



GOVERNMENT OF BERMUDA
Ministry of National Security

THE PAROLE BOARD

COMBINED REPORT | 2017- 2019

THE BERMUDA PAROLE BOARD

DEFINITION

Parole is the conditional release from imprisonment or release from custody before the end of a prisoner's sentence. This release entitles a person to be under supervision in the community, also known as being 'on license, once all terms and conditions connected with the person's release are satisfactorily complied with.

MISSION STATEMENT

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

PHILOSOPHY

We believe that we have responsibility and duty to ensure that every parolee is given the best chance possible to succeed by working with our institutional partners in order to balance the interest of the prospective parolee on the one hand and public safety on the other. As part of this institutional ecosystem (that is the criminal justice system more broadly) we believe that we too have a critical role in the overarching rehabilitation process, which can provide a pathway for the successful reintegration of offenders back into society.

People can – and do – change.

MANDATE

The Parole Board is an independent statutory 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 six-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 partner 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

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 Rules 1951

The Young Offenders Act 1950

INTRODUCTION

Pursuant to Section 8 of The Parole Board Act, 2001, this Combined Report is submitted to the Minister of National Security on the performance of duties of the Board between the period 20 November 2017 and 31 December 2019 respectively.

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

In June 2016 the Parole Board office relocated to 49 King Street, Hamilton.

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.

For the purposes of this report while it will more broadly cover the aforementioned period highlighted above (2017-2019) its main focus will be on 2019, the most recent year.

The Board is mandated to meet with all incarcerated persons who are eligible for consideration of parole three months prior to their parole eligibility date (PED). During the above mentioned period (for the purposes of this report) the Board was able to meet with all such persons as specified before their PED with the exception of one inmate. This was through no fault of the Board, but instead was caused by the initial stages of the viral outbreak characterized by the COVID-19 pandemic. Other accompanying challenges such as the ongoing inability for parole applicants to find suitable employment in light of the soft economy and suitable accommodations continued.

Utilizing a chronological perspective, in 2018 the Board was confronted by a matter of extreme urgency with the attempted murder of a parolee whom we shall not name due to an ongoing security concern. Acting on information and advice provided by the Bermuda Police Service, the Board was compelled to act on the matter in an expedited manner.

Further, during the 2019 period an adverse Supreme Court judgment in the Dennis Robinson matter that had its genesis in 2016 was rendered against the Board. This matter actually preceded this iteration of the board which commenced its work in 2017. Nevertheless, this matter posed a significant challenge which the board was compelled to confront after the aforementioned judgment in this matter was rendered by Justice Subair. This resulted in significant changes to the processes governing the Board's consideration and handling of respective parole breaches and recalls as well as the implementation of additional protocols to the parole process itself. Both matters will be addressed more fully further in this report.

Given the demands placed upon partner agencies to produce dossiers each month, in this regard, the Parole Board, notwithstanding its challenges, is proud of its accomplishments during the aforementioned period. 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 YEARS 2017- 2019

During the period under consideration, the Board comprised of:

Mr. Rolfe Commissiong JP, M.P, Chairman

Mr. Vaughan Caines, Legal Counsel

Dr. Cherita Raynor, Clinical Psychology

Dr. Ernest Peets, Jr., Drug Counselor, and former Parole Officer

Mr. Delmont Tucker

Ms. LaKeitha Cunningham

Ms. Laverne Furbert, JP

Mr. Azeem Khan

During the above-captioned years, in its current iteration, the Board has reviewed 254 cases and of those, carefully chose to release 37 persons. Of the inmates eligible for parole 43 chose to decline the opportunity to be considered for parole; the eligible inmates that declined parole vocalized a number of reasons including a desire to complete programmes within the prison system; however, more frequently the reason provided was due to their ERD or earliest release date was fairly close to their prospective release on parole - if granted by the Board.

In a similar vein, the Board met with 129 post released parolees for update reviews. Of all the persons released on license, 12 were deemed to have re-offended seriously enough to be recalled. In full disclosure of our duties, one female parolee continues to remain at large as of 2 October 2016 and she is believed to currently reside in the UK. This board has facilitated a warrant for her arrest to UK authorities via Government House in 2018; however, she remains at large.

Moreover, great consideration is put into each release. The complexity of the Board's decisions includes 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. Before inmates are considered for Parole, they must meet two elementary requirements, those being obtaining suitable pre-approved accommodation and employment. To assist, the Board also considers suitable educational pursuits in the place of employment. Furthermore, despite the challenging economic climate most inmates as of 31 December 2019 were successful in obtaining employment.

Adhering to the statutory framework of Bermuda, a surfeit of sentences is considerably reduced (on balance) by more than half (via the Early Release Date [ERD]) when an offender enters the prison system. It should be noted that the majority of prisoners will eventually be released, either by parole or via an early completion of their sentence.

Research and experience reveal that waiting until offenders finish their sentence and releasing them with no vehicle for transitioning back into society is a dangerous precedent. The current philosophy regarding transition informs it is more prudent to release an individual with sufficient time and tools to assist with a fruitful 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. Correspondingly, it also means finding appropriate housing, a job, community-based treatment, fiscal planning and family reunification, as they 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. In this vein, the Board has routinely utilized the electronic bracelet and has found it to be an effective tool for a variety of clients. During 2016, the board required 9 parolees to be fitted with the electronic monitoring device as part of their special condition. The Board also continues to use curfews as a useful means of monitoring parolees.

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 and we recognize that taking away (or giving) people their freedom is never to be taken lightly. The safety of the community (the public interest) weighs heavily with the Board as such each deliberation is performed solemnly and with a holistic and individual approach.

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

POLICIES

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 calculated during the sentence computation process.

Prior to release on parole, the parolee will have read and signed the Conditions of Parole as set by the Parole Board. These conditions are both general in nature as well as tailored to the individual and is designed to ensure that the parolee will strongly adhere to the specific conditions and thereby choose not to 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 the parole process begins with the Date of Initial Consideration (DOIC), which is electronically determined and authenticated 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.

In granting an individual parole, or conversely, to revoke parole, this 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 can also request (if it deems it necessary) a summary of the offence and the Judge's written recommendations for consideration.

There are also occasions when the victim of a crime requests to appear before the Board (or send a letter) to express 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. During 2013, the Board amended the wording of the general conditions with the intent of addressing some issues they thought relevant particularly with respect to use of intoxicants and gang affiliation. While each person's Conditions are specific. Outlined below is what is considered general conditions:

GENERAL CONDITIONS

To appear before The Parole Board as and when required.

To be supervised by a designated Parole Officer as assigned by the Department of Court Services, and to cooperate with the Parole Officer and follow his or her instructions.

To report to the Parole Officer at the place and within the times stipulated by said Officer.

Not to commit another offence against the Laws of Bermuda during the period of this Parole Order and to immediately inform the Parole Officer of any arrest or charge.

Not to deceive or fail to disclose any information required by the Parole Officer or the Parole Board.

To maintain regular employment with (insert employers name) and to seek the permission of the Parole Officer before any change of employment or occupation. To immediately report any loss of employment to the Parole Officer.

To reside with (insert name), at (insert address of parolee) and to immediately report any loss/or change of accommodation to the Supervising Officer.

To refrain from activities and association with persons, places or things that may lead to illegal activities. This prohibition includes but is not limited to maintaining an affiliation with any gangs or being in the company of gang members; being in possession of any weapons. Any written directive from the Parole Officer in terms of refraining from specific activities or associations must be adhered to.

Not to be in possession, use or consume any controlled substances (i.e. illegal drugs).

To be tested for controlled substances, or intoxicants, when and where directed by the Supervising Parole Officer. Evidence of possession, use and consumption of controlled substances or intoxicants will be presumed if the test results in a positive reading.

To remain in the jurisdiction of Bermuda unless travel is subsequently approved by the Parole Board.

To attend and comply with any further rehabilitation, vocational and educational programmes as recommended by the Parole Officer.

II TRAVEL CONDITIONS

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

Application to travel must be made in writing to the Parole Board through the Supervising Parole Officer by the applicant in the manner prescribed. (See Parole Travel Policy)

The response to said application will be provided through the Supervising Parole Officer, in writing, by the Parole Board.

III SPECIAL CONDITIONS (if applicable)

I agree that I understand the Conditions of Parole and will abide by them. I further agree that my failure to abide by these Conditions of Parole shall be considered a breach of the Parole Licence and grounds for the revocation of parole.

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.

MANAGEMENT AND SUPERVISION

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 (Ministry of Justice).

2017-2019 MEETINGS

The current Board conducted its first parole hearing on 20 November 2017, at The Department of Corrections Farm facility. This was followed in December with meetings at Westgate on 4 December 2017 and finally at the Co-ed Facility on 14 December 2017.

Consequently, during the years under consideration (2017-2019) a total of 53 meetings were held between the three aforementioned facilities; our considerations also included Breaches and Reviews.

A total of 37 incarcerated persons were granted parole during the period under consideration. Correspondingly, there were no denials of parole, 43 submitted decisions to decline parole, and 168 were deferred to be seen again.

Of the 168 incarcerated persons whose parole was deferred in 2016, several had long-term drug addictions and were deferred to receive treatment interventions, other had not completed the core components of their case plan and many had not secured employment or housing.

Furthermore, the Board conducted 254 reviews, 5 breach hearings and 7 parolees were recalled during the period under consideration.

As it relates to the Court Services review meetings with parolees or those on license there were no meetings in that regard during the 2017 (November- December) period.

However, in 2018 and 2019 there were 22 meetings over the two year period in total which resulted in 129 reviews of those on license. There were also 5 recalls during the period under consideration (see statistics below).

The total number of recalls (combined) for the period under consideration was 12.

STATISTICS

The number of incarcerated persons who (1) appeared before the Board and (2) were granted parole from 2017-2019 (January to December) are listed below:

2017 (November – December)

*MEETING DATES 2017	TOTAL MEETINGS			PAROLED			DENIED			DEFERED			DECLINED PAROLE			RECALLED			TOTAL INMATES REVIEWED		
	W	F	C	W	F	W	F	C	C	W	F	C	W	F	C	W	F	C	W	F	C
Nov 20	-	1	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	2	-
	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	1
Dec 4	1	-	-	2	-	-	-	-	-	9	-	-	-	-	-	-	-	-	11	-	-
Dec 18	-	-	1	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	1
Totals	1	1	1	2	-	-	-	-	-	9	2	1	-	-	-	-	-	-	-	-	15

TOTAL INMATES SEEN 2017 - 15

W Westgate

F FARM

C COED

2018 (January – December)

*MEETING DATES 2018	TOTAL MEETINGS			PAROLED			DENIED			DEFERRED			DECLINED PAROLE			RECALLED			TOTAL INMATES REVIEWED		
	W	F	C	W	F	C	W	F	C	W	F	C	W	F	C	W	F	C	W	F	C
Jan 8	1	-	-	2	-	-	-	-	-	4	-	-	2	-	-	-	-	-	8	-	-
Jan 22	-	1	-	-	-	-	-	-	-	-	5	-	2	-	-	-	-	-	-	7	-
Jan 22	-	-	1	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	1
Feb 5	1	-	-	-	-	-	-	-	-	2	-	-	1	-	-	1	-	-	4	-	1
Feb 19	-	1	-	1	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	3	-
Mar 5	1	-	-	1	-	-	-	-	-	8	-	-	-	-	-	-	-	-	9	-	-
Mar 19	-	1	-	-	2	-	-	-	-	-	3	-	1	-	-	-	-	-	-	6	-
Apr 2	1	-	-	1	-	-	-	-	-	6	-	-	1	-	-	-	-	-	8	-	-
Apr 16	-	1	-	-	-	-	-	-	-	-	1	-	1	-	-	-	-	-	-	2	-
May 7	1	-	-	1	-	-	-	-	-	3	-	-	1	-	-	-	-	-	5	-	-
May 21	-	1	-	-	-	-	-	-	-	-	4	-	1	-	-	-	-	-	-	5	-
June 4	1	-	-	1	-	-	-	-	-	8	-	-	-	1	-	-	-	-	10	-	-
June 11	-	1	-	-	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	3	-
July 2	1	-	-	2	-	-	-	-	-	6	-	-	-	-	-	-	-	-	8	-	-
July 16	-	1	-	-	2	-	-	-	-	-	1	-	-	-	-	-	-	-	-	3	-
Aug 6	1	-	-	2	-	-	-	-	-	9	-	-	-	-	-	-	-	-	11	-	-
Aug 20	-	-	1	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	2
Aug 20	-	1	-	1	-	-	-	-	-	-	3	-	2	-	-	-	-	-	-	6	-
Sept 10	1	-	-	1	-	-	-	-	-	8	-	-	2	-	-	-	-	-	11	-	-
Sept 24	-	1	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	2	-
Sept 24	-	-	1	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	2
Oct 1	1	-	-	2	-	-	-	-	-	3	-	-	2	-	-	-	-	-	6	-	-
Oct 15	-	1	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	1	-
Nov 5	1	-	-	1	-	-	-	-	-	5	-	-	-	-	-	1	-	-	7	-	-
Nov 19	-	1	-	-	2	-	-	-	-	-	1	-	-	-	-	-	-	-	-	3	-
Nov 19	-	-	1	-	-	1	-	-	-	-	-	1	-	-	-	-	-	-	-	-	2
Dec 17	1	-	-	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	3	-	-
Totals	15	11	4	18	3	2	-	-	-	65	26	7	10	6	-	2	-	-	-	-	139
			30			23						98			16	2					

TOTAL INMATES SEEN 2018 - 139

W Westgate

F FARM

C COED

2019 (January – December)

*MEETING DATES 2019	TOTAL MEETINGS			PAROLED			DENIED			DEFERRED			DECLINED PAROLE			RECALLED			TOTAL INMATES REVIEWED		
	W	F	C	W	F	C	W	F	C	W	F	C	W	F	C	W	F	C	W	F	C
Jan 7	1	-	-	2	-	-	-	-	-	5	-	-	3	-	-	4	-	-	12	-	-
Jan 21	-	1	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	2	-	-
Feb 4	1	-	-	-	-	-	-	-	-	3	-	-	1	-	-	1	-	-	5	-	-
Feb 18	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Mar 4	1	-	-	1	-	-	-	-	-	3	-	-	2	-	-	-	-	-	6	-	-
Mar 18	-	1	-	-	1	-	-	-	-	-	1	-	-	-	-	-	-	-	2	-	-
Apr 1	1	-	-	3	-	-	-	-	-	-	-	-	2	-	-	-	-	-	5	-	-
Apr 16 * Toured FARM & RLH	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
May 6	1	-	-	1	-	-	-	-	-	3	-	-	1	-	-	-	-	-	5	-	-
May 20 FARM Meeting Cancelled	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
June 3	1	-	-	-	-	-	-	-	-	-	-	-	4	-	-	-	-	-	4	-	-
June 11	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
July 1	1	-	-	-	-	-	-	-	-	3	-	-	2	-	-	-	-	-	5	-	-
July 15	-	1	-	-	2	-	-	-	-	-	1	-	-	1	-	-	-	-	2	-	-
Aug 5	1	-	-	1	-	-	-	-	-	5	-	-	-	-	-	-	-	-	6	-	-
Aug 19	-	-	1	-	-	-	-	-	-	-	-	-	-	-	3	-	-	-	-	-	3
Sept 9	1	-	-	-	-	-	-	-	-	7	-	-	-	-	-	-	-	-	7	-	-
Sept 23 Hurricane	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Oct 7	1	-	-	-	-	-	-	-	-	1	-	-	5	-	-	-	-	-	6	-	-
Oct 21	-	-	1	-	-	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	3
Nov 5	1	-	-	2	-	-	-	-	-	7	-	-	3	-	-	-	-	-	12	-	-
Nov 18	-	1	-	-	-	-	-	-	-	-	6	-	-	-	-	-	-	-	6	-	-
Dec 2	1	-	-	-	-	-	-	-	-	8	-	-	-	-	-	-	-	-	8	-	-
Dec 16	-	-	1	-	-	-	-	-	-	-	-	4	-	-	-	-	-	-	-	-	4
Totals	12	4	4	10	1	1	-	-	-	45	10	7	23	1	3	5	-	-	-	-	100
			20			12			0			56			27			5			

TOTAL INMATES SEEN 2019 - 100

W..... Westgate

F..... FARM

C..... COED

Department of Court Services 2018

Date	Meeting	Reviews	Recalls	Totals
January 18, 2018	1	7	-	
February 22, 2018	1	7	-	
March 15, 2018	1	6	-	
April 19, 2018	1	5	1	
April 25, 2018	Administrative	-	-	
May 17, 2018	1	3	-	
June 21, 2018	1	6	-	
July 19, 2018	1	7	-	
August 2018	No Meeting	-	-	
September 20, 2018	1	7	-	
October 18, 2018	1	6	-	
November 15, 2018	1	5	-	
December 2018	No Meeting	-	-	
Totals	10	59	1	

Department of Court Services 2019

Date	Meeting	Reviews	Recalls	Totals
January 17 2019	1	6	-	
February 21 2019	1	7	1	
March 21 2019	1	7	1	
April 25 2019	1	5	-	
May 16 2019	1	7	1	
June 20 2019	1	6	-	
July 18 2019	1	6	-	
August 15 2019	1	3	-	
September 26 2019	1	8	-	
October 17 2019	1	3	1	
November 21 2019	1	5	-	
December 19 2019	1	7	-	
Totals	12	70	4	

FOREIGN NATIONALS

For the years under consideration (November 2017 to December 2019) there have been 47 foreign nationals incarcerated in Her Majesty's Prisons, the majority of whom were incarcerated for drug importation and fraud related offences. By way of background, the Board interviews all incarcerated persons (foreign and local) prior to their PED.

In 2010, as a result of a Supreme Court Judicial Review, foreign nationals incarcerated in Bermuda were provided the same consideration for parole in Bermuda as locals. However as a practical consideration, foreign nationals will find it virtually impossible (even if eligible for Parole) to obtain a work permit for employment if offered as per their convictions; equally finding suitable accommodation will be extremely challenging in the absence of having sufficient financial resources, as the overwhelming number will possess no family ties on island.

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.

STATISTICS

Total number of Foreign Nationals incarcerated as of 31st December 2017..... 14

(Comprises 12 Males and 2 females)

American	2
Bulgarian.....	2
Canadian.....	3
Czech Rep.....	1
Jamaican	4
Latisian	1
Pilipino	1

Total number of Foreign Nationals incarcerated as at 31st December 2018..... 13

(Comprises 13 Males)

American	3
Bulgarian.....	2
Canadian.....	1
Czech Rep.....	1
Dominican	1
Jamaican	5

Total number of Foreign Nationals incarcerated as at 31st December 2019 20

(Comprises 18 males and 2 females)

American	3
Bahamian.....	1
British	1
Bulgarian.....	2
Canadian.....	2
Czech Rep.....	1
Chinese	1
Jamaican	5
Moldovan.....	1
Romanian.....	2
St. Martian.....	1

GENERAL

The 2018 Matter

As previously indicated the Board was confronted with an extraordinary matter that posed a number of dilemmas that required the Board and in particular its Chairman to navigate and resolve.

On 14 February 2019 the Parole Board received a letter and a Travel Petition (via email) from Mr. Derek Flood, Manager in the Department of Court Services (DOCS); that email correspondence contained a letter from Parole Officer Jermaine Gibbons concerning an urgent matter confronting a specific parolee under his supervision.

Mr. Gibbons stated that the parolee had reported that in December 2018 an attempt was made on his life and that he was the intended target of a reported shooting. As a result of this event, Mr. Gibbons requested that the parolee be relocated to the United Kingdom or Jamaica. It should be noted that at the time of the receipt of Mr. Gibbons' letter the parolee's license was due to end on 10 March 2020.

In close collaboration with the Minister of National Security, the Chairman of the Parole Board was able to express to the Board that investigative authorities within the Bermuda Police Service had confirmed that the parolee was the subject of an active attempt on his life and that a high risk threat remained. This was due to the fact that he was slated to be a witness in a murder case.

It was also confirmed that as he (an older man not actively involved in gang affiliation) remained on island the danger of an expansion of generalized gang violence would likely ensue and that public safety was another aspect to this burgeoning situation that had to be concomitantly balanced.

The Board was required to confront the reality that if given leave to relocate to the UK the individual in question would essentially be beyond the supervisory role of Court Services and the Parole Board itself because the parolee would be in what could only be described as a witness protection programme for the duration of his parole with only the police, the Department of Public Prosecutions and his family privy to his location overseas.

Upon request from the highest levels of our Law Enforcement Agencies, the Board in light of the issue acceded to the request, while mandating that reporting rules were made a condition of his release. The reality though was that those very same rules if enforced could potentially compromise the safety and even life of the individual in question.

This is a prime example of the weighty issues that the Board (albeit infrequently) is currently been tasked with addressing.

In granting leave to relocate abroad the parolee was required to continue to adhere to all standard terms and conditions of his Parole Order, as well as the following Special Conditions:

Special Conditions

- 1. Report to your Supervising Parole Officer Jermaine Gibbons weekly on Monday mornings at 9:00am Bermuda time via WhatsApp video call.**
- 2. Notify your Supervising Parole Officer of any changes in your residence within five working days of the change.**

Legislative Amendments & Court Judgments

There were no relevant amendments to existing legislation as per the period under consideration. However as indicated in the introduction of this report the Parole Board was the subject of an adverse civil judgment in the matter of a Judicial Review.

The parties were Mr. Dennis Robinson (Plaintiff) versus The Parole Board and The Commissioner of Prisons (Defendants).

The case was held before Justice Sade Subair Williams J on 16 October 2019, in the Supreme Court and the judgment was rendered on 19 November 2019. The court found that the Parole Board wrongly acted in 2016 during its hearing and decision to recall on the 21st of November of that year by violating principles of natural justice; the Court further ruled by not convening a review meeting with the Plaintiff within the one year of 21st November 2017 in conformity with rule 166(1) (a) of the Prison Rules 1980 natural justice was equally violated.

In the case of the 2017 matter, it was ruled that the current board which had only commenced its tenure some days before did not afford the then recalled Mr. Robinson a meeting as required. All persons serving a life sentence in Her Majesty's prison should be afforded - once they have served 15 years of their sentence a hearing before the board on an annual basis. This was not done in Mr. Robinson's case. Mr. Robinson sought to have the Board deliberate on the matter of his immediate release from prison sans a formal application of parole which was denied.

Subsequently, the court also awarded cost to the Plaintiff. In a subsequent settlement between the parties, \$28,000 dollars was agreed upon as to the matter of costs.

To more fully address this matter, the Board has incorporated into our processes additional protocols and/or mitigations in response to the Judge's ruling below were recommended by Ms. Shakira Dill-Francois of the Attorney General's Chambers the legal counsel for the Parole Board in the above-mentioned matter.

Her recommendations which conform with the court ruling (particularly paragraph 58), which is attached; that paragraph required the following to be applied for all parole hearings in the matter of recalls:

1. The prisoner is to be informed in writing of the allegations against him which give cause for a hearing on whether his license will be recalled. The allegations should be accompanied by a summary of the relevant information supportive of the allegations;
2. The prisoner is to be informed as soon as is practicable of the date on which the hearing will be held and should be given sufficient opportunity to avail himself of the measures set out in this list;
3. The prisoner is to be given an opportunity to submit written representations and relevant documentation to the Parole Board in advance of the hearing. Such representations and documentation may be on the subject of the recall or on any personal mitigating factors for the Board's consideration;
4. The prisoner is to be given an opportunity to call witnesses in his support on matters relevant to the recall or to personal mitigation (Notwithstanding, a full evidentiary presentation by the Parole Board of the allegations against the prisoner is not required and the strict evidentiary rules that apply to a Court hearing need not apply to a hearing before the Board.)
5. As soon as is practicable after the making of any final decision, a minute shall be made of the decision of the Board in compliance with item 7 of the First Schedule of the Parole Board Act 2001 and the prisoner must be provided with a copy of the minute of that decision without delay. (The minute of the decision should include a summary note of the hearing held and a statement of the reasons upon which the decision is based.)

In respect of items 3 and 4 above, the prisoner is entitled to act through the representation of an Attorney or McKenzie friend (this can best be described as anyone who accompanies the prisoner to the hearing to help him if he does not have a lawyer). This person can sit with the prisoner and offer advice and support).

These recommendations have not been ignored by the Board and over the last three months there has been a concerted effort to apprise the members of our responsibilities in this regard and in conjunction with the Administrative Assistant to seamlessly incorporate the above-captioned recommendations into the relevant processes.

Site Visits

On the following dates 5 February 2018 (Westgate), April 16 2019 (The Farm and Right Living House) members of the Parole board undertook site visits to the respective Department of Corrections run prisons noted above, with the exception of the Co-ed facility. It is intended that the Board will tour the Co-Ed facility in 2020. The board members were accompanied on these site visits by the board's administrative assistant Ms. Juliana Swan.

The key observations are as follows:

The physical plants of all three facilities have clearly deteriorated over the last three decades. Budgetary constraints over the last ten years have also precluded the prison executive management team from being able to routinely remediate maintenance issues of various types. Clearly, this has resulted over time in all of the respective facilities deteriorating to such an extent that it may pose a health and safety issue for both inmates and prison staff. Issues such as mold, leaky ceilings, and the prevalence of significant rust over most metal surfaces indicate a set of buildings that may need significant investment to be fit for purpose as it relates to strictly non-security matters of health and safety.

Structurally the design of the building(s) particularly at Westgate may be compounding the problem in that most of the units but particularly in the isolation area of the prison are maze like, with small rooms, low ceilings, and with a significant amount of the respective lighting fixtures not functioning. There is also structuring that does not allow for sufficient natural lighting.

Secondly, two of the most underutilized buildings at both Westgate and The Farm facility were the carpentry/woodwork facility. During the visit to Westgate which occurred during the mid-afternoon period the carpentry facility had one inmate working on a project on his own. The library however was closed.

Thirdly, and related to the above and of ongoing concern to me and the members of the Board is the lack of substantive rehabilitative programmes available to the inmate population.

Overall, budgetary constraints have played a role in this retrenchment but that does not lessen the great void that this represents and even the risk the country is taking; by in effect producing a generation of inmates who will not have the necessary tools to make re-entry into the larger society a successful one.

This will cost the country and the government more in the long run.

Programmes

Certainly, our prison system has as its mandate the facilitation of the rehabilitation of the incarcerated. This mandate is further reflected in its branding as a Department of Corrections.

However, in the aftermath of the 2008 great recession the fiscal demands of successive governments were such that there were significant cuts in ministerial budgets throughout the government. The Department of Corrections bore its share of these cuts to its budget throughout the period from 2008 to 2017. This resulted in the cutting of programmes in some cases permanently or in a way that led to them being infrequently available. This includes those programmes that are mandatory and indispensable to the key objective of rehabilitation of the inmate population and to a lesser extent the Board's ability to substantively assess a respective inmate's suitability for parole (license).

It also posed an ethical dilemma for the Board; can the unavailability of indispensable/ mandatory or voluntary programmes be held against the inmate in question in evaluating his suitability for parole when the programmes in question have not been made available to him or her?

LSI-R risk needs assessments conducted by Court Services for our Pre-release Report (166R) typically indicate the following risk need categories that inmates seeking release on license have a moderate to high need for intervention services to reduce their risk of reoffending, these include:

- 1. Alcohol/drug problems**
- 2. Education/employment**
- 3. Emotional/personal**
- 4. Attitude/orientation**

Inmates appearing before the Parole Board report in their hearing before us that programmes for the aforementioned are typically not available or as noted infrequently available. At this juncture, the Parole Board relies heavily on the recommendation from the Department of Court Services regarding risk, potential parolee's previous supervision history if any, and the availability of intervention programs in the community.

We recommend more resources be directed to the Department of Corrections for the facilitation of Drug & Alcohol programs, additional services to support education and employment prospects, and clinical programs; such as Cognitive Behavioral programs; such as "Thinking for Change" to address the attitudes and thinking errors that lead to repeated criminal behavior.

Services for Violent and Sexual offenders should be further supported due to increased number of offenders requiring these services.

Race Disparity and Incarceration

One of the salient features that this Board has sought to come to grips with is the racial disparity found throughout the corrections system. Not only as it relates to the inmate population but the prisons staff as well. In both cases they are overwhelmingly black Bermudian which has been consistent historically. Certainly, in a multi-racial society as Bermuda the continued persistence of these disparities cannot be overlooked or long tolerated.

In light of the above we note that blacks as of 2019 comprise 56 percent of Bermuda's overall population (Dept. of Statistics)

Department of Corrections Inmate Racial Demographics
As at May 25th, 2020

TOTAL INMATES	168						
Total Black	153						
Total White	14						
Total Asian	1						
Westgate	129		Farm	25			
Black	122		Black	20			
White	6		White	5			
Asian	1		Asian	0			
Co-Ed	2		RLH	12			
Black	2		Black	9			
White	0		White	3			
Asian	0		Asian	0			
Total Male	166		Total Female	2			
Total Black Male	151		Total Black Female	2			
Total White Male	14		Total White Female	0			
Total Asian Male	1		Total Asian Female	0			

While the graph above is a snapshot of the racial demographics of the institution as of 2020 it is generally accepted that this more recent data reflects the level of racial disparity that has existed within the corrections system for decades and thus can serve as an effective proxy for the years 2017 - 2019.

As indicated by the chart above out of the 168 inmates incarcerated as of the writing of this report on the 25 May 2020, 153 were black, the vast majority of those being black Bermudian males. There is also a small minority of foreign nationals who are black, six (6) in that total. Nonetheless 91.07% of the inmates currently incarcerated are black including two black females.

Correspondingly whites only represent 8.33 percent of the inmate population; fourteen (14) among the incarcerated with six of them being white foreign nationals. There is also one (foreign) Asian inmate.

Of major concern has been the steady rise in the number of inmates who have been sentenced to life for the crime of murder. Many have been younger men who were involved in the burgeoning gang formation and culture that began to emerge at the turn of the century.

As of 31 December 2019, there were 39 inmates serving life sentences. All are black men.

On 13 December 2018 the Board invited consultant to the Mid Atlantic Wellness Hospital and the Prison System, Psychologist Dr. Seb Henagulph to address the issue of racial disparity within the criminal justice system more broadly. Particularly, after he was interviewed in the daily newspaper where he addressed some of the likely causal factors behind the phenomenon of black males and gang formation along with the mental illness issues associated with incarcerated inmates with gang affiliation backgrounds.

In the Royal Gazette article in September of 2017 question he was quoted as saying that the racial divide played a part in gangs in Bermuda, with the majority made up of young black men.

“It tends to be people on the margins of society. The disenfranchised don’t have money and don’t see hope in their lives, and drift into the gang lifestyle.”

“I would see it more as a socioeconomic issue here in Bermuda, and it is the same in the United States — historically, the black population has been at the lower end of the socioeconomic spectrum.”

The Parole Board cannot play a direct role outside of its present remit in addressing this issue but it is clearly one that needs to be addressed by the larger society as these disproportionate outcomes and disparities appear continue to be normalized throughout the society and are replete throughout the criminal justice system.

The topic of this pronounced disparity in Bermuda’s prisons was also raised at the visit of the UK’s Foreign and Commonwealth Advisor, Mr. Keith Mills, who also while here did a brief tour of the prisons and sat in on a review meeting held by the Board on the 9 September 2019.

<http://www.royalgazette.com/crime/article/20170901/gang-culture-could-result-in-mental-illness>

file:///C:/Users/Owner/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/CZBYG-F5N/The_mental_health_needs_of_gang-affiliated_young_people_v3_23_01_1.pdf

<file:///C:/Users/Owner/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/CZBYG-F5N/Unpacking%20the%20inequality%20paradox%20-The%20psychological%20roots%20of%20inequality%20and%20social%20class.pdf>

THE WAY FORWARD

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 Board relies heavily on the Correction Facilities psychologists. They have been able to provide the Board with professional, comprehensive assessments and reports on those parole applicants who have been convicted of a major violent offense or one of a sexual nature before considering their release. Unfortunately, this is an area that is beset by a staff shortage that is critical precisely because of how essential the work of the psychologist is to the work of the Board in evaluating suitability for release. The inability to obtain the necessary reports in a timely matter has to be addressed at the staffing level through the hiring of at least one more clinician. We do note however, that the current psychologists Dr. Chekwas has performed consummately in the performance of his duties notwithstanding the ongoing staffing challenges.

Additionally, the Board continues to be very concerned that a replacement program for the vitally important but now closed Transitional Living Center (TLC) has yet to be found. The statistics from TLC, a programme that facilitated the transition process for the client indicated that a majority of them that completed the program had a very high chance of not reoffending. Inmates who are simply released back into society without a gradual reintroduction seem to struggle to remain in society after their extended periods of institutional living.

During the period under discussion no board members were afforded the opportunity for professional development. Despite the Government's present economic challenges, it is hoped that consideration will be made in the future to continue the efforts to improve members understanding and skills by affording them opportunities to attend appropriate seminars and workshops.

Lastly, the Board looks forward to submitting its 2020 report by the end of the year so that we can more fully examine the significant challenges that the Board confronted amidst the reality of COVID-19's impact upon the our institutional partners, the Department of Corrections, Court Services and the Board itself.

In closing, as Chairman I would like to thank the dedicated staff of Corrections, Right Living House and Court Services for all their assistance in helping to make the Board's difficult job a lot easier.

I would also like to take this opportunity to thank all of my fellow board members for their hard work and dedication to the very important task of balancing the safety and protection of the public alongside the imperative to successfully reintegrate offenders, with all the assistance and tools they require so as not to return to a life of crime. Additionally, many thanks to the Parole Board's Administrative Assistant Ms. Juliana Swan who has been indispensable in ensuring that the Board is able to function effectively and efficiently in order to deliver on its mandate. Mr. Swan has been with the Board since 12 September 2016.

Submitted by:

Rolfe Commissiong, Chairman, JP, MP