions in criminal justice decision-making, laws, and policies (XXX 2001; XXX 2010). Beyond limited knowledge about parole, our participants described what they perceived as the public’s overriding emotional response to parole, involving a mix of anger, fear, and disgust. As one participant noted, parole and parole boards really only come to the public’s attention when they hear about a ‘community incident that is tragic in nature’, resulting in ‘emotional and reactionary’ responses that get in the way of any ‘in-depth’ thinking about parole (077).

Participants often described public emotions as an obstacle to further understanding. For example, one board member used his father as an example of the persistence of emotion – or what he described as ‘an uphill battle’ in influencing public views of punishment: ‘[he’s] had one speeding ticket in his life, he’s a very upstanding citizen and, you know, a criminal is just such a disgusting human in his eyes’ (015).

Some felt these ‘emotional’ sentiments overrode facts about parole in people’s minds. Several participants discussed their interactions with the public, whom they described as defaulting to an anti-parole position, based on deeper sentiments about punishment, despite having been provided information about the purposes of parole. One participant commented:

for me, particularly when people talk to me about ‘why is this person released?’, there’s a real absence of: ‘Well because it was legislatively required, they met their parole eligibility date, parole actually serves a purpose in terms of reducing someone’s risk’. I think they try to understand for the most part, they try and then we move on, but the conversation still comes up the next time they hear something in the news... as time goes on, the expectation that someone is harshly punished seems to be increasing. (030)

Parole boards are ‘easily blamed’

Many participants felt that the public’s lack of understanding, together with increased fear and anger, meant that the public attributed parole failures to parole boards. As some noted, given the complex and largely closed nature of parole board processes, it is precisely the high-profile, rather than routine, cases that reach the attention of the media. For example, one participant said that when ‘a decision has been made that nobody is happy with... the parole board comes into focus for the public’ (002). Participants sometimes commented that it was the public’s partial understanding of the system, and lack of understanding of parole itself, that made boards blameworthy in the eyes of the public. As one participant noted, it was easy for the public to express outrage at parole boards for failures: ‘you hear from people, “how is this person out of jail, why are they not still in jail?” I think there’s a lot of willingness to blame the parole board for the decision’ (030).

Some participants also felt that they were ‘easily blamed, quickly, for the system’s problems’ (075), with blame sometimes apportioned by others within government departments. One participant felt their ‘parole board was scapegoated by the government in relation to [a case]. And, certainly, by the department’ (008).

The role of the media in shaping public attitudes

The double-edged nature of media coverage emerged as a key theme. On one hand, ‘the media’ was often seen as the primary source of misinformation about parole. Some participants felt that media outlets often got it wrong, incorrectly describing the functions of parole boards and the definition of parole itself. Many commented on the negative valence of media coverage about parole. As one participant noted, instead of a focus on successes, ‘what the public hears is that so-and-so, who has been convicted to a ten-year sentence, got out after three years, thanks to the parole board’ (063). This view aligns with research demonstrating that the negative and often emotional valence of market-driven news has the potential to generate public punitiveness (e.g., Beale 2006). With respect to parole, the media was pitched as one reason that the public ‘always wants more, they want more punitive, stringent approaches to offending, and...parole’ (007).

Participants also commented that the proliferation of social media had negative consequences for public tolerance of parole, where ‘private citizens deciding to put themselves at the forefront’ (001) could influence public views, or even promote ‘the risk of vigilante justice’ (009). Social media was also viewed by some as the cause of a problematic globalisation of the news, where information spread easily across borders, so that problems in one state or country became perceived as local problems:

...it’s just the expansive availability of information and being able to have a comment and make up whatever you like and put it on things like Facebook. I just don’t think there is much of a regional difference anymore. I think there used to be. (002)

On the other hand, participants also described the mutual relationship they had developed with some media outlets, where they could work to control the messages reaching the media. As one participant explained, this task often requires a form of ‘education’ of the media: ‘we are now reaching out and trying to educate the media about how they report, because they often get it wrong’ (062).

Parole boards’ ability to ‘control the story’ varied between those that maintained in-house communications staff, and those that relied on the services of the larger ministry or department within which they sat. Where in-house communications services were absent, one participant said, ‘We don’t have media people, I’d like to start that. The beauty of having independence is that we’d be able to develop expertise’ (025). In contrast, in one jurisdiction, an early decision was made to maintain an ‘internal comms manager’, which participants described as essential to controlling the message, including educating the media. From one participant’s view, this was money well spent:

you may not change the view of the person in the street, but if the media understands the system, you’re likely to get more balanced reporting...we’ll take reporters into hearings for education purposes...if you’ve had the training around parole, at least you understand the process. You don’t need to agree with the decision or disagree, that’s your business. But if [the media] understands there was a process, then you’re likely to get more balanced reports. (046)

Does public reaction matter for parole board decision-making?

'It's not at all relevant to decision-making'

A predominant view among participants was that the opinions of the public, and by extension the media, did not directly influence board decision-making. Many saw a bright line between public opinion and their decisions: 'it doesn't weigh into my decision-making at all' (010), 'it plays no part' (046), 'never have I heard anyone say, "oh, how would this look?"' (057), 'I think if it had any unconscious or conscious impact on our decision-making, then a couple of the people that we've released, we wouldn't have released' (001).

Many of these participants framed their lack of concern for public opinion through the requirements of their legislative provisions: 'We have very strict obligations under law...the public's view is not relevant' (070); 'you stay within the bounds of what's available to you' (017). Others emphasised the priorities of decision-making processes and in particular the paramount consideration of community safety:

there is never consideration of how the public is going to perceive this. If I am satisfied or any board member is satisfied that his or her risk is being managed...and the risk of re-offending is low to non-existent, that's good enough for me. I don't have to worry about what the public is going to think about that. (065)

Along this line, some participants described consideration of the public's views as beyond their statutory obligation, but relevant for political consideration. One participant had 'never experienced the thought of public opinion having an influence within the deliberations of the board's panel in relation to a particular case', but added:

public opinion obviously has an influence, but at a higher level, at the political level...in the creation of the laws and guidance which surround the work of the parole board. (066)

The direction of influence – communicating decisions back to the public

Although the public's views did not sway participants' decisions, for some, whether and how the public might react shaped their desire to clearly communicate these decisions. Rather than being influenced by a possible public reaction, these participants framed the direction of influence as flowing from the board back to the public, through well-crafted decisions. The finding that decision-makers' attention to public sentiment can lead to greater clarity has also been observed for judicial officers, who can craft decisions with a wider public audience in mind (e.g., Mack et al. 2018).

In the jurisdictions in our study where decisions are made publicly available online (see below), participants often spoke about the need for communication of well-supported decisions. For example, participants said they were 'extremely cognisant' of the need to take 'exceptional care' in explaining criteria (005), or that they 'structure decisions' that 'will have the doubters at least understand the reasoning behind them' (051). Another noted that the possibility of public reaction 'does hang in the room', but 'doesn't mitigate against release':

But what it does make you do, and this is a good thing, is think about how you would explain your decision and that makes for better decision-making. So yes, I suppose I've done cases where I think there could be a public reaction to this case. But all it's made me think... 'how am I going to articulate this?' (074)

One participant commented that, although board members might make ‘every effort to have [public opinion] have no influence’, it would be ‘naïve to think that it doesn’t influence anyone at any time’ (068). This participant went on to say:

I’m certainly very aware that a decision that I make is either going to be pilloried the next day and I’ll be named in the newspaper as having let somebody out...I don’t think I’ve ever been criticised for not letting anybody go. ... for some of those decisions, I try to spend a little more time, be extra careful to make sure that all the Ts [are] crossed and the Is dotted. But no...I’m not really influenced by the public on that. (068)

Another discussed the distinction between communication directed at the prisoner and the public. For the former, the primary aim was to ensure that s/he understood the decision, although the need to consider audiences beyond the prisoner was more likely to occur in high-profile cases. Even here, however, this participant erred on the side of communicating to the prisoner, rather than ‘dancing’ for the public:

Well firstly, the inmate sees that it’s his or her decision and understands why the decision was made, whatever it was. And sees their own part in the hearing. The public [communication] is about the rule and the test, and how we applied it. But it’s a fine line, because I don’t want it to be such that the inmate doesn’t understand something that’s being written about them. (050)

‘Could we be reviewed?’

Although most parole board decisions are not directly subject to judicial review, an awareness of the possibility of political reviews of decisions and board processes framed some participants’ discussions of the role of public opinion. Reviews following high-profile parole failures have increased in recent years and led to an ‘erosion of authority, powers and discretion’ (XXX 2018: 191). Some participants noted that, more than any specific concern about public opinion, they were guided by the need to demonstrate sound judgement, to avoid the possibility of review. This was sometimes expressed as the need to ‘justify’ decisions, as a way of mitigating the risk of review:

I don’t think we look at it from the point of view [of] ‘is the public going to be annoyed about this?’, because generally, I think they’re going to be annoyed by any decision that we make to release somebody. So, I don’t think that forms part of our decision, but definitely, I am aware of making decisions that you’re looking at and saying, ‘can we justify this decision?’ ... Basically, could we be reviewed? (072)

Public confidence in parole

The value, definition, and possibility of ‘public confidence’

We asked participants to reflect on public confidence, with respect to their understanding of parole boards’ role and function. Many participants described what they viewed as the ‘importance of public confidence’ (042), that ‘public confidence is utterly fundamental’ to the success of parole (007), or that it is a key ‘success criteri[on]’ for parole boards (012). However, participants were less clear about how public confidence can be defined and whether and how it might be achieved.

Many linked public confidence to what they considered the high degree of public ignorance about parole, and suggested the best way to ‘improve public confidence’ is to explain ‘what parole is and how it works’, focussing on ‘simple concepts and what it actually means to be on parole?’ (026).

Some pointed to the importance of transparency and accountability in parole processes. As one participant explained, ‘[public confidence] won’t be [possible] in the end, without transparency, without accountability, [and] without an understanding of what you’re doing and why’ (007). Another agreed that transparency was key, explaining that ‘the fundamental way of increasing public confidence is to tell them the truth’ (020).

Others considered the difficulty in achieving public confidence, when parole decision-making is inherently imperfect and involving potential risk to the community. As one participant noted:

we are never going to be perfect, there are always going to be failures....And if we don’t have that public confidence, if people don’t understand that that is going to happen, that we’re not perfect all the time with our decision-making, what is that wiggle room for error? Because with every error, that means shutting down the system a little bit more and a little bit more and a little bit more...So that’s the real discussion, I think for policymakers it’s what’s that margin of error that everyone can live with? (062)

Another noted that public confidence would be difficult to accomplish, because parole was a difficult ‘sell’: ‘it’s not sexy, it’s mathematically uncomfortable, because we know that a high percentage of the prisoners we release on parole will be returned to custody’ (015).¹

While most participants were clear that the public should be the target of public confidence-building engagement, some argued that it is most important to engage with those closest to the process. In this example, a participant pointed to the limited resources that boards have for engagement purposes, and their need to shepherd resources into their statutory priorities:

the priority has been educating the prisoners, because they are the ones that have the most skin in the game, as far as parole is concerned...we’ve had to prioritise the prisoners, number one. Then, once we’ve got that down, we started the engagement with the victims, because it was very important to have those conversations. The public will come in due course, but I think if you start from the basis that your decision-making is as good as it gets and that flows automatically to the public as well, because they’ll have confidence in what we’re doing. (015)

Participants were divided about the extent to which the boards’ direct role in strategies to build public confidence was part of their role/function. Some felt that this work fell outside of their function and was more properly left to the communications arms of larger ministries or departments. However, many expressed their current engagement, or desire to engage, in strategies that increased interaction with the public in ways they felt would bolster public confidence.

¹ This participant’s comment reflects the perceived situation in one jurisdiction, but also highlights the difficulty of attempting to gain public confidence with respect to parole. The point is not the degree of parole failure, but rather that the public may interpret *any* parole failure as a failure of the entire system, even though ‘failure’ is not always the result of a reoffence, but generally includes technical violation of parole conditions. There is little international agreement on the precise definition of parole failure, but a study of 11 countries, including those included in this study, reported reimprisonment rates of 14-45% (Yukhnenko et al. 2020). Comparable data on returns to prison for technical violations or other parole breaches are not widely available.

Coinciding with the rise of a public confidence agenda in research and policy (Turner 2018), there is a plethora of strategies available to criminal justice organisations looking to increase public engagement and knowledge of their processes (Mack et al. 2018). Some strategies have also been put forth with respect to parole, specifically. Guiney (2018), for example, made several suggestions, including that governmental attention be focused on: improving public understanding of the parole process and sentencing procedures more broadly; publishing information that clearly sets out what victims, prisoners, and the public can expect from the parole system; and making parole decisions available where requested by the public. Further, a public consultation regarding the role of Scotland's Parole Board also suggested that the parole authority make their decisions public and social media be used to increase the board's visibility to the community (Scotland 2019).

In the following section, we present participants' views about the value and efficacy of two broad categories of engagement strategies.

Relaying information: Forms of passive interaction

Parole authority websites

All the parole authorities we studied had a publicly accessible website. Typically, these websites contained information about the board and its membership, an explanation of the benefits of parole as a form of correctional supervision, and links to relevant governmental resources and publications, including the boards' annual report. Additionally, some information was provided for victims and, in some jurisdictions, media releases, informative videos and frequently asked questions.

Participants generally agreed that it was necessary for parole authorities to maintain a web presence, noting that 'in this day and age, websites are always important' (001) and 'people will always go to a website, it's the modern way of finding out about something' (007). While some were complimentary of their board's web presence, noting that it contained up-to-date and useful information, other participants noted that their authority's website was not very 'user-friendly' (004), was 'young and immature' (006), or they could not recall having looked at the website themselves for some time.

Consistently, though, participants questioned the utility of a website as a means of engaging and informing the public about the boards' work. Some explained that those who were likely to access the website would be 'a victim, an offender or the offender's family' (062), or 'students or corrections people looking for information' (073). Others noted that, if their website did receive a higher number of visitors, it was generally in response to a negative media story about parole:

it depends on what's in the media. So, if something's gone wrong, if something happens, the number of hits on the website will increase...If nothing's happening...the numbers will be relatively low, no one's interested. (046)

While one participant felt that publishing the board's annual reports may help to build public confidence in parole, through increased transparency, they conceded that engaging the community in a dialogue around parole could not be achieved using just a website (012). Others similarly felt a 'more interactive' approach was needed to improve public beliefs about parole (033).

Publishing parole determinations

Unlike judicial officers in the higher courts, parole boards are not required to publish their decisions or the reasons for them. The judiciary regards the delivery of decisions in court and, in many cases, their publication, as a direct means of communicating with the public, as well as with victims and offenders (Mack et al. 2018). Some argue that a similar approach ought to be taken by parole authorities. Guiney (2018) suggested that making one-page summaries of parole decisions available could help renew public trust in parole. Indeed, research in this area suggests that publishing determinations that frame parole decisions as ‘a rational and warranted choice to release changed offenders safely to the community’ may be a strategy used by boards to alleviate public concerns about offenders’ release to the community (XXX 2016: 294).

In the jurisdictions studied, no uniform approach is taken with respect to the publication of the authority’s decisions. Some parole authorities, for example, Parole Board Tasmania and Parole Board New Zealand, publish decisions approving and/or cancelling parole on their respective websites. In New South Wales, only selected high-profile decisions are published by the State Parole Authority. In Canada, interested parties may apply for a copy of the board’s decisions through a registry, a practice intended to ‘contribute to public understanding of conditional release decision-making and to promote openness and accountability’ (Parole Board of Canada 2018). Following its public consultation on parole, the Scottish Government (2019) recommended that its parole board include anonymised case studies in their annual report, including redacted summaries of significant decisions and the reasons for them.

Interviews with participants revealed divided support on making parole determinations publicly available. Some participants saw the availability of parole decisions as an important avenue and ‘really powerful tool’ (001) for increasing public confidence in parole, through increased transparency and, possibly, improved understanding of the factors considered in making a parole decision:

I think it’s important for our community to know who’s making the decisions, how the decisions are made and how they access information. ...we owe it to our community to be upfront. (050)

Participants’ reasons for not supporting publication revolved primarily around issues of privacy (for both offenders and victims) and effective reintegration, or many participants’ view that release required a degree of confidentiality for the offender to reintegrate back into the community. For some participants, parole decisions, and the basis for how they are made, was simply not a matter for ‘public scrutiny’ (027). Along with privacy concerns, others queried who would benefit from the publication of decisions:

I can’t immediately see who it helps; I don’t think the victims would get enough information that would satisfy them, and I don’t think you could ever give them enough information....And the prisoner, I can’t see what impact it has on him positively. You put all sorts of people’s names potentially in the public domain, which puts them at risk possibly. I don’t know, who would be happy with it? I guess the press, with more stuff to write possibly. (061)

Another noted that while there were ‘benefits in [the public] properly understanding what parole is about and that it isn’t a soft option’, it was important to find the ‘sweet spot’ for public engagement and avoid the public becoming too involved in these matters: ‘I don’t know whether

we necessarily want people poring over every decision...the possibility of vigilantes does trouble me' (005).

Engaging the public: Forms of active public interaction

An information and liaison officer – the issue of communications

One way that some parole authorities have taken a more proactive form of direct public engagement is through the appointment of a media or communications officer, a move recommended by some advisory councils to 'liaise with other agencies...answer queries from victims and other interested individuals, ensure that...printed and online public resources are up-to-date and accessible, and assist with educative functions' (Sentencing Advisory Council, Victoria 2012: 101).

In several study jurisdictions, a communications officer assisted the board with liaising with the media and/or public. This role varied considerably by jurisdiction, with some officers responsible for managing 'internal communications and not managing the external ones' (008). For other boards, the communications officer was responsible for liaising with the media to correct misinformation about parole (038) or attempting to educate journalists on parole processes and decision-making by, for example, inviting them to observe hearings (049). This latter strategy was intended to ensure that when '[the journalists] come to report on a case they have some notion of what we might doing. And that's...really useful' (049).

Some participants also described having a crisis communications plan to deal with higher profile decisions and incidents. Such plans establish, for example, appropriate spokespersons and key messages to communicate to the public (053). A participant from a different board also described how the appointment of a communications officer helped them to be more proactive when dealing with negative attention about parole. By getting on the 'front foot' with the dissemination of information about their decision-making, this participant felt the board might create 'some collateral' they could call on the next time the board and its decision-making came into question (055).

Beyond educating the media, other participants noted that their communications plan was targeted at the general public and served an educative function. As one board member described, 'part of that plan was a strategic priority, to improve our external communications and public understanding' (058). For other boards, though, the focus was specifically on communications with victims:

We have a dedicated communications section in each region. And when these questions come, when victims are involved, for example, they do a marvellous job of releasing what needs to be released and managing that information as it goes out. But...there's no external educational process. (065)

While some participants saw the appointment of a communications team as being useful for improving public engagement, this raised the issue of funding. Some participants noted that issue could occur because the parole board, and consequently the media officer, were embedded within another agency, usually corrections:

I think there's a difficulty, because parole boards are an entity hosted by another agency and that's always a very fraught situation, because who's going to allocate resources for our website and our communication strategies? (043)

The importance of independence between the board and other arms of government was raised by a participant from another jurisdiction:

We've got a communications manager, yes. That's been really helpful. You know, we're not responding to any direction from the government or anybody else that we should be doing this. (055)

Public presentations

Participants from all jurisdictions valued direct community engagement through public presentations, or what one participant referred to as 'roadshows' to 'get out and talk to people about what we do' (012). Parole board chairs and, less often, other members, made presentations to the public and professional or community groups. In some cases, these were aimed at criminal justice-related entities, while others involved members of the public, represented through service clubs, groups and schools.

Some felt that presenting to community groups was an effective means of getting 'a lot of feedback' from the community (045), combatting negative views or misinformation, and engaging the public in an informed discussion. As this participant explained, 'there is a lot of prejudice around parole, and a lot of misinformation and ignorance. There's no doubt in my mind about that. And when I talk to groups they go, "wow, I had no idea"' (045). Another participant also described how this strategy allowed them to engage in conversations with members of the community, talk about the parole board, its members, and why it releases people on parole (046). They also noted it was an opportunity to remind attendees of the parole board's power to recall a parolee, where there may be concerns about their behaviour.

Some participants took the view that it was part of the board's (often the chairperson's) responsibility to engage with the public in this way, but that this represented a significant impost on their time. Further, while such presentations were seen by participants as a useful means of reaching the community, some questioned whether they had the desired impact:

I think the board has done some really constructive things...attending at different forums, giving talks on the board, media interviews that the chair has conducted, but the capacity of any of that to have an impact on the broader public I think is extremely difficult. (056)

However, this participant acknowledged that 'it's definitely the case that it can increase the awareness of people who are in a position to influence public views' (056).

Forums/Deliberative community events

The final approach discussed by participants involves a much more active engagement style, allowing the public to have more direct input into criminal justice issues, including parole, through forums. These events draw inspiration from deliberative democracy principles which emphasise the use of public discussion and deliberation to address issues of concern in society (Parkinson and Roche 2004).

There was a range of views on whether the public ought to be more actively involved in the development of correctional policies. Some participants were opposed, preferring that processes

like parole remain insulated from the public. For one participant, ‘the problem with engaging with the community is, I think crime brings out an emotive response’ (015). For others, changes made to parole legislation and policies following high-profile parole failures and the resulting public outcry represented the extent to which public involvement ought to be permitted:

No, but I think they’ve had that say. I think some of the outrage and concern that was voiced after [a particular victim’s] murder, certainly had an impact on where the parole board is now, to where it was. It certainly had an impact on [the X] review. (059)

Similarly, some participants noted that existing processes related to hearing from and/or informing victims of decisions, and the existing convention of most boards including ‘community members’, were sufficient methods of allowing public involvement: ‘That’s exactly the reason why they have community members’ (014).

However, others emphasised the importance of bringing the public into correctional policymaking in a more direct and significant way:

Well, absolutely. The public should be involved in these processes...We’re a democracy after all. We’ve got an obligation to educate the public, in terms of what the costs and benefits are of different approaches to criminal justice. So, the public really needs to have information about how corrections works, how community corrections works, and then have a say in those decisions. (069)

Participants also discussed whether their or other parole boards had used deliberative approaches as part of their engagement with the public. Participants from a small number of jurisdictions mentioned their past use of community forums, ‘citizens’ juries’, or events in which community members gather to discuss parole-related issues. Some saw little value in such events, based on past experiences, but many felt that these fora could be both ‘educative’, creating a more informed public, and provide opportunities for input into broader thinking about criminal justice:

I think that the flow would be both ways [public input/public education]. Because I think that it also performs an educative function and I do think that, obviously, there are bad decisions. But they’re in the minority. So, I think it would actually almost have more of a benefit on [the educative] side of the equation. (009)

CONCLUSION

Parole boards occupy an ambiguous place in the criminal justice system. They are intended to be independent decision-makers, but do not have the same tenure and conditions as the judiciary. They are often chaired by serving or retired judicial officers but supported by correctional department staff. Unlike judicial decisions, theirs are often not made public or subject to judicial review (Naylor and Schmidt 2010). Like the judiciary, they should not be directly responsible to the public, but do need to be responsive to public opinion, in order to maintain confidence in the institution of parole.

‘Public confidence’ is about perception, not facts. There is evidence that public perceptions of parole are not as punitive as might be believed and more nuanced than might be imagined (XXX 2016). However, there is also evidence that the public are overly influenced by single, high-profile events or cases (Tversky and Kahneman 1973). As Roberts has noted, ‘[h]earing about one parolee committing a violent crime is likely to foster generalization to all parolees, with the result that

most people will overestimate by a considerable margin the failure rates for parole' (1992: 121). Trust and confidence are slow to build and quick to destroy.

The erosion of trust in parole boards, evidenced by their diminution of powers, if not abolition (XXX 2018a; 2018b), has encouraged or compelled some boards to review their traditional relationship to the public and explore ways to build, or rebuild, confidence in their work. Building trust and confidence is a dialogic process which, to date, has been uneven: parole authorities have historically been insular, reactive and generally invisible to, and hesitant in their engagement with, the public. It is an activity that requires two types of information, first, about what the public thinks of parole and parole boards (XXX 2016) and, secondly, what parole board members think of the public. More is known about the former than the latter, but a sound empirical foundation about both is required for boards to develop effective confidence-building strategies.

We found that many board members view the public as both ill-informed and overly emotional, with increasing public hostility towards them. 'The public' was often depicted as homogeneous in its outlook. Participants expressed concern about what they saw as wide-ranging public ignorance about parole, a concept they considered challenging for the public to comprehend. They were also concerned about the largely negative tenor of public attitudes toward parole, often driven by emotion, which, in the absence of information about parole decision-making, made it easy for boards to be scapegoated. In grappling with public opinion, participants described the media role as double-edged – both a primary source of misinformation and a useful ally in 'public education'. For the most part, participants wanted to make clear that public opinion did not influence their decision-making. Rather, the potential for public attention led many to work toward clearly articulating their decisions for all audiences, including governments. Finally, participants expressed concern about the interplay between public sentiment and offender reintegration. This translated into participants' sense that it is important to have an awareness of possible public reaction surrounding the release of high-profile offenders and adjust release plans accordingly, to provide a reasonable chance of reintegration.

Participants felt conflicted about needing to maintain prisoners' rights to privacy as they reintegrate into society, while also wanting to communicate more and better information to the public. In pursuit of the latter aim, most parole boards appear to have adopted Loader's (2011) first approach to building confidence, namely, addressing the cognitive deficit, by providing information through websites, which variously contain information about the board, its role, membership, decisions and procedures.

Parole boards increasingly also make use of social media and employ information and liaison officers. At the time of writing, the New Zealand Parole Board had a Twitter account with 960 followers and uses this to disseminate information about corrections and parole, including decisions. The boards in Canada and Scotland also have Twitter accounts, while other jurisdictions provide such information through justice or corrective services accounts.

These are forms of passive or semi-passive interactions that do not actively engage the recipients of the information. It is tempting to believe that the provision of accurate information would appropriately remedy existing information asymmetries, so that the public would then appreciate and understand the role of parole, the importance of parole authorities' independence, the difficulties of parole decision-making, and the inherent risks in any form of conditional release. As noted above, however, addressing cognitive deficits may not lead to enduring attitudinal

change. In addition, people's perceptions and decisions are influenced not just by empirical information and 'facts', but by emotions (XXX 2010).

Loader's (2011) description of the insulationist model seems untenable in an age of scepticism, if not great antipathy, towards elite institutions. No parole board in the four countries we studied had adopted this approach. Loader's third approach – re-direction – recognises that emotions play an important role in public confidence and his call for the democratisation of penal politics may point to future reforms in the way that criminal justice policies are developed (see also Dzur, Loader and Sparks 2016); for the moment, however, this remains aspirational. As the recent history has shown, particularly in England following the release of convicted rapist Worboys in 2018 and the substantial reforms in some Australian states, following serious offending by parolees, at least in the short-term, the mass media will have far more influence in shaping the law, than longer-term efforts of deliberative forums (XXX 2018).

In the meantime, there is evidence of public participation in parole board decision-making, if not in penal policy. Parole boards, sentencing advisory councils, and similar bodies partly derive their legitimacy from transparency, but also from their diverse membership, which purports to represent the community. Parole boards have a similar, if not wider, membership than other similar bodies, but little is made of that fact. This is likely because there is often only one spokesperson in the media (which is appropriate). Wider recognition of boards' diversity could result by increasing the role of other members speaking to community groups.

More participatory means of engaging with the public include 'You be the Parole Board' mock hearings and citizens juries. However, parole boards lack the skills and resources to organise such events and it is unclear whether they would have sufficient reach in the broader community to impact on general knowledge of, or confidence in, parole boards. Some participants were of the view that if more people had 'skin in the game', their views might change, but direct engagement with the parole system is not permitted in Australia, so this is not a feasible strategy.

Our interviews with parole board members reveal increasing engagement with the community, victims and political actors, with a view to building, or re-building, trust in their work. Some have done this more extensively than others, but none have ignored the need to communicate about their roles, responsibilities, and activities. Even if providing accurate information, including through social media, may have limited effect on public opinion, particularly when there are catastrophic failures, we believe it is incumbent on parole authorities to continue to engage with the community, as a small step towards increasing understanding of parole decision-making and building confidence in parole boards.

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