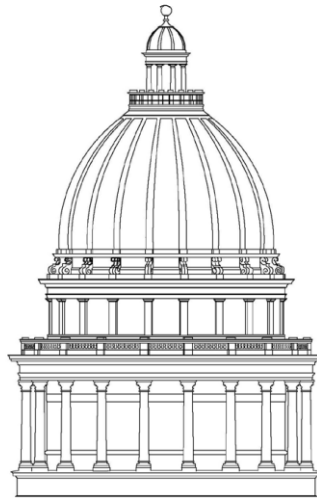


REPORT TO THE  
**UTAH LEGISLATURE**

Number 2016-01



**A Performance Audit of the  
Board of Pardons and Parole**

February 2016

Office of the  
**LEGISLATIVE AUDITOR GENERAL**  
State of Utah





STATE OF UTAH

# Office of the Legislative Auditor General

315 HOUSE BUILDING • PO BOX 145315 • SALT LAKE CITY, UT 84114-5315  
(801) 538-1033 • FAX (801) 538-1063

## Audit Subcommittee of the Legislative Management Committee

President Wayne L. Niederhauser, Co-Chair • Speaker Gregory H. Hughes, Co-Chair  
Senator Gene Davis • Representative Brian S. King

JOHN M. SCHAFF, CIA  
AUDITOR GENERAL

February 1, 2016

TO THE UTAH STATE LEGISLATURE:

Transmitted herewith is our report, **A Performance Audit of the Board of Pardons and Parole** (Report #2016-01). A digest is found on the pages located at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

A handwritten signature in black ink that reads "John M. Schaff" with a stylized flourish at the end.

John M. Schaff, CIA  
Auditor General

JMS/lm



# Digest of A Performance Audit of the Board of Pardons and Parole

## Chapter I Introduction

Utah's Board of Pardons and Parole (BOP or board) plays a critical and unique role in the state's criminal justice system. For example, last year, they made nearly 18,000 decisions, including releasing offenders from prison, setting the conditions of release and supervision, and responding to over 1,000 parole violations. Consequently, they wield significant influence on public safety and the use of public resources. Utah's parole board has considerable discretion because of wide sentencing timeframes coupled with an indeterminate system. The level of discretion appears to be greater than is found in other states. This report examines opportunities for the board to better deploy such broad discretion and recommends improvements to the BOP's oversight, structure, decision making, data collection, and business operations. These recommendations come at a time when criminal justice reform (both nationally and locally) is working toward improved outcomes and lowered costs.

## Chapter II BOP Can Benefit from Improved Planning, Oversight, and Structure

**Improved Planning, Performance Measures, and Transparency of Information Is Needed.** The BOP has always been a crucial player in Utah's criminal justice system. The board has been especially involved in justice reinvestment efforts since the Legislature passed H.B. 348 in the 2015 General Session. We are encouraged by the board's actions, but more can be done. We believe the BOP should: develop a strategic plan, track and monitor key data elements, measure its impact on the criminal justice system through targeted performance measures, and improve its transparency.

**BOP's Internal Organizational Structure Should Be Reviewed.** As discussed in the previous section, several operational improvements are needed at the BOP. To help ensure these improvements are made and effective, the board should review its organizational structure. We do not question the dedication of BOP employees, but the board needs to ensure it has adequately defined its roles and the roles of its staff to maximize the needed operational improvements.

## Chapter III BOP Should Adopt More Proven Practices

**Structured Decision Making Will Increase Consistency of Decisions.** The BOP can do more to ensure its decisions are consistent, fair, and properly structured for the best outcomes. Nationally

recognized research organizations that study paroling authorities recommend that parole boards adopt a structured decision-making (SDM) model. SDM is an evidence-based, policy-driven approach to decision making that uses established risk and needs factors to make quality release decisions. Paroling authorities that use SDM are better at setting goals and report better outcomes. Currently, BOP parole release decisions are based mainly on individual professional judgement and experience. BOP decision makers have differing philosophies and may weigh factors in the same case differently. The lack of a common paroling philosophy may be the cause for the large number of inmates and inmate advocacy groups expressing concerns about the inconsistency of paroling decisions. The board has taken steps to implement SDM but as a prerequisite, the BOP should establish a common paroling philosophy to facilitate consistency in parole decisions.

**BOP Should Improve Rationale for Its Decisions.** A second area to aid the BOP in decision making is an improved rationale sheet. The only information an inmate receives about the content of the board's decision is a rationale sheet that lists some aggravating and mitigating factors. Several individuals at the BOP told us that this sheet does not capture the important factors the board uses in weighing their decisions. Further, inmates, families, and advocates list the rationale sheet as one of their primary concerns because they find it confusing, vague, and unclear. Best practices discuss communication with inmates as an important factor. We also found that other states' releasing authorities have more informative rationale sheets that focus on specific areas of improvement and/or risk to the community. The board agrees that it needs to improve its rationale sheet and is currently working on a new version of the form.

**Use of Research-Based Practices Can Help BOP Improve Its Outcomes.** In addition to the two best practices just discussed, we recommend that the BOP adopt and integrate the nationally recognized ten practice targets that incorporate evidence-based practices in parole decisions. The board agrees and is already working toward implementation of some of these practice targets.

## **Chapter IV**

### **BOP Should Adopt an Electronic File Management System**

**The BOP's Current Paper Process Is Vulnerable to Errors.** Our review of the BOP's business process revealed two areas that are vulnerable to errors. One vulnerability is the way the board documents and enters decisions. The BOP's current decision-making process relies on board members' handwritten notes, which are unclear and subject to misinterpretation. In most cases, we could not decipher the handwritten notes to validate that clerical staff entered decisions correctly. Second, calculations for time served made in case files are also vulnerable to inaccuracies.

**Paper-Based System Limits Data Tracking and Transparency.** The BOP's paper-based system limits the ability to track key performance metrics and data critical to board operations. Paper files also limit transparency and availability of information to external entities. Adopting an electronic file management system will help the board begin collecting and analyzing data on how its actions affect the larger criminal justice system. This will also promote more informed decision making.

**Paper-Based System Creates Operational Inefficiencies.** In addition to the data limitations, there are also operational inefficiencies that result from a paper-based file management system. These include limitations on information sharing with surrounding agencies as well as BOP workflow, since only one activity can be performed on an offender's file at a time. Board staff devote significant amounts of time to the paper process. Staff time spent printing, copying, filing, and locating paper files is costly and time intensive.

**Electronic BOP System Will Promote Alignment with Other Criminal Justice Agencies.** With other Utah criminal justice agencies as well as other state parole boards adopting electronic file management systems, it is increasingly clear that it is time for the board to convert to a paperless record-keeping system. The current board supports transition from a paper-based to electronically based record-keeping system. To do this, the board will need to determine if it is in their best interest to develop an electronic system that piggybacks on the UDC's database or purchase a system from a private vendor. Funding the new system will likely require funding from several sources, including federal funds, nonlapsing funds, and other state resources.

## **Chapter V**

### **BOP Should Consider Implementing Process Efficiencies**

**A Streamlined Decision Process Is Needed for Less Serious Offenders.** As the state's population grows, BOP's workload will continue to increase. The PEW Charitable Trusts group studied Utah's criminal justice system in 2014. They estimate that Utah's prison population will grow 37 percent in the next 20 years. To deal with this growth, we believe the board should consider process efficiencies before adding more hearing officers. Other states have achieved efficiencies in streamlining the parole processing of low-risk, less severe offenders and maintained quality of decisions. In this section, we recommend a continuum of options the board could pursue to achieve efficiencies in processing low-level offenders, such as limiting case preparation requirements, reducing the number of board member votes for release decisions, and in limited circumstances allowing hearing officers a vote.

**BOP Should Review Expungement Process and Recommend Statutory Changes.** The BOP has received an increase in the number of pardon requests over the last year and a half. This increase is due partially to more people seeking pardons because the Bureau of Criminal Identification (BCI) rejected their expungement requests for relatively minor offenses. Some applicants rejected by BCI are turning to the board, which has greater authority to pardon and, by extension, expunge criminal records. The board's pardon process involves significant staff time and resources. Therefore, we recommend that the BOP and BCI review the expungement process and recommend to the Legislature statutory changes that reduce pardon workloads.





# REPORT TO THE UTAH LEGISLATURE

Report No. 2016-01

## **A Performance Audit of the Board of Pardons and Parole**

February 2016

Audit Performed By:

Audit Manager	Darin Underwood
Audit Supervisor	Kade Minchey
Audit Staff	August Lehman Anndrea Parish
Audit Technician	Lauri Felt



# Table of Contents

Digest ..... i

**Chapter I**

Introduction..... 1

    BOP Has Substantial Authority and Discretion to Impact Criminal Justice ..... 1

    Proven Strategies Are Driving National and Local Prison Reform..... 4

    Scope and Objectives ..... 6

**Chapter II**

BOP Can Benefit from Improved Planning, Oversight, and Structure ..... 9

    Improved Planning, Performance Measures, And Transparency of Information Is Needed ..... 9

    BOP’s Internal Organizational Structure Should Be Reviewed ..... 16

    Recommendations ..... 18

**Chapter III**

BOP Should Adopt More Proven Practices ..... 21

    Structured Decision Making Will Increase Consistency of Decisions ..... 21

    BOP Should Improve Rationale for Its Decisions ..... 26

    Use of Research-Based Practices Can Help BOP Improve Its Outcomes ..... 29

    Recommendations ..... 31

**Chapter IV**

BOP Should Adopt an Electronic File Management System ..... 33

    BOP’s Current Paper Process Is Vulnerable to Errors ..... 33

    Paper-Based System Limits Data Tracking and Transparency ..... 36

    Paper-Based System Creates Operational Inefficiencies ..... 39

    Electronic BOP System Will Promote Alignment With Other Criminal Justice Agencies ..... 43

    Recommendations ..... 45

**Chapter V**

BOP Should Consider Implementing Process Efficiencies ..... 47

    A Streamlined Decision Process Is Needed for Less Serious Offenders ..... 47

    BOP Should Review Expungement Process and Recommend Statutory Changes ... 53

    Recommendations ..... 56

**Appendices**..... 59

    Appendix A..... 61

    Appendix B..... 81

**Agency Response**..... 85

# Chapter I

## Introduction

Utah's Board of Pardons and Parole (BOP or board) plays a critical and unique role in the state's criminal justice system. For example, last year, the board made nearly 18,000 decisions, including releasing offenders from prison, setting the conditions of release and supervision, and responding to over 1,000 parole violations. Consequently, they wield significant influence on public safety and the use of public resources. Utah's parole board has considerable discretion because of wide sentencing timeframes coupled with an indeterminate system.<sup>1</sup> The level of discretion appears to be greater than is found in other states. This report examines opportunities for the board to better deploy such broad discretion and recommends improvements to the BOP's oversight, structure, decision making, data collection, and business operations. These recommendations come at a time when criminal justice reform (both nationally and locally) is working toward improved outcomes and lowered costs.

### **BOP Has Substantial Authority and Discretion to Impact Criminal Justice**

The BOP has been granted significant statutory authority to exercise discretion in making decisions that affect taxpayers, crime victims, criminal offenders, their families, and communities. An indeterminate sentencing system allows the board to make decisions on an individualized basis; in fact, Utah's Legislature appears to grant its parole board more discretion than any other state does. Board decisions are final and cannot be appealed. Consequently, board decisions carry significant weight. Unfortunately, assurances that board decisions are both consistent and fair are difficult to validate because the BOP lacks the ability to track key data and performance measures. Tracking such data would require an onerous paper file review. We are also concerned that evidence-based practices, shown to

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**An indeterminate sentencing system allows the Board of Pardons and Parole to make decisions on an individualized basis.**

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<sup>1</sup> Prison sentences in Utah are indeterminate, consisting of a broad range of years; for example, a first-degree felony carries a sentence of five years to life. Authority is given to the state parole board to determine when an inmate should be released within the broad sentencing structure.

improve decision making, are not used. These concerns and their remedies are discussed throughout this report.

### **Utah's BOP Is Granted Substantial Statutory Discretion**

*Utah Code* Title 77, Chapter 27 authorizes Utah's BOP discretion in determining who is granted release from prison, when an inmate is ready for parole, and what conditions an inmate is expected to follow during supervision. The board consists of five members with expertise in criminal justice, all of whom are appointed by the Governor for a five-year term. The BOP's total expenditures from fiscal years 2011 through 2015 hovered around \$4 million annually.

By design, *Utah Code* allows the BOP significant latitude in decision making by enacting a broad sentencing structure. Currently, the basic sentence terms (without enhancements) in Utah are as follows:

- Zero to five years for third-degree felonies
- One to fifteen years for second-degree felonies
- Five years to life for first-degree felonies

First-degree felonies may carry a minimum sentence of three to twenty-five years, depending upon the crime and any sentencing enhancements imposed by the court.<sup>2</sup> Once an offender is sentenced to prison, the decision to parole resides with the board. This decision "may, or may not, reflect the guideline recommendation, and may be up to the full length of the indeterminate range pronounced by the sentencing judge," according to Utah Sentencing Commission's 2015 guidelines.

In addition to determining the length of incarceration and parole supervision, the board has the power to terminate or shorten a sentence, impose conditions of parole, impose fines, issue warrants, and grant pardons as deemed appropriate on a case-by-case basis. Given the BOP's broad discretion, considerable oversight is expected. Instead, we found insufficient oversight as will be detailed in Chapter

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<sup>2</sup> An example of a sentence enhancement is Utah's "Jessica's Law" passed in 2008 that, among other things, requires a mandatory sentence of at least 25 years to be imposed for certain sex offenses of a child.

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**By design, *Utah Code* allows the BOP significant latitude in decision making by enacting a broad sentencing structure.**

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II. Parole board discretion ranges from state to state based on each state's sentencing system.

### **Parole Board Systems Vary Significantly from State to State**

Each state differs in its parole board's functions, authority, and responsibilities. One of the most fundamental differences among states is how each handles release decisions. Some states are determinate, releasing offenders from correctional supervision at predetermined times. Other states, including Utah, are indeterminate, giving parole boards the discretion<sup>3</sup> whether and when to grant or deny parole. According to a 2015 report by the National Conference of State Legislatures (NCSL), 17 states are primarily determinate and 33 states are primarily indeterminate. However, many states are a hybrid of the two systems. For example, several states use determinate sentencing or mandatory parole for some offenders and indeterminate sentencing for other offenders.

Indeterminate sentencing promotes parole board flexibility in determining when inmates have sufficiently reduced their risk to society and are ready for release. It also encourages individualized review, program participation, and good institutional behavior. To capture these benefits, however, board decisions need to be supported by evidence-based tools that guard against inconsistency and bias. Unfortunately, the board is not fully utilizing these tools to inform its decisions, as described in the next section and detailed in Chapter III.

### **BOP Considers Sentencing Guidelines and Various Other Factors When Making Release Decisions**

Utah's Sentencing Commission developed sentencing guidelines<sup>4</sup> that the board uses in determining an inmate's length of incarceration. The guidelines are discretionary and do not have to be followed by the board. The guidelines recommend penalties based on offense severity

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**17 states are primarily determinate and 33 states are primarily indeterminate when sentencing offenders.**

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**Sentencing guidelines help the board determine an inmate's length of incarceration.**

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<sup>3</sup> The board's discretion is broadest with first-degree felonies, where the maximum penalty is life. Second- and third-degree felonies have statutory maximums that trigger a release if the board does not act to release an inmate sooner.

<sup>4</sup> Utah Adult Sentencing and Release Guidelines 2015.

<http://www.utah.gov/pmn/files/172049.pdf>

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**We are concerned that the board cannot demonstrate whether its decisions are improving outcomes.**

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**The Justice Reinvestment Initiative, which passed in the 2015 General Session, has led to significant criminal justice reform in Utah.**

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and criminal history. Within the guidelines are a series of calculated matrix forms. The general matrix form has 12 crime categories and 5 criminal history levels that the board consults in determining the length of time that an offender will spend in prison or probation. In addition to considering guidelines, the board uses other factors when rendering decisions, such as nature of the crime, offender’s criminal history, inmate behavior and achievements, treatment history, and education and risk to the community. All board decisions are final and cannot be appealed, except in instances of due process concerns.

Given this finality, we are concerned that the board cannot demonstrate whether its decisions are improving outcomes, both individually and systemically. The board lacks a strategic plan, is unable to track key data, lags in implementing evidenced-based practices, and operates in an archaic paper-based system, as detailed in the following chapters. Collectively, these obstacles hinder the board’s ability to adopt proven strategies that are driving prison reform.

## **Proven Strategies Are Driving National and Local Prison Reform**

Many states use proven strategies that include data tracking and the collection of key performance metrics to drive criminal justice reform. Locally, Utah’s leaders from all branches of government, along with The PEW Charitable Trust and the U.S. Department of Justice, worked to develop “a package of data-driven policy recommendations that will reduce recidivism and safely control the growth in the state prison population.” This collaboration resulted in House Bill (H.B.) 348, also called the Justice Reinvestment Initiative (JRI), which passed in the 2015 General Session. JRI has led to significant criminal justice reforms in Utah.

### **National Prison Reform Is Using Data-Driven Strategies to Maximize Public Resources**

JRI has been adopted in 24 states and 17 local jurisdictions. The initiative is helping states and localities identify and implement data-driven strategies that maximize the use of public resources according to their risks and needs. Savings accrued from these measures are to be “reinvested” in new or expanded evidence-based practices. So far, JRI states have found that JRI has slowed their prison inmate growth or



reversed the growth trend by targeting evidence-based programs and services to offenders that present the greatest risk to the community.

### Local Prison Reform Aims to Slow Prison Growth While Maintaining Public Safety

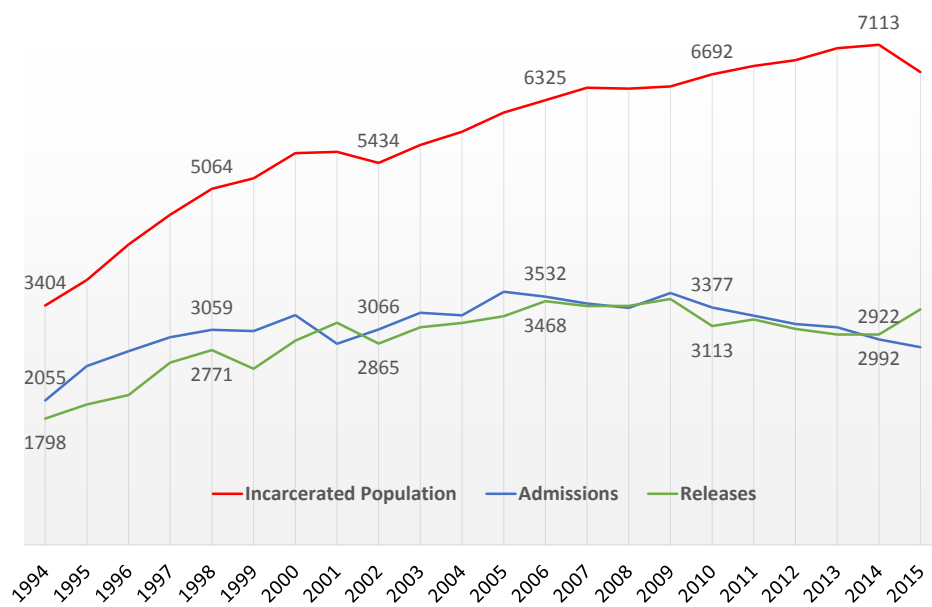
While Utah has maintained an incarceration rate (per 100,000 population) below the national average, the prison population has been growing. Utah's prison population grew significantly and faster than the national growth rate. Figure 1.1 shows Utah's prison population as well as the inflow and exits of inmates in Utah's prison.

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**Utah's prison population is growing significantly faster than the national growth rate.**

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**Figure 1.1 Average Yearly Prison Population, Admissions, and Releases 1994-2015.** In order to control the growth in the prison population, the board must continuously release inmates.




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**Prior to 2006, releases were not keeping pace with prison growth. Since 2006, the board released roughly as many inmates as entered prison.**

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Source: Utah Department of Corrections. Numbers above reflect the averages for the year.

Prior to 2006, releases were not keeping pace with prison growth and, consequently, the inmate population expanded. Since 2006, the board released roughly as many inmates as entered prison. Because violent crime rates have declined since 1996, other factors such as the amount of time inmates are staying in prison and legislative policies have contributed to a growing prison population. The average number of months inmates stay in prison has increased by 28 percent between 2005 and 2014, which is a concern discussed in Chapter II.

One aim of JRI in H.B. 348 was to “...slow prison growth and reduce recidivism rates, resulting in savings for taxpayers, while maintaining public safety,” creating sweeping changes to Utah’s criminal justice system. The BOP worked collaboratively with other stakeholders on a number of these changes. For example, the BOP helped to establish a system of graduated caps for technical violations of probation and parole. These changes, which took effect October 1, 2015, also restricted board authority. The board is now required to award inmates with mandatory time cuts for successfully completing specified programs. Overcrowding can result when admission rates and lengths of stay increase simultaneously. While the board plays a critical role in preventing prison overcrowding, all inmate release decisions must carefully consider the impact on public safety.

Ensuring public safety is an essential function of parole boards. To some extent, incarceration is necessary for public safety. Some offenders belong in prison. However, the majority of offenders will eventually leave prison, and therefore, it is imperative that the BOP utilize the best evidence-based tools available to encourage offender rehabilitation and diminish public safety risk. Improved risk assessment tools can help board members more accurately predict an inmate’s propensity for committing a new crime. Therefore, we encourage the board to adopt risk assessment tools to enhance the individualized review of cases as discussed within this report.

## Scope and Objectives

Members of the Legislative Audit Subcommittee approved this performance audit of Utah’s Board of Pardons and Parole. They asked that we review whether the board appropriately uses its authority. This report is our response to this request. This chapter outlined background information pertaining to BOP operations and some of the recent changes in criminal justice landscape nationally and locally. The remaining chapters will address the following issues and offer corresponding recommendations:

- **Chapter II – BOP Can Benefit from Improved Planning, Oversight, and Structure.** This chapter reviews the board’s decision-making process and the data that supports its decisions.

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**The majority of offenders will eventually leave prison; therefore, the board should use evidence-based tools to enhance parole decisions.**

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**Members of the Legislative Audit Subcommittee asked that we review whether the board appropriately uses its authority.**

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- **Chapter III – BOP Should Adopt Proven Best Practices.** This chapter reviews the board’s adherence to proven best practices.
- **Chapter IV – BOP Should Adopt an Electronic File Management System.** This chapter reviews the board’s file management system for opportunities to improve efficiency and effectiveness.
- **Chapter V – BOP Should Consider Implementing Process Efficiencies.** This chapter reviews the board’s operations for efficiency gains.

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## Chapter II

# BOP Can Benefit from Improved Planning, Oversight, and Structure

As shown in Chapter I, the Utah Board of Pardons and Parole (BOP or board) has substantial authority and discretion compared to boards in other states. BOP's broad authority and discretion brings with it a weighty responsibility to demonstrate it is making effective, consistent decisions based on proven practices and evidence-based research that promote public safety and improve criminal justice outcomes. The board is dedicated to this responsibility, but we found several areas where improvement is needed. Specifically, the board needs to develop a strategic plan, track key performance measures, measure its effect on the criminal justice system, and improve its transparency. The board also needs to evaluate its internal organization to ensure it is adequately structured to provide the necessary framework to accomplish these important changes.

### Improved Planning, Performance Measures, And Transparency of Information Is Needed

The BOP has always been a crucial player in Utah's criminal justice system. The board has been especially involved in justice reinvestment efforts since the Legislature passed House Bill (H.B.) 348 in the 2015 General Session. We are encouraged by the board's actions, but more can be done. We believe the BOP should:

- Develop a strategic plan
- Track and monitor key data elements<sup>5</sup>
- Measure its impact on the criminal justice system through targeted performance measures
- Improve its transparency, resulting in greater accountability and oversight

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<sup>5</sup> The limitations of BOP's current data and the need for key data elements will be discussed more in Chapters III and IV. Also, we recognize that the board has only had a data analyst position for several months, which has further limited its ability to analyze data. However, the board could have made data collection and analysis a budget priority in previous years.

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**The BOP has a weighty responsibility to demonstrate it is making effective, consistent decisions.**

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**The BOP needs to develop a strategic plan, track key data elements, better measure its impact, and improve transparency.**

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**Currently, the BOP does not have a formal strategic plan, but lists some general goals that are not publicly available.**

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## **BOP Should Develop a Formal Strategic Plan**

The first area where BOP can improve is to formalize its strategic planning process by creating and implementing a document that lists the organization's goals and the strategies needed to achieve those goals. Currently, the BOP does not have a formal strategic plan, but has listed some general goals and ideas that are not publicly available. The practice of strategic planning is well accepted among various organization types. We found that several other state parole boards or releasing authorities use strategic plans to set goals, discuss challenges, and provide operation information to stakeholders. For example, Colorado's strategic plan places a particular emphasis on recidivism tracking, lists current challenges the board is facing, and discusses evidence-based measures the board is pursuing (for example, how many individuals are seen for repeat revocations, or the number of paroled offenders who are homeless). Wyoming board's strategic plan lists goals of the board and then provides performance measures such as percentage of offenders successfully completing parole.

Further, the National Institute of Corrections published a manual titled *Parole Essentials: Practical Guide for Parole Leaders*. The manual states, "Like any healthy organization, parole boards would do well to assess strategically whether their work is meeting its intended goals." The BOP should develop a formal strategic plan that contains information on performance goals, provides key data elements, and discusses other issues and challenges the board is working on. The BOP should also make its plan public and provide ample information to increase transparency of its operations and objectives.

## **BOP Should Collect, Track, and Monitor Key Data Elements**

The second area in which the BOP can improve is obtaining and using better data. Insufficient data coupled with limited planning weakens the board's ability to track progress and understand how its decisions are affecting the criminal justice system. Consequently, the board may be reactive instead of proactive, which can lead to unplanned outcomes. For example, length of stay (LOS) or time

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**BOP needs better data. Insufficient data coupled with limited planning can weaken the board's ability to track its performance.**

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served has increased 28 percent<sup>6</sup> over the last ten years, with an increase of about 1,000 beds at a cost of millions of dollars<sup>7</sup>. LOS is perhaps one of the most fundamental indicators that the board should track and understand because it is at the foundation of the board's responsibility. But BOP has not been adequately tracking this information. Even more, the board is not fully aware whether its decisions that contributed to the 28 percent LOS increase positively affected public safety, reduced recidivism, or simply cost taxpayers more money.

We recognize that the BOP is not the only driver of increased length of stay. Enhancements to the criminal code can also drive length of stay. However, the Commission on Criminal and Juvenile Justice (CCJJ)—after studying criminal justice issues in Utah with the PEW Charitable Trusts—wrote that “. . . increasing adherence to the Sentencing Guidelines by the Board of Pardons and Parole (the Board) where they had previously departed below guidelines” was in their opinion an explanation for the increased LOS.

This decision by the board was not part of a strategic planning document, and at least initially, it is not clear how widely the board's change in strategy was known publicly. We believe it is imperative that the BOP track and understand key data elements like LOS. Figure 2.1 shows data provided by the Utah Department of Corrections (UDC) that length of stay has steadily increased over the last fifteen years.

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**The BOP has not been adequately tracking prison length of stay.**

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**The board is not fully aware if an increased length of stay has positively affected public safety, reduced recidivism, or simply cost taxpayers more money.**

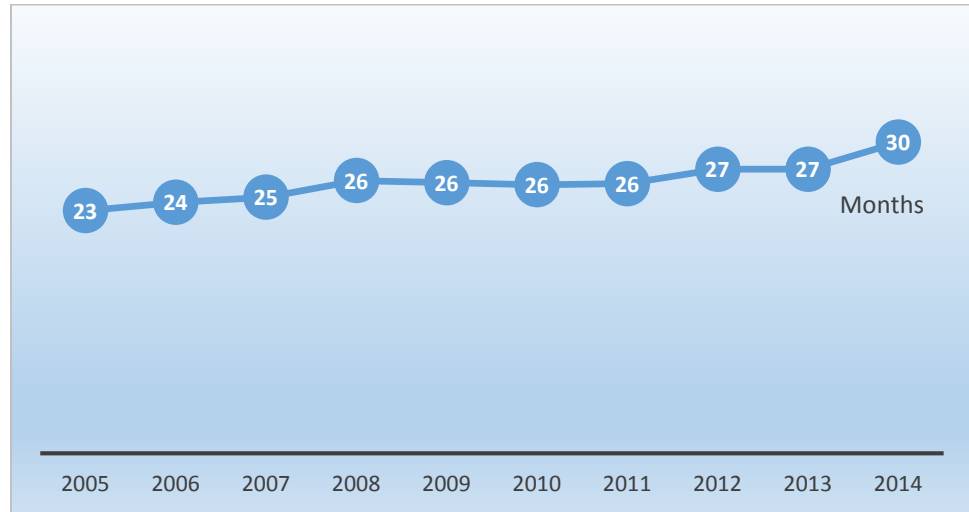
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<sup>6</sup> Note length of stay (LOS) increase varies somewhat between PEW/CCJJ reports and UDC information. This is due to minor variations in the way the information was analyzed, but both reports show a significant increase in LOS. In this report we use UDC LOS data.

<sup>7</sup> Note that this cost estimate is simply the estimated bed growth multiplied by UDC's daily incarceration rate. To fully recognize this savings, either sections of the prison need to be closed and staffing levels cut back or the cost of additional prison space can be avoided. For example, the Legislature appropriated \$36 million for a 192 bed expansion at the Gunnison prison in the 2014 General Session.

**Figure 2.1 Average Number of Months Spent in Prison.** Inmates' length of stay has increased over the last decade.



Source: Utah Department of Corrections: Sentencing, Admissions and Release Statistics. July, 2014.

**Increase in LOS has occurred over all offense types, including nonviolent crimes.**

Figure 2.1 shows, the average LOS in months has been steadily increasing over the last ten years. We note that increase to LOS has occurred over all offense types, including violent and nonviolent crimes. PEW also conducted analysis on the increase to LOS. Here are some of their key findings:

- Length of stay increased for most nonviolent offenders.
- Property offenders' length of stay increased 26 percent from 2004 to 2013.
- Length of stay increased for serious crime categories.
- Offenders are serving longer portions of their sentences behind bars.
- Offender characteristics do not explain the increase in LOS. PEW found that an offender in 2013 was likely to serve 4.6 months longer than an offender in 2004 even with the same characteristics (demographical factors, criminal history, offense type, sentencing type, release type, sentencing court district).

**The length of incarceration is a policy issue; our concern is that BOP has not been adequately tracking and analyzing this information.**

We understand that there is significant research and varying theories evaluating the benefit of short versus lengthy incarceration periods, especially for nonviolent offenders. We view that discussion as a policy issue and it is not discussed in this report. Rather, we believe



that the BOP should improve its tracking of key data elements such as LOS to better understand how its decisions affect criminal justice in Utah.

**BOP's Reported Cost Savings Should Be Taken in Context of Increased Length of Stay.** The board has been reporting cost savings to the Legislature for a number of years. The savings are based on the board releasing individuals before their actual stated parole dates, or, in other words, the board has been tracking savings from its version of a "good time"<sup>8</sup> program. A similar program is now required in statute. For calendar year 2014, the BOP reported 64,350 bed days reduced for a savings of about \$5 million.

However, it is also important to note that the increase in LOS in calendar year 2013 to 2014 resulted in about 156,000 more bed days for an increase cost of about \$12 million. Again, we understand the length of stay increase is not solely controlled by the BOP, however, the BOP is a significant driver of LOS.<sup>9</sup> Our concern is that the BOP has not adequately tracked and studied increases in LOS and has not considered overall LOS in its calculations. If the BOP feels increasing the LOS is achieving better criminal justice outcomes, they should articulate those outcomes and publicly report them.

### **BOP Should Measure Its Impact on Criminal Justice through Targeted Performance Measures**

The third area for improvement is the need for the BOP to bolster its performance metrics. Performance metrics take key data elements and use them to measure program effectiveness. Currently, the board's primary measure of decision effectiveness is timeliness. While timeliness is important, the BOP can improve how it measures its effectiveness within the criminal justice system. As stated by the

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**Increases in LOS from 2013 to 2014 resulted in about 156,000 more bed days, for an increased cost of about \$12 million.**

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**BOP also needs to bolster its performance metrics.**

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<sup>8</sup> A good time program is a program that reduces incarceration for good behaviors in prison; this can include obtaining additional education or completing therapy programs.

<sup>9</sup> A complete review of the impact of criminal enhancements, which can also affect LOS, was not undertaken in this audit. Instead, we note that the impact of some recent enhancements, like Jessica's law, has not been fully realized. Jessica's law was passed in 2008. Increased time served will be realized when inmates sentenced under these enhancements do not receive a parole date as early as they would have without the enhancements. Currently, many of these inmates would not yet have been paroled, so the full effect has not been realized.

National Institute of Corrections, “a critical function of any public-sector agency is to measure how well the taxpayer’s dollar is being spent. To do this requires the ability to establish and measure outcomes.” Figure 2.2 illustrates the current performance metrics at BOP that are mainly focused on timeliness.

**Figure 2.2 Current BOP Performance Metrics Consist Mainly of Timeliness.** Measuring timeliness is good, but the board can improve how it measure its effectiveness on criminal justice outcomes.

<b>Timeliness of All Hearing Results.</b> Percentage of hearings processed from conducting hearing to entry of result within 30 days or less.
<b>Parole Revocation Timeliness.</b> Percentage of cases addressed within the 30-day target time frame for a parole violator to go from in-state custody to first action by the board addressing the parole violation.
<b>Response Time for Correspondence.</b> Average number of days to respond to correspondence from date of receipt to sending a response.
<b>Victim Notification.</b> Percentage of contacts made with identified victims pursuant to: <i>Utah Code 77-27-9.5(3)(a)</i>
<b>Hearing Timeliness</b> (Less parole violations). Average of total hearings conducted pursuant to timeline defined by <i>Utah Administrative Code R671-201</i>
<b>Non-Hearing Routings Timeliness.</b> Percentage of non-hearing cases completed within 15 days - measured from receipt to entry of result.

*Source: Board of Pardons and Parole*

In addition to timeliness, the board should also measure its impact on criminal justice. Below are some examples of impact measurement in other states.

- Recidivism rates are tracked and the information used to help pinpoint deficiencies for future decision making.
- Prison releases to parole are tracked by category. For example, categories that are tracked include violent aggravated sexual offenders, non-aggravated offenders, offenders’ institutional behavior and programming, parolees’ risk level for re-offense, and parolees by age, gender, and ethnicity. This information is then used to understand the impact of the board’s decisions on these various groups.
- The total number of offenders who successfully completed their sentences under parole supervision is tracked and measured. Also, the total number of supervised cases closed by revocation to prison by parole violations, technical parole violations, and new criminal convictions are all tracked for consistency and improvement.

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**Other states’ releasing authorities track items such as recidivism, prison releases by category, and successful completion of parole.**

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- Consistency of board decisions to guidelines is tracked. One state tracks how often decisions are made in accordance with its own internal guidelines. The state uses this information to update and improve its guidelines.

The need to measure performance is becoming increasingly more important. NCSL stated the following in its report, *Principles of Effective State Sentencing and Corrections Policy*,

States increasingly are requiring state-funded corrections programs to have evidence that they work to protect the public and reduce recidivism. Today more than ever, policymakers expect these programs to be both effective and cost-effective. This requires information and analysis that is recommended throughout the *Principles* for policy development, review and oversight.

The Utah Legislature has followed suit by requiring several reporting elements in House Bill (H.B.) 348 and provided funding to BOP for a research analyst. The BOP has now hired a research analyst, which is an encouraging first step.

### **BOP Can Improve Its Transparency, Resulting in Greater Accountability**

Fourth and finally, after the BOP formally adopts a strategic plan, collects key data elements, and bolsters its performance metrics, it should make these documents available to the public. Increasing the transparency of BOP operations is especially important because the BOP is lacking many of the normal oversight mechanisms present in other state agencies. For example, the BOP does not have internal auditors to scrutinize its finances and operations. Further, because of the small size of its budget, the BOP has not been audited for at least ten years by the Office of the State Auditor as part of the state's annual financial audit. Finally, until now, the BOP has not been the subject of a full legislative audit.

Our review of the oversight of other states' releasing authorities was mixed. In one state, the Legislature bolstered oversight of the board by allowing the board's decisions to be appealed to the appellate court, though the official we spoke to did not recommend this type of oversight. In another state, the board was part of the state's department of corrections and received oversight through that entity,

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**The BOP needs to increase its transparency, especially since it lacks many of the normal oversight mechanisms of other state agencies.**

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though again there are drawbacks to not being an independent organization. Even more common was an oversight structure similar to Utah's: an independent board appointed by the governor. Accordingly, we are not recommending any structural oversight changes, but do recommend that the BOP increase its level of transparency, publicly providing more information on its performance and operations, so stakeholders and the public can be well informed about BOP's operations and goals.

## **BOP's Internal Organizational Structure Should Be Reviewed**

As discussed in the previous section, several operational improvements are needed at the BOP. To help ensure these improvements are made and are effective, the board should review its organizational structure. We do not question the dedication of BOP employees, but the board needs to ensure it has adequately defined its roles and the roles of its staff to maximize the needed operational improvements.

### **BOP Needs an Organizational Structure That Fosters Development and Improvement**

The BOP is currently governed by a board chair and the other four members of the board. The board chair is appointed by the Governor as the agency head. In addition, the board chair has the same responsibilities as the other board members to vote and make decisions. The board oversees and directs a staff of about 40 people. The board has hired an administrative coordinator and has recently given this person more administrative responsibility. However, board members have expressed concern that their responsibilities in making parole and other required decisions leave little time for strategic planning.

We believe the board should review its role and consider promoting the administrative coordinator to an executive director and delegating some or all operational responsibilities to this position. This step could free up board member time for policy making and goal setting. The executive director can then coordinate activities and implement the changes deemed important by the board. This structure would also help clarify important internal control responsibilities

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**Board members have expressed concern that their responsibilities in making required decisions leave little time for strategic planning.**

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**The board should consider creating an executive director position.**

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described by the Government Accountability Office (GAO). Figure 2.3 provides GAO’s internal control model.

**Figure 2.3 GAO Green Book, Standards for Internal Control.** The GAO recommends that organizations define level of responsibilities and oversight.

Oversight Body	The oversight body is responsible for overseeing the strategic direction and obligations related to the accountability to the entity.
Management	Management is directly responsible for all activities, including the design, implementation and operating effectiveness of an entity’s internal control system.
Personnel	Personnel help manage, design, implement, and operate

Source: Government Accountability Office Green Book

The board should review standards such as those found in GAO’s Green Book and formally decide which management functions, if any, it wants to maintain, then delegate the rest to an executive director. This model has been successfully employed by the Utah State Tax Commission (Tax Commission).

### Utah State Tax Commission Uses a Management Plan In Administrative Rules to Separate Responsibilities

Just as with the BOP, the Governor, with the consent of the Senate, appoints four state tax commissioners. The state constitution directs the tax commissioners to administer and supervise state tax laws. To separate the decision-making function of tax appeals from agency oversight, the tax commissioners, in consultation with the Governor and with the consent of the Senate, appoint an executive director to oversee the agency’s day-to-day operations. *Utah Code* 59-1-207 directs the commission to establish by rule the duties and responsibilities that will be delegated to the executive director. The tax commissioners have implemented this requirement and clearly articulated a management plan in *Administrative Rule* 861-1A-16 that denotes the responsibilities the commission maintains and those that are delegated to the executive director.

The management plan establishes that the commissioners retain certain authority such as making rules, setting legislative priorities, and providing policy guidance to the executive director. The plan specifically delegates to the executive director duties such as the day-to-day management of the operations and business of the agency, human resource functions, the agency’s budget, strategic planning,

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**The state tax commissioners effectively use an executive director to manage many of that agency’s affairs.**

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final action on employee grievances, and development of internal policies.

We note that the Tax Commission is significantly larger than the BOP, but the principle of assigning responsibilities and functions is well supported and operates in other states' releasing authorities.

### **Other States' Releasing Authorities Utilize an Executive Director Position**

We found that, in several other states, the board has appointed an executive director and given responsibility for administrative functions and planning to that position. For example, in Idaho, the board's executive director is appointed by the governor and is responsible for managing the administration of daily commission business and scheduling hearings. In Wyoming, the board appoints the executive director, who is responsible for overall management of the agency and its operations. We recommend that the Board of Pardons and Parole evaluate its internal organizational structure to ensure continued improvement is achieved.

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**Many other states' releasing authorities also effectively use an executive director.**

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## **Recommendations**

1. We recommend that the Board of Pardons and Parole develop a strategic plan and make it publicly available.
2. We recommend that the Board of Pardons and Parole create and monitor key data elements.
3. We recommend that the Board of Pardons and Parole measure its impact on the criminal justice system through targeted performance measures.
4. We recommend that the Board of Pardons and Parole increase its level of transparency by publicly providing more information on its performance and operations, so stakeholders and the public can be well informed about the BOP's operations and goals.

5. We recommend that the Board of Pardons and Parole evaluate its internal organizational structure to ensure continued improvement is achieved. The board should consider the following points during its evaluation:

- Creating an executive director position and giving more responsibilities to this position
- Formalizing in rule a management plan

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## **Chapter III BOP Should Adopt More Proven Practices**

Chapter II discussed planning, performance measures, and structural improvements for the BOP to consider. This chapter builds upon the concept of how BOP can improve the decisions it makes with offenders. The BOP is largely a decision-making organization, making thousands of decisions each year that greatly affect offenders' lives and the entire criminal justice system. Currently, these decisions are based primarily on board members' and hearing officers' professional judgement and experience. Research and the outcomes reported from other states indicates that professional judgement coupled with evidence-based practices produce better outcomes and decisions that are more consistent. Therefore, we recommend the BOP adopt two specific best practices that can enhance decision consistency and improve outcomes:

- Structured decision making (SDM)
- A clear and direct rationale sheet

Along with these two specific practices, we also recommend the BOP review and adopt a larger set of proven practices that have been incorporated into ten practice targets by the National Parole Resource Center. The board agrees with this direction and has already begun implementing these recommendations.

### **Structured Decision Making Will Increase Consistency of Decisions**

The BOP can do more to ensure its decisions are consistent, fair, and properly structured for the best outcomes. Nationally recognized research organizations that study paroling authorities recommend that parole boards adopt a structured decision-making (SDM) model. SDM is an evidence-based, policy-driven approach to decision making that uses established risk and needs factors to make quality release decisions. Paroling authorities that use SDM are better at setting goals and report better outcomes. In our survey of 13 indeterminate states like Utah, we found 6 that use SDM. By developing and using this evidenced-based, policy-driven approach to decision making, the BOP

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**We suggest the BOP couple its professional judgement with evidence-based practices to produce better outcomes.**

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**Structured decision making (SDM) is an evidence-based, policy-driven approach to making decisions.**

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**SDM provides increased decision consistency, reduced recidivism, and enhanced public safety.**

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**The potential for differences in sentence lengths highlights the need for a common board paroling philosophy.**

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will be better able to take advantage of many benefits that SDM provides, such as increased consistency in decisions, reduced recidivism, and enhanced public safety.

Currently, BOP parole release decisions are based mainly on individual professional judgement and experience. BOP decision makers have differing philosophies and may weigh factors in the same case differently. The lack of a common paroling philosophy may be the cause for the large number of inmates and inmate advocacy groups expressing concerns about the inconsistency of paroling decisions. The board has taken steps to implement SDM but as a prerequisite, the BOP should establish a common paroling philosophy to facilitate consistency in parole decisions.

### **Lack of Common Paroling Philosophy Creates Concerns Over Consistency of Decisions**

A number of inmate advocacy groups and inmates have expressed concern that parole decisions are not consistent, because from their viewpoints, similar crimes receive widely different sentence lengths. This is a common concern in states that use an indeterminate sentencing structure, because it increases the potential for sentencing disparity. We recognize that different sentence lengths for similar crimes can be justified by aggravating factors in a case. However, the potential for these differences highlights the need for a common board paroling philosophy to minimize disparity. Our audit work found that the board does not have a common sentencing or paroling policy (philosophy) to help guide their decisions and maintain consistency of sentence lengths for similar offenders. In its report on parole essentials, the National Institute of Corrections stated the need for organizational goals, as shown in Figure 3.1.

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**Figure 3.1 The National Institute of Corrections' Statement on Goals.** A focus on making single case decisions contributes to more varied outcomes.

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Where no overall organizational goal is articulated and the organization focuses on making single case decisions, individuals are free to insert their own personal perspectives into the many decisions that are routinely made. As a result, cases with similar circumstances may have widely different outcomes that may depend significantly on the person(s) making the decision in each case.

Source: National Institute of Corrections, "Core Competencies: A Resource for Parole Board Chairs, Members and Executive Staff"

**The Board Should Better Plan and Discuss Its Guiding Philosophy.** SDM is an evidence-based, policy-driven approach to decision making that uses established risk and needs factors to make quality release decisions. As a prerequisite to the SDM process and to ensure consistency in paroling decisions, the board should first reach consensus on their goals, accepted tools, and philosophy. The National Institute of Corrections says board members and executive staff should be able to “...articulate clearly the philosophy, vision, and direction of parole in their jurisdiction.” A set of common goals and objectives promotes board unity and establishes foundational principals to guide parole decisions. In determining their philosophy, the BOP might consider the following:

- Set a threshold, such as sentencing guidelines, to determine when punishment has been met
- Determine the weight to place on risk and needs assessments in decision making
- Determine how to incorporate evidence-based practices in its decision making
- Determine how to best decide public safety risk and the level at which release from prison will be considered
- Determine how to weigh violent crimes against nonviolent crimes

As an example of how a guiding philosophy works, the Pennsylvania parole board determined that it would use the minimum sentence pronounced by the court as just punishment. The Pennsylvania parole board considers only public safety when making decisions.<sup>10</sup> Pennsylvania’s board also determined that violent offenders should be treated with a higher standard and added a weighting factor for violence into their SDM. As another example, Georgia’s parole board decided to focus its SDM on risk to public safety, which affects how long a person will serve. Inmates serve time until they are no longer considered a threat to public safety. By first identifying a philosophy and goals, Utah’s BOP can better include them in their SDM process, which should improve decision consistency.

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<sup>10</sup> Pennsylvania’s sentencing structure is significantly different from Utah’s. We discuss Pennsylvania’s philosophy to demonstrate how the content of a board philosophy can affect the mechanics of decision making.

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**A set of common goals and objectives promotes board unity and establishes foundational principals to guide parole decisions.**

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**Part of the Pennsylvania parole board’s philosophy is that violent offenders should be treated with a higher standard.**

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## **BOP Needs to Create a Parole Decisional Framework that Includes Evidence-Based Practices**

We believe that the BOP needs to adopt a structured decision-making (SDM) tool to bring more consistency to its decisions. SDM establishes evidence-based principles, such as risk and needs principles, in the decision-making process. Risk assessment attempts to assess an offender's likelihood of reoffending. Needs analysis specifically targets an offender's criminogenic needs with the appropriate services and parole conditions. Utah's board does currently use some risk and needs assessment tools, but these tools are not structured or uniformly used and applied in the decision-making process. Most states that have SDM use the risk assessment tool as a uniform starting point to a decision, thereby ensuring more consistency. Utah's BOP is beginning to work on the development and implementation of SDM.

**Structured Decision Making Is Widely Recommended.** The National Parole Resource Center, the Center for Effective Public Policy, and the National Institute of Corrections recommend that state parole boards adopt structured decision making (SDM). Several states have adopted SDM and report more consistent decisions and better outcomes. The PEW Research Foundation recommends that parole boards anchor their SDM model on empirically-based risk and needs assessment tools. Appendix A provides examples of SDM tools used in Ohio and Pennsylvania. These tools vary in form, but both accomplish the purpose of structuring decisions. There are a number of reported benefits for using a SDM tool.

### **Benefits of Structured Decision Making Have Been Well Documented**

Studies show that parole boards that use and follow SDM in most cases are better at accomplishing their goals for offenders than they were before using SDM. Including risk assessment tools in their SDM have enabled such boards to predict an offender's risk of failure better than professional judgement alone. By using individual needs assessment tools, SDM can make better program placements and impose parole conditions tailored to the individual's specific criminogenic and risk factors. Research also shows that matching offenders to treatment programs reduces recidivism, improves offender outcomes, enhances public safety, and more efficiently uses expensive public resources. Other identified benefits of SDM include the following:

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**The BOP currently uses some risk and needs assessment tools, but they are not uniformly used and applied in the decision-making process.**

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**Parole boards that use SDM are better at accomplishing their goals for offenders.**

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- Consistency and fairness of individual parole decisions increases
- Decisions can be better substantiated
- Liability for decisions decreases
- Transparency of decisions increases
- Training new board members is easier
- Data for evaluating individual, system, and program decisions is provided

One noted expert in SDM said that, by using SDM, “board members should arrive at similar decisions for the same case, and they should be able to distinguish between cases representing good and bad parole risks.”

Pennsylvania’s parole board is one of the leaders in using SDM in the area of parole. The Pennsylvania board found that professional judgement alone was no better than chance at predicting outcomes. Instead, Pennsylvania’s board found that professional judgement coupled with evidence-based practices was much more effective. Members begin their SDM with three assessment tools to determine an offender’s risk potential for violence and reoffending. They also use a needs assessment tool to further identify parole conditions and services (see Appendix A). The board’s goal is to incorporate evidence-based practices and the need for continuous improvement, using data and research.

**Using SDM Can Increase Efficiency.** Pennsylvania, an indeterminate state like Utah, studied decision-making trends after the parole board implemented SDM. Their data showed that board members made very similar decisions when using SDM, so they now require only one board member’s and one hearing officer’s vote to approve parole for nonviolent offenders. This process change illustrates one way in which SDM allowed them to better deal with the overwhelming number of parole decisions they have to make.

Pennsylvania has 9 board members (currently only 7 slots are filled) and 18 hearing officers, with a population of about 50,000 inmates, or about 1,850 inmates per board member or officer. Utah has 5 board members and 11.5 hearing officers for a population that has been averaging about 7,000 inmates or about 425 inmates per board member or officer. Naturally, there are differences in the way each state approaches parole decision making and we do not intend to make a one-to-one comparison. However, it appears that structured

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**Using SDM, board members should be able to distinguish between cases representing good and bad parole risks.**

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**The Pennsylvania parole board found that board members made very similar decisions when using SDM.**

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decision making can help achieve more efficiency. Chapter V discusses other areas where BOP can obtain more efficiency.

## **BOP Should Improve Rationale for Its Decisions**

A second area to aid the BOP in decision making is an improved rationale sheet. The only information an inmate receives about the content of the board's decision is a rationale sheet that lists some aggravating and mitigating factors. Several individuals at the BOP told us that this sheet does not capture the important factors the board uses in weighing their decisions. The PEW Charitable Trust organization, in coordination with the Commission of Criminal and Juvenile Justice (CCJJ), conducted a correlation analysis and found no or very little correlation between the rationale sheet's listed aggravating or mitigating factors and length of stay. PEW staff shared their data with us and we corroborated their finding.

Further, inmates, families, and advocates list the rationale sheet as one of their primary concerns because they find it confusing, vague, and unclear. Best practices discuss communication with inmates as an important factor. We also found that other states' releasing authorities have more informative rationale sheets that focus on specific areas of improvement and/or risk to the community. The board agrees that it needs to improve its rationale sheet and is currently working on a new version of the form.

### **Current Rationale Sheet Does Not Correlate to Decision Made**

As part of the Justice Reinvestment Initiative, PEW sampled over 200 case files at the BOP in 2013 and found no correlation between factors checked on the rationale sheet and an inmate's length of stay. Because key data at the BOP is contained only in paper files, PEW staff had to manually enter key data elements. PEW primarily reviewed cases of nonviolent, second-, and third-degree drug and property offenders. They concluded that Utah's parole board needs to improve its rationale sheet. PEW provided us their data and we used it to conduct our own correlation analysis. Our findings corroborated PEW findings.

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**The only information an inmate receives about the content of the board's decision is a rationale sheet that lists some aggravating and mitigating factors.**

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**PEW found no correlation between factors checked on the rationale sheet and an inmate's length of stay.**

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In its 2014 Sentencing Guidelines report, the Utah Sentencing Commission stated that, “reasons should always be specified when the guideline sentence is not recommended.” The Sentencing Commission also stated that one mitigating factor could outweigh all the aggravating factors (and vice versa). However, no weights have been given to the factors and one board member or hearing officer might weight factors differently from another. The sentencing commission also said that factors should not be merely added up or otherwise mechanically applied in a balancing process. To correct for these concerns, we looked at factors individually. We found essentially no correlation between individual aggravating factors and length of stay above guidelines, nor could we find any correlation between mitigating factors and early releases. A copy of BOP’s current rationale sheet can be found in Appendix B.

These two correlation analyses seem to indicate that, at least within the sample population reviewed, the current rationale sheet used by BOP is not a good predictor of actual outcomes. It may be that a particular factor is weighted more heavily in some cases and not others, but with no apparent weighting scheme, this weighting significance is impossible to determine. The currently used rationale sheet does not provide an adequate explanation for board decisions to keep some inmates incarcerated beyond guideline length of stay. The BOP should improve its rationale sheet and is currently working on a revised version.

### **Board Justification for Decisions Is Confusing for Inmates**

We received numerous communications from frustrated inmates and inmate advocacy groups as they attempted to understand length of stay from the rationale sheet provided them. Unfortunately, with very little connection between the rationale sheet and length of stay, inmates often have little understanding why they have been kept beyond guidelines for length of stay. In fact, we found one rationale sheet provided to an inmate that was blank, with no mitigating or aggravating factors checked. The vague justification for the prison length of stay (especially when above guidelines) and the lack of guidance inmates receive for self-improvement can be counterproductive to good rehabilitation and good outcomes.

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**The current rationale sheet does not provide adequate explanation for board decisions to keep some inmates beyond guideline length of stay.**

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**We received numerous communications from frustrated inmates and inmate advocacy groups trying to understand the justification for length of stay from the rationale sheet.**

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The board's administrative rules require that an explanation of the reasons for the parole decision be given to the inmate. *Administrative Rule R671-305-1* states:

Decisions of the Board will be reached by, or ratified by, a majority vote and reduced to writing, including a brief rationale for the decision. The Board's written decisions and orders are public documents. Copies of the Board's decision shall be provided or mailed to the offender who is the subject of the decision.

The rationale sheet provided to inmates is meant to fulfill this requirement, but analysis of a large sample shows that the rationales given to inmates are not sufficient to explain why they were or were not terminated or paroled above or below guidelines. This deficiency may be caused in part by the inconsistent methods used to fill out the form.

Some officials at the BOP agree that the current rationale sheet is filled out differently by different reviewers, with some checking off many factors and some few. One BOP hearing officer told us they are careful not to mark too many aggravating factors because the inmate could argue against them. Some board members and a hearing officer also told us that the rationale sheet does not provide a clear understanding of the justification behind the board's decision and the expectations for the inmate to improve.

### **Other States We Reviewed Appear to Have More Useful Rationale Sheets**

Pennsylvania's parole board has a reasonable 18 decisional factors that a hearing officer could check to justify approval or denial of parole. Utah's parole board has 33 aggravating factors and nearly as many mitigating factors on its rationale sheet. Pennsylvania also provides a list of requirements that an inmate can fulfill by the next review to improve his chances for parole. Utah's parole board does not typically provide such information. The Ohio parole board must cite the grounds for denial of parole, which, for most cases, relate to risks to the community. In contrast, Utah's rationale sheet provides inmates with little insight into the factors that contributed to the board's decision. The BOP's rationale sheet also looks at aggravating factors in the offender's background, which are already included in the sentencing guidelines. To improve, the BOP should create a shorter

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**Some BOP officials agree that the current rationale sheet is filled out differently by different reviewers.**

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**To be more informative, the BOP should create a shorter list of decision justifications that focuses on public safety.**

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list of decision justifications that focuses on public safety and provides inmates with useful information.

The board reported to us that it is moving forward with a new rationale sheet. Members said that they intend to make the new form more informative and create it in a way that allows them to capture data that can be analyzed and reviewed. The theory behind the new rationale sheet is a good first step by the BOP. We recommend that the board adopt and implement a new rationale sheet that provides meaningful information to inmates and collects useful data for analysis.

## **Use of Research-Based Practices Can Help BOP Improve Its Outcomes**

In addition to the two best practices just discussed, we recommend that the BOP adopt and integrate the nationally recognized ten practice targets that incorporate evidence-based practices in parole decisions. The board agrees and is already working toward implementation of some of these practice targets.

### **Several Factors Have Hampered BOP's Adoption of Evidence-Based Practices**

While evidence-based practices for releasing authorities have been used and implemented by other states for a number of years, the BOP has inconsistently adopted these practices. The board desires to adopt more evidence-based practices, but full implementation of these practices has been limited for a number of reasons. Some of these reasons were discussed in Chapter II, such as the lack of planning, performance information, and optimal organization structure. In addition, other barriers, such as a paper-based system (discussed in Chapter IV), and lack of a dedicated researcher, have slowed implementation. H.B. 348 helped the board move towards being more data driven by providing resources for a recently hired research analyst. The board has welcomed the opportunity to update its information and processes that H.B. 348 provided. The board should now seek to overcome all barriers and fully adopt evidence-based practices.

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**The BOP is already working toward implementation of some of the nationally recognized research-based practices.**

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**The lack of a dedicated researcher and the paper-based system have slowed implementation of evidence-based practices.**

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## Proven Research Practices Can Help BOP Manage Risk and Improve Outcomes

The National Parole Resource Center, a joint initiative between the Center for Effective Public Policy and the Association of Paroling Authorities International, in partnership with the US Department of Justice, has outlined ten practice targets that detail ways for paroling authorities to better use these and other evidence-based principles to carry out their functions for more effective risk reduction. Figure 3.2 lists the ten practice targets.

**Figure 3.2 Ten Practice Targets Recommended by the National Parole Resource Center.** These evidence-based practices have been shown to improve parole outcomes.

1. Use good, empirically-based actuarial tools to assess risk and criminogenic needs of offenders.
2. Develop and use clear, evidence-based, policy-driven decision-making tools, policies, and guidelines that reflect the full range of a paroling authority's concerns.
3. Maintain meaningful partnerships with institutional corrections and community supervision (and others) to encourage a seamless transition process and the availability of sound, evidence-based programs.
4. Use their influence and leverage to target institutional and community resources to mid- and high-risk offenders to address their criminogenic needs.
5. Consider for release at the earliest stage possible—in light of statutes and other sentencing interests—offenders assessed as low risk.
6. Use the parole interview/hearing/review process as an opportunity to—among other goals—enhance offender motivation to change.
7. Fashion condition-setting policy to minimize requirements on low-risk offenders, and target conditions to criminogenic needs of medium- and high-risk offenders.
8. Develop policy-driven, evidence-informed responses to parole violations that incorporate considerations of risk, address criminogenic need and severity, assure even-handed treatment of violators, and use resources wisely.
9. Develop and strengthen case-level decision-making skills/capacities in these areas.
10. Develop and strengthen agency-level policy making, strategic management and performance measurement skills/capacities.

*Source: National Parole Resource Center*

We recommend that the BOP develop a specific plan to adopt and integrate each of the ten practice targets outlined by the National Parole Resource Center. Naturally, the board should ensure public safety goals are not compromised through any new policy or procedure.

**The board should ensure that public safety goals are not compromised by any new policy or procedure.**

## Recommendations

1. In connection with the strategic plan mentioned in Chapter II, we recommend that the Board of Pardons and Parole adopt a policy that documents its philosophy and goals. This policy can be updated to meet the goals of new board members or to incorporate new evidence-based practices.
2. We recommend that the Board of Pardons and Parole adopt and implement a structured decision-making tool, which should include the elements of risk and need based on evidence-based practices.
3. We recommend that the Board of Pardons and Parole adopt and implement a new rationale sheet that provides meaningful information to inmates and collects useful data for analysis.
4. We recommend that the Board of Pardons and Parole adopt and integrate each of the ten practice targets outlined by the National Parole Resource Center.

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## **Chapter IV**

# **BOP Should Adopt an Electronic File Management System**

The Board of Pardons and Parole (BOP or board) operates its business almost completely in a paper-based system. There are significant drawbacks to the board's current paper-based system:

- The system is vulnerable to errors when making and entering board decisions as well as calculating sentence length and credit for time served.
- The system limits the ability to track critical data such as performance metrics and restricts transparency.
- The system creates several operational inefficiencies, such as difficulties in sharing information with surrounding criminal justice agencies and sequential, rather than simultaneous, workflows.

We recommend that BOP move to an electronic file management system as has been done in other Utah criminal justice agencies and in other states. We further recommend that the board evaluate internal resources (nonlapsing funding) and other funding sources along with state resources when seeking funding for an electronic file management system.

### **BOP's Current Paper Process Is Vulnerable to Errors**

Our review of the BOP's business process revealed two areas that are vulnerable to errors. One vulnerability is the way the board documents and enters decisions. The BOP's current decision-making process relies on board members' handwritten notes, which are unclear and subject to misinterpretation. In most cases, we could not decipher the handwritten notes to validate that clerical staff entered decisions correctly. Second, calculations for time served made in case files are also vulnerable to inaccuracies.

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**There are significant drawbacks to the BOP's current paper-based system.**

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**The BOP's current decision-making process relies on board members' handwritten notes.**

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Ensuring board decisions are clear and recorded consistently, as well as ensuring case file calculations are accurate, is critical. These factors affect the timing of Utah offenders' release from prison and therefore need to be correct. An electronic system will help reduce errors and promote better security by clarifying board member communication and enabling electronic voting, which will eliminate the need for clerical staff to enter board decisions. It will also improve the accuracy of critical case file calculations by entering calculations into a program designed to limit mistakes.

### **Board Decision Making Is Unclear And Vulnerable to Inaccuracies**

The board's current decision-making process is vulnerable to inaccuracies. In order to make decisions, board members hand write their decisions on a paper voting form. When there are sufficient board votes, clerical staff enter the board's final decision into the Utah Department of Corrections (UDC) electronic offender database. There are two concerns with this process. First, the writing on the forms is often cryptic and difficult to interpret. Second, there is a risk that clerical staff will record board decisions incorrectly, resulting in an inmate receiving a prison sentence that shortens or exceeds the intended length because of misinterpretation or data entry errors. We identified one case where this occurred. Board members and staff acknowledge that the board's current voting process is difficult to read and could be misunderstood. Board members support adopting electronic voting to clarify and improve the decision-making process.

**Board Decisions Are Subject to Human Errors.** While a recent change in board policy requires the two clerks who enter board decisions to examine each other's work, they are not subject to any other internal or external review. Our ability to validate whether staff enter board decisions correctly was limited because board decisions are handwritten and difficult to decipher. So instead, we randomly reviewed paper files, complaints, and electronically tracked changes, which revealed errors.

For example, while reviewing a paper file, we documented a board decision entered incorrectly but not caught by clerical staff. We also identified errors by reviewing complaints filed to the board by inmates or their attorneys. Additionally, we documented that BOP clerical staff made 103 data entry errors in 2014, which accounts for about 1

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**There is a risk that clerical staff will enter board decisions incorrectly.**

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percent of hearing decisions they enter. These data entry errors occur when the staff enter handwritten notes into UDC's electronic database. While most of these clerical errors are unlikely to be significant, such as small typos, additional errors like the one identified in our paper file review likely exist.

Moreover, after entering results, board members do not review final orders to ensure accuracy. Hence, we are concerned that information could be misinterpreted, inaccurately entered, or manipulated, which is also a concern raised by several board staff. We are not suggesting the clerical staff are delinquent in their duties; in fact, they are quite skilled in deciphering the board's handwriting. However, human error occurs and can be better controlled through an electronic voting system.

**Electronic Voting Could Reduce Human Errors.** Other state parole boards and Utah's Courts have adopted electronic voting. Iowa, Georgia, Wyoming, and Texas are among the states we contacted whose parole boards vote electronically. For example, Iowa's parole board chair reported that their transition to electronic voting enhanced efficiencies by automating how board members cast their votes. When board members select their votes, a set of corresponding options are auto-populated on the electronic voting sheet. Likewise, Georgia's parole board votes electronically. Their system tabulates the results, eliminating the potential for human entry errors.

Utah's Supreme Court also uses electronic voting. According to the programmer who developed this capacity, the voting program allows all five judges to simultaneously access case files and share supporting documentation for their decisions. The program automatically counts the votes and identifies when there is sufficient agreement, at which point the decision becomes a formal legal document. By automating the board's voting process, board members can more clearly understand each other's intentions, staff time and resources dedicated to voting are reduced, and results, once automated, are entered accurately and cannot be altered.

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**Iowa's parole board chair reported that their transition to electronic voting enhanced efficiencies by automating how board members cast their votes.**

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**Case analysts who are responsible for calculating and entering key dates acknowledge that mistakes, while rare, are made.**

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## **Case File Calculations Are Vulnerable to Inaccuracies**

Sentencing calculations,<sup>11</sup> credit for time served, and maximum jurisdiction dates are additional risk areas related to the BOP's current paper-based system. Case analysts who are responsible for calculating and entering key dates to an inmate's case file acknowledge that mistakes, while rare, are made. Accurate calculations are very important. As one case analyst stated, the consequence of getting calculations wrong is significant – an inmate can serve either too much time or not enough. There is also the risk that board members may take action, such as a warrant for an arrest, on an inmate's case who is no longer in their jurisdiction. Additionally, if documentation from surrounding criminal justice agencies is delayed, case analysts may not have the information they need to credit inmates for the all the time they have served.

Unlike the cross-examination control used by the two clerical staff entering board decisions, a secondary case analyst does not review case file calculations. While hearing officers will occasionally identify a miscalculation, the burden of detecting inaccuracies rests on the inmate. Inmates can petition the board for a formal review if they identify inaccuracies. We were able to document inmate letters sent to the board that led to board review and changes to the inmate's case file. While this review process is important, front-end controls are preferable. For example, board staff could enter critical calculations into an electronic program designed to limit mistakes, ensure accurate calculations, and improve interagency communication.

## **Paper-Based System Limits Data Tracking and Transparency**

The BOP's paper-based system limits the ability to track key performance metrics and data critical to board operations. Paper files also limit transparency and availability of information to external entities. These significant concerns were discussed in Chapter II. Adopting an electronic file management system will help the board begin collecting and analyzing data on how their actions affect the

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**Paper files limits the ability to track key performance metrics and data critical to board operations.**

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<sup>11</sup> Sentencing calculations can be complex because an offender may have multiple offenses that a judge orders either consecutively or concurrently.



larger criminal justice system. This will also promote more informed decision making.

### **Key Performance Metrics and Data Are Not Captured In Current Paper-Based System**

Paper files limit the board's ability to track key performance metrics and data that could be used to improve their decision making process. Paper files also limit transparency because paper files are difficult to analyze and to share.

**Key Performance Metrics Are Not Readily Tracked in a Paper-Based System.** The percent of decisions consistent with sentencing guidelines, percent of individuals paroled or expired from prison, and percent of inmates successfully completing parole are among the key performance metrics not currently tracked by the BOP.

For example, estimating the percent of decisions consistent with sentencing guidelines would require an onerous paper file review. This is because the data needed to make the calculation is maintained in paper files and not readily accessible. BOP case analysts use a spreadsheet to make sentencing guideline calculations, then print a paper copy of their analysis and attach it to the paper file. This is the only record kept of their calculations. Because this data is not available electronically, an aggregate analysis of decisions consistent with guidelines can only be completed through a labor-intensive process of pulling paper files and keying in necessary data.

Utah's Sentencing Commission sets the guidelines used for estimating sentence length. The 2015 sentencing guidelines state "except where there are aggravating and mitigating factors, the board is encouraged to make decision compatible with the guidelines." Since the board does not compile its guideline calculations electronically, it is difficult to verify if they are releasing offenders above or below the guidelines. If the board's calculations are the official record, then this information needs to be available electronically. This availability would allow the board and external entities to collect data on sentencing guidelines as well as other performance metrics.

**Electronic System Can Improve Decision Making by Providing the Board with Needed Data.** The Legislature recently provided funding and the board hired a research analyst to comply with the new reporting metrics required by the Justice Reinvestment

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**It is difficult to verify whether the board is consistently following sentencing guidelines.**

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Initiative. The analyst will also help the board understand how its decisions affect the larger criminal justice system. Unfortunately, paper files are a major encumbrance to these activities. As one board member stated, “our system does not capture the data needed to start crunching the numbers.” Effectively utilizing the analyst’s skills will be difficult until the BOP is able to digitize its actions. Voting data as well as aggravating and mitigating factors (discussed in Chapter III), are not captured in a paper-based system. This data could provide the board valuable feedback about the types of decisions they make as well as the effectiveness of these decisions.

### **Paper Files Limit Transparency**

Paper-based systems limit information sharing with external entities. Obtaining information from the BOP requires a paper file review, which can be very time intensive. For example, the American Civil Liberties Union of Utah (ACLU) requested information from the board but was unable to get this information because of the paper-based filing system. The following is the board’s specific response to this request:

The Board cannot provide the information you requested. The Board uses paper files and does not collect the specified data. Compiling the information would require staff to search thousands of inmate and parole files by hand.

According to a representative from the ACLU, “the most important questions from an ethical standpoint cannot be answered because of a lack of data” at the BOP. Utah’s Commission on Criminal and Juvenile Justice (CCJJ) also attempted to analyze data from BOP. Since only paper files can be reviewed, a CCJJ researcher reported that their study was a “very time-consuming and a cumbersome process.” Likewise, PEW did a case file review to evaluate whether inmates were released before or after the date suggested by the Sentencing Guidelines. To conduct this review, they hand-pulled 200 cases but had difficulties with determining how the guidelines were calculated. We underwent a similar process of pulling 500 paper files to acquire basic information relevant for this report. Ineffective information sharing results in higher costs, time delays, and a lack of transparency.

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**Obtaining information from the BOP requires a paper file review, which can be very time intensive.**

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**Ineffective information sharing results in higher costs, time delays, and a lack of transparency.**

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## **Paper-Based System Creates Operational Inefficiencies**

In addition to the data limitations, there are also operational inefficiencies that result from a paper-based file management system. These include limitations on information sharing with surrounding agencies as well as BOP workflow, since only one activity can be performed on an offender's file at a time. Board staff devote significant amounts of time to the paper process. Staff time spent printing, copying, filing, and locating paper files is costly and time intensive.

We did not conduct a full process management review to determine potential savings. However, inefficiencies with the paper-based system are evident throughout the organization. The majority of the savings that will result from adopting an electronic system will come from staff workflow improvement and efficiency gains. Until electronic systems experts design the electronic system, it is difficult to know the full effect of a new system, but we anticipate significant efficiency gains are possible.

### **Paper-Based System Impedes Information Sharing and Workflow**

A paper-based file management system presents several operational inefficiencies for the BOP. It hinders the exchange of information with other correctional agencies, restricts workflow, and takes significant staff time to maintain. In contrast, an electronic system can improve operational efficiencies.

**Paper Files Hinder the Exchange of Information with Other Correctional Agencies.** Electronic documents are generated by surrounding agencies such as the Department of Corrections and the Courts. These documents are sent electronically to the BOP where they are converted into paper documents and processed manually, then the BOP's final verdict is transcribed from paper into an electronic database to be shared with surrounding agencies. The board's administrative coordinator likens this to a "black box" as shown in Figure 4.1.

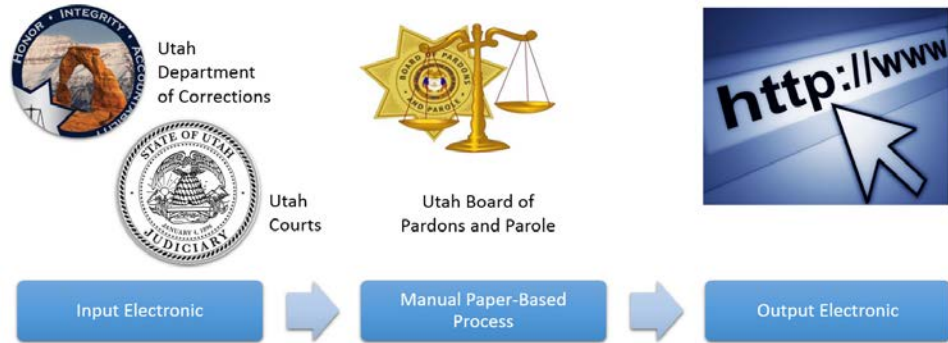
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**A paper-based file management system hinders the exchange of information with other correctional agencies, restricts workflow, and takes significant staff time to maintain.**

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Surrounding criminal justice agencies maintain and share their information electronically.

**Figure 4.1 The BOP's Paper-Based System Is an Impediment to Information Sharing Across State Agencies.** The BOP is the only paper-based system among Utah's correctional entities, creating process inefficiencies.



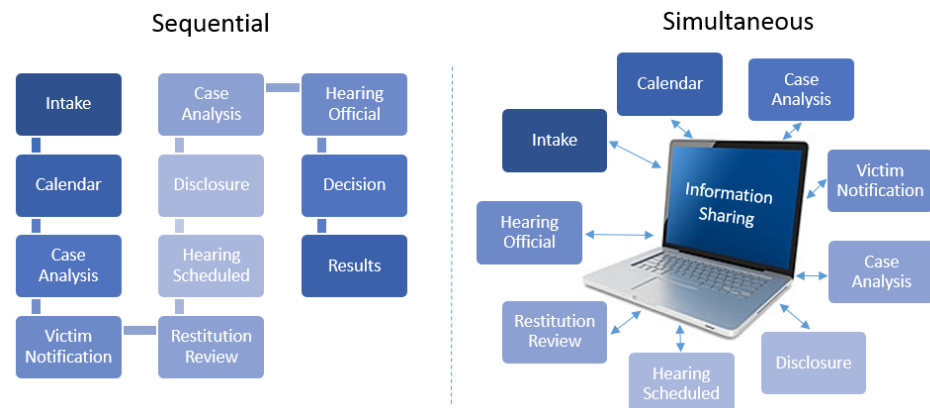
Source: Office of the Utah Legislative Auditor General

Since the UDC and the Courts maintain and share their information electronically, it appears reasonable that the BOP also go electronic.

**The Board's Current Workflow Is Not Optimized Because It Is Embedded in Paper Files.** Figure 4.2 illustrates the paper workflow for a typical case that receives a hearing.

**Figure 4.2 Board of Pardons Workflow.** An electronic file management system would create workflow efficiencies by allowing case activities and information sharing to occur simultaneously.

A paper-based process only allows the completion of one activity on an inmate's file at a time.



Source: Office of the Utah Legislative Auditor General

One problem with the board's current paper process is that it only allows the completion of one activity on an inmate's file at a time. Because each paper file must cross the desks of many different people, the process is susceptible to bottlenecks and other inefficiencies. For example, when a hearing officer is gone for a day, a backlog of files will stand waiting for review. The photograph shown in Figure 4.3 demonstrates this problem.

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**Figure 4.3 Board of Pardon's Paper Files Move Sequentially.** Each of these carts moves sequentially from one desk to the next in order for BOP staff to perform their individual tasks.

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*Source: Photo taken by auditor from the Office of the Utah Legislative Auditor General*

If the BOP were to implement an electronic system, multiple people could access and perform their tasks simultaneously. This would result in board decisions being delivered at a faster rate.

Iowa deployed an electronic case-review module in 2013, which altered the way their board handled information gathering, filing, file review, and voting. According to their 2014 annual report, going electronic has allowed "...the Board and the Iowa Department of Correction to share information on a real-time basis and has increased Board workflow and efficiency." Iowa's board chair reported that adopting electronic files has allowed the board to make more decisions more efficiently. In a paper system, they typically processed 30 to 40 cases a day, while in their electronic system, 60 to 70 cases are processed daily. Other states we interviewed, such as Georgia and Wyoming, have reported similar efficiency gains. Additionally, there is

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**Iowa's electronic file system allows the sharing of information on a real-time basis and has increased board workflow and efficiency.**

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a national movement toward electronic recordkeeping. To “...assess the impact of programs, to reduce redundant efforts, to save money, and to share knowledge within and across their organizations,”<sup>12</sup> all federal systems are required to adopt paperless systems by 2019.

### **Significant Staff Time Is Devoted To a Paper-Based System**

Board staff spend significant amounts of time working with a paper-based system. Printing documents, building files, copying files, filing files, transferring and locating files, and entering results are all necessary components of the current system. We interviewed all BOP staff and found that significant time is devoted to the paper-based process across the organization. For example, as previously mentioned, two clerical staff devote the majority of their time to manually entering the board’s handwritten decisions. Electronic voting would eliminate this task. As another example, an office specialist estimated that going electronic would free up one-third of her time, which is approximately the amount of time she spends locating, copying, and procuring reports for a paper file.

Several hearing officer staff reported concern with the amount of time they spend engaging in paper-based activities. Their chief complaint was time spent retyping information from paper reports into a document for the board. For example, one hearing officer described spending significant amounts of time retyping, making copies, and other paper-related activities. This hearing officer is eager to have these activities automated.

There is also the problem of not having any backup for paper files. If there were a flood or fire, much of the information in the files is irreplaceable. In contrast, electronic systems can be backed up at a number of different sites to ensure the information is safe and secure.

Finally, electronic files will allow more remote activity on cases, improving work flexibility. Board members occasionally take paper files home for work. This task would be simplified by adopting an electronic file management system.

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**Significant time is devoted to the paper-based process across the organization.**

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**Electronic systems can be backed up to ensure information is safe and secure.**

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<sup>12</sup> Presidential Memorandum –Managing Government Records (Nov. 2011).

Iowa reported significant staff reductions occurred when implementing their electronic system. They reduced their full-time staff from 13 to 5. In Iowa, 5 board members, 2 administrative law judges, and 5 staff handle about 11,400 hearings annually. Utah handles slightly more cases at 11,700, but uses 5 board members and 34 staff. While differences in the two states exist, Iowa's experience demonstrates that transitioning to an electronic system can reduce staffing needs. Again, the full efficiency gains of an electronic system are unknown until system experts design the system.

## **Electronic BOP System Will Promote Alignment With Other Criminal Justice Agencies**

With other Utah criminal justice agencies as well as other state parole boards adopting electronic file management systems, it is increasingly clear that it is time for the board to convert to a paperless record-keeping system. The current board supports transition from a paper-based to electronically based record-keeping system. To do this, the board will need to determine if it is in its best interest to develop an electronic system that piggybacks on the UDC's database or purchase a system from a private vendor. Funding the new system will likely require funding from several sources, including federal funds, nonlapsing funds, and other state resources.

### **Other Utah Criminal Justice Agencies Are Already Electronic**

Greater reliance on electronic communications and systems has changed how state agencies manage and share their information. Since the BOP records management is not updated for the digital age, communication between the BOP and other criminal justice agencies is hampered.

UDC stores much of its information in an electronic system. UDC collects key data electronically that it can analyze and review. The UDC also electronically generates much of the offender information the board relies on for its paper files. Utah State Courts also began adopting an electronic case filing system in 2008. Budget cuts required Utah's courts to operate more efficiently, leading them to transition from paper files to an electronic operation in their district and justice courts. The juvenile and appellate courts will soon be electronic as well. The courts report clerical time savings between 8 and 16 percent.

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**The board will need to determine if it is in their best interest to develop a system that piggybacks on the UDC's database or purchase a system from a private vendor.**

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**Utah State Courts began adopting an electronic system in 2008, which resulted in significant efficiency gains and cost savings.**

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They also report significant ongoing savings of \$570,000 by selectively filling fewer clerical positions and \$150,000 savings annually, starting in fiscal year 2014 by not purchasing file folders. Notably, judges have successfully adapted to paperless courtrooms. If judges can work in paperless courtrooms, board members can work in paperless hearing rooms.

### **Implementation Options Are Available for an Electronic System**

To implement an electronic system, the board must decide whether it is preferable to build a system using the existing UDC database or purchase a system from a third-party vendor. IT experts from the Department of Technology Services (DTS) have already assisted the board in developing a BOP module within the offender database. To make this module fully functional and to automate board business processes, more staff and funding is needed, according to DTS' IT director. DTS management suggests that the board hire a dedicated BOP programmer within DTS as well as an equivalent FTE. They also suggest that the board contract with a private consultant to analyze BOP business practices. Rather than duplicate the current process, an electronic system should be designed to improve process efficiencies. Exact costs for developing and maintaining a system built in-house by DTS are unknown.

Iowa purchased an electronic system from a private vendor, using salary savings from efficiency gains to develop the electronic system over time. They spend \$45,000 annually to use and maintain the electronic system and can purchase additional work, as needed, at a contracted rate. According to Iowa's board chair, this approach was preferable to building a system in-house because it eliminated costs associated with hiring additional staff. The initial cost of Iowa's system was significant, costing millions. They are requesting additional resources from the legislature this year to complete the last phase of their electronic system. We cannot predict whether Utah's BOP will experience similar salary saving in adopting an electronic system, as such changes may require staff that are more specialized. Regardless of the implementation option selected by the board for building an electronic system, they will need to identify seed money as well as ongoing funds to support the new system.

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**IT experts from the Department of Technology Services have already assisted the board in developing a BOP module within the offender database.**

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## **Funding Options Are Available For an Electronic System**

With a limited IT budget, funding an electronic system is a challenge. Since UDC houses DTS and pays for the vast majority of the board's services, the board's IT needs have not been a priority. Occasionally, the BOP will pay for small projects from DTS, but this piecemeal approach is ineffective for larger projects. Therefore, to adopt an electronic system, the board will need to identify all potential funding options.

To fund an electronic file management system, we recommend that the board first evaluate internal resources. According to preliminary estimates, the BOP has about \$255,000 in nonlapsing balances, but the majority of these funds are earmarked for a hearing room remodel located at the BOP's office. Additionally, in fiscal year 2015, most of the BOP's nonlapsing balance was transferred by the Legislature to the Utah Office of Victims Reparations to fill critical funding gaps. Consequently, the BOP may have little internal funding for an electronic file management system. The BOP can also tap into federal resources. Officials at CCJJ indicated that some federal funding would likely be available for this project. Georgia used federal funds to build its electronic system. Finally, the Legislature could consider providing seed funding to the BOP to help the transition to an electronic system.

## **Recommendations**

1. We recommend that the Board of Pardons and Parole adopt an electronic file management system.
2. We recommend that the Board of Pardons and Parole utilize internal resources (nonlapsing funding) and federal resources before requesting state funds for an electronic file management system.

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**With a limited IT budget, funding an electronic system is a challenge.**

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**The Legislature could consider providing seed funding to the BOP to help the transition to an electronic system.**

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## **Chapter V**

### **BOP Should Consider Implementing Process Efficiencies**

To deal with ever-increasing workloads and board decisions, the Board of Pardons and Parole (BOP or board) should consider implementing process efficiencies. Specifically, the board should consider a more streamlined approach for less severe offenders who have similar lengths of stay. This group represents roughly half of prison releases each year. The PEW Charitable Trusts group recently reviewed criminal justice needs in Utah and recommended process efficiencies that have been adopted in some other states. In addition, the number of persons seeking pardons has been increasing, but many of these newer pardon seekers have relatively minor offenses for which they were unable to obtain records expungement. We believe the BOP should work with the Legislature and the Bureau of Criminal Identification (BCI) in expanding expungements for those with relatively minor offenses or create an abbreviated pardon process for low-level offenders. Naturally, before adopting any process change, the board should ensure public safety is not compromised.

#### **A Streamlined Decision Process Is Needed for Less Serious Offenders**

As the state's population grows, BOP's workload will continue to increase. The PEW Charitable Trusts group studied Utah's criminal justice system in 2014; they estimate that Utah's prison population will grow 37 percent in the next 20 years. In order to deal with this growth, we believe the board should consider process efficiencies before adding more hearing officers. Other states have achieved efficiencies by streamlining the parole processing of low-risk, less severe offenders and have maintained decision quality. In this section, we recommend a continuum of options the board could pursue to achieve efficiencies in processing low-level offenders, such as limiting case preparation requirements, reducing the number of board member votes for release decisions, and in limited circumstances allowing hearing officers a vote.

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**The Board of Pardons and Parole should consider a more streamlined approach for less severe offenders.**

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**To deal with increased prison populations, the board should consider process efficiencies before adding hearing officers.**

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**The PEW Charitable Trusts estimates Utah's prison population will grow 37 percent in the next 20 years.**

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## **Growing State Population Means Increasing Prison Population and More Decisions for Board**

Utah's total population has experienced strong, steady growth for many years, passing 3 million citizens in 2015, and is expected to reach 4 million in 2031. Fortunately, Utah's 2013 incarceration rate of 242 inmates per 100,000 population is one of the lowest in the nation compared to the western states' rate of 416 and the U.S. incarceration rate of 478 per 100,000. However, Utah's prison population has experienced fairly steady growth for the past 20 years (with a few declining years), and is now about 7,000 inmates. The PEW Charitable Trusts group projects that Utah's prison population will grow 37 percent in the next 20 years. Though 2015's House Bill (H.B.) 348, called the Justice Reinvestment Initiative (JRI), will hopefully slow future prison growth rates, total inmate growth rates will likely increase at some rate with population growth.

Prison population increases means that the number of decisions the BOP will have to make, such as parole release dates, conditions for parole, restitution, warrants, and revocations, will likely increase as well. These increases will continue to place pressure on the 37.5 full-time equivalent (FTE) employees of the board. In the past, the board hired more hearing officers to deal with prison population growth. They also made some process improvements, such as allowing hearing officers to conduct many of the face-to-face hearings that previously were handled by board members. The board also allows one board member to approve warrants. We believe the board should consider similar process efficiencies with low level offenders.

## **Board Makes Consistent Decisions on Short Sentences But Spends Significant Time Making Them**

The BOP does not add a weight to cases. In other words, the board performs the same lengthy, extensive decision process for nonviolent, short-term cases as it does for the much longer term, more severe cases. BOP told us that cases are assigned randomly and the weighting of cases gets sorted naturally as hearing officers will devote more of their weekly caseload to complex cases. We believe that more sophistication and precision can be achieved.

Upon an inmate's entry into the prison system for an original crime, the board is required by law to conduct an original hearing to set a potential parole date. To prepare for the hearing:

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**The board performs the same lengthy and extensive decision process for nonviolent, short-term cases as it does for long-term, severe cases.**

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- the sentence length must be verified
- victims are identified and notified
- a restitution review is conducted
- a summary of the inmate's crimes and history is written
- a face-to-face interview is conducted by a hearing officer

All of these steps must occur before three board members can vote on a parole date. Since there is no precision to caseload management, the same process can be used for someone charged with minor drug possession or someone charged with a high-level offense, such as murder.

Just over half, or 53 percent, of the 1,459 inmates released in 2014 were nonviolent, non-person offenders who spent less than 2 years in prison. For the past 10 years, an average of 845 parolees were released each year, having served time for crimes that were alcohol- and drug-related, driving violations, drug possession only, or some other type of non-person offense, after having spent less than 24 months in prison. On average, a hearing officer will conduct 300 original hearings a year, spending 3.3 hours per hearing, which means these less severe cases alone occupy the time of three hearing officers. By streamlining and reducing the process for low level offenders, the board could potentially free up the time of one or more hearing officers for other duties or to deal with increased caseloads.

Our analysis of these short-term cases shows that, even though there is some differentiation in the length of incarceration, their shorter length of stays are less varied than longer ones and grouped more closely due to their shorter stays. Figure 5.1 shows a scatter plot of 176 inmates, most of whom committed non-serious offenses, comparing their time served to their recommended sentencing guidelines.

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**Just over half of inmates released in 2014 were nonviolent, non-person offenders who spent less than 2 years in prison.**

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**Our analysis of short-term cases shows their lengths of incarceration are less varied than longer terms.**

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**Figure 5.1 Shorter Sentences Tend to Group More Closely Than Longer Ones.** A limited sample of 176 mostly less serious, released offenders shows that those with shorter guideline recommendations often serve below sentencing guidelines.

**Most low level offenders serve less time in prison than the sentencing guidelines recommend.**



Source: Based on PEW data n=176

The red line represents sentencing guidelines. The dashed blue line represents the actual trend line of releases, showing that most inmates serve less time in prison than recommended in the sentencing guidelines. Part of the reason for an earlier release that is less than sentencing guidelines is the time reduction given for completing programming. Inmates can also serve more time than what the sentencing guidelines recommend if the board feels the crime or the inmate’s misbehavior in prison warrants more time. The tight grouping of short-term inmates suggests the board’s decisions for these cases are more similar because there is less room for variation in sentence lengths. Since the board is consistently making similar decisions for inmates with short terms, it would make sense to treat these cases in a streamlined process. Half of their yearly parole releases could fall into this category, resulting in significant time and resources savings by streamlining these cases. Such streamlining has been done in other states and was recommended by the PEW group who studied the Utah criminal justice system.

**The tight grouping of short-term inmates suggest the board’s decisions for these cases are more similar.**

## Many Other States Have Streamlined Decision Making for Less Severe Cases

Many states have adopted different strategies to gain efficiencies with the release of short-term inmates. According to NCSL, currently 17 states have streamlined certain cases by placing these inmates on determinate sentences.<sup>13</sup> For example, in Ohio, lower-level offenders are released based on determinate sentencing. This change in Ohio's policy enabled the parole board to focus time and resources on setting parole dates for the most severe criminals. We are not suggesting a determinate system be adopted in Utah, but note that it is a common practice in other states to streamline decision making on low-level offenders. We believe Utah can keep its indeterminate system that allows it to focus on the individual and still achieve efficiencies. Pennsylvania has also achieved both with its indeterminate system.

Pennsylvania has 50,000 inmates, 9 parole board members (currently there are only 7 because of vacancies) and 18 hearing officers. As of November 1, 2015, Utah had 6,599 inmates, 5 parole board members, and 11 full-time hearing officers. To handle the large number of hearings and decisions to be made, Pennsylvania allows hearing officers a vote in certain circumstances. For less severe, nonviolent offenders, one hearing officer and one board member vote regarding release. If the two disagree, a second board member votes to break the tie. Releasing a violent offender on parole requires two board members to agree. The Pennsylvania board does require a majority vote of the board to release the most serious offenders.

The Pennsylvania General Assembly also enacted a Recidivism Risk Reduction Incentive law. This law allowed low-risk offenders who meet specific criteria to receive a parole date that is the date of the end of their minimum sentence without any further review by the board. A single approving vote by a hearing officer allows the inmate to be paroled without a face-to-face hearing. We note that

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<sup>13</sup> Most states are not strictly determinate or indeterminate in their sentencing but have a hybrid model in place. The Association of Paroling Authorities International (APAI) reported in 2008 that almost half the releasing authorities in the U.S. use both determinate and indeterminate sentencing. The APAI further reported that 75 percent of releasing authorities with a "determinate sentencing framework indicate that they have some authority to release prior to sentencing completion, illustrating that even determinate sentencing structures incorporate discretionary release determination" or have an element of an indeterminate sentencing framework.

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**To handle large numbers of decisions, Pennsylvania allows hearing officers a vote in certain circumstances.**

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**Pennsylvania was able to create efficiencies because of the board's reliance on evidence-based practices.**

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Pennsylvania was able to create these efficiencies because of their reliance on evidence-based practices and the structured decision-making process (see Chapter III). Pennsylvania researched its decision making over time and found that the efficiency measures employed have not negatively affected decisions' outcomes. Similarly, Utah's BOP should consider creating efficiencies in their decision process while maintaining public safety outcomes.

### **PEW Recommended that BOP Streamline Release Decisions for Less Serious Offenders**

A recent PEW study of Utah's criminal justice system recommended that BOP follow the lead of many other states and streamline its process for short-term, less serious offenders. PEW brought together a working group of local criminal justice members, including BOP's board chair, to review process changes in release decisions. PEW recommended the following:

Streamline release decisions for less serious offenders and free up additional time for Parole Board to consider more serious cases by creating a presumptive parole release (with certain exceptions) for nonviolent offenders at their Sentencing Guideline date.

The BOP should review and implement process efficiencies as other states have done before seeking additional funding for more hearing officers.

### **Board Should Consider New Review Process for Less Serious Cases**

We are not recommending presumptive parole as suggested by PEW; however, we do believe there are a number of similar changes that could help streamline the decision process for less serious cases, freeing up time and creating efficiencies. For example,

- The board could limit the case summary and case preparation requirements and assign hearing officers higher caseloads.
- For releasing low level, non-violent offenders, the requirement for three agreeing board votes currently in place could be reduced as has been done with warrants.



- The board could consider Pennsylvania’s approach of allowing a hearing officer a vote in limited and controlled circumstances.

We also found that some other states have done away with the requirement for a face-to-face hearings with low level offenders. This would require a statutory change in Utah to implement. The BOP feels face-to-face hearings helps promote rehabilitation and is important for disclosure and due process requirements. The BOP should weigh the merits of each suggestion and implement the options they feel will achieve the greatest efficiency while maintaining or improving public safety and criminal justice outcomes.

A different voting structure, allowing for fewer board member votes, would be more successful after implementing the other recommendations (particularly structured decision making) in Chapter III. Pennsylvania implemented this change for nonviolent offenders, requiring only one hearing officer’s and one board member’s vote to approve parole. The Pennsylvania board allows this voting practice, in part, because of confidence in their structured decision-making tool (discussed in Chapter III). The research team at Pennsylvania’s board of parole found that decisions rarely changed after the first board member’s vote. We found somewhat similar results at the BOP. We conducted a review of 488 BOP parole hearings, which showed that in 96 percent of cases, just three board member votes were needed to reach a parole agreement. Only in rare cases was a fourth or fifth board member vote required because of disagreements. This analysis shows that board member agreement is high in most cases. The adoption of structured decision making will further help solidify consistency of voting in Utah. However, we note that changing voting requirements from a majority vote would require a statutory change.

## **BOP Should Review Expungement Process and Recommend Statutory Changes**

The BOP has received an increase in the number of pardon requests over the last year and a half. This increase is due partially to more people seeking pardons because the Bureau of Criminal Identification (BCI) rejected their expungement requests for relatively minor offenses. Some applicants rejected by BCI are turning to the board, which has greater authority to pardon and, by extension, expunge criminal records. The board’s pardon process involves

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**We found that 96 percent of parole hearings required just three board member votes to reach a parole agreement.**

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**As more applicants for expungement are rejected by BCI, more people are turning to the board for pardons.**

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significant staff time and resources. Therefore, we recommend that the BOP and BCI review the expungement process and recommend to the Legislature statutory changes that reduce pardon workloads. Permitting low-level cases an abbreviated pardon process is one option. Another option is to expand the definitions governing the expungement process in statute.

In the 2013 General Session, H.B. 33 passed, creating a process for expunging drug-related offenses by expanding the types of drug offenses eligible for expungement. These changes appear to have encouraged more people to seek expungements.

Another related bill, S.B. 201, that had passed in 2012, defined the term “traffic offense.” While the bill expanded expungement eligibility to include traffic offenses, the list is narrowly defined and does not include many offenses involving the use of motor vehicles. BCI is statutorily required to consider all convictions, including traffic offenses not on the defined list, when determining expungement eligibility. Therefore, expungement requests are rejected by BCI when the applicant has five or more convictions, a number of which may be traffic offenses. Figure 5.2 shows the record of one applicant who sought an expungement and was rejected by BCI, because many traffic offences were included in the count of eligible convictions.

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**BCI rejects applicants for expungement who have five or more convictions, a number of which may be traffic offenses.**

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**Figure 5.2 BCI Denied an Applicant Seeking an Expungement Because Convictions Exceeded the Statutory Limit.** By including traffic offenses in the conviction count, this inmate's application for expungement was rejected.

Criminal History Report:

1. Retail Theft (Shoplifting), a Class B Misdemeanor
2. Retail Theft (Shoplifting), a Class B Misdemeanor
3. Retail Theft (Shoplifting), a Class B Misdemeanor

BCI added the following convictions:

1. Dog at Large
2. Fail to Appear
3. Speeding -*traffic*
4. No Proof of Insurance
5. Drive without Registration
6. Fail to Register Vehicle
7. Operate Vehicle without Insurance
8. Speeding-*traffic*
9. Animal License Violation
10. Animal Running at Large
11. Speeding-*traffic*
12. Expired License
13. Drive without Registration

Source: Utah Board of Pardons and Parole and verified by the Bureau of Criminal Identification, Oct. 2015

BCI denied this applicant because the record included five or more convictions as defined in *Utah Code* 77-40-105(4)(d). As shown, traffic convictions such as an expired license and driving without a registration are counted as violations. Following BCI's denial of an expungement certificate, this person applied to the BOP for a pardon.

If an applicant seeks an expungement and is denied, a letter is sent advising the applicant to contact the BOP to be considered for a pardon. Sending this letter is a recent practice that has encouraged more individuals to seek pardons. Unlike BCI, the parole board has discretion in granting pardons. BCI reports that it currently reject about 125 of the roughly 500 expungement applications it receives monthly. A small portion of those rejected seek pardons from BOP, resulting in an increased number of pardon requests. Figure 5.3 shows this increase.

**A small portion of those rejected for expungement seek pardons from BOP.**

**Figure 5.3 Number of Pardon Requests Received and Granted by the Board.** Since legislation passed in 2013, the board’s pardon requests increased by nearly 64 percent in 2014.

Year	Received	Eligible	Hearing Denied	Pardons Granted
2006	3	3	0	3
2009	15	15	2	13
2012	15	15	6	9
2013	33	28	13	15
2014	54	49	25	24

Source: Utah Board of Pardons and Parole, Oct. 2015

The BOP anticipated additional pardon requests and requested an additional staff position, which was granted by the Legislature. However, staff commented that they did not anticipate receiving so many applicants with relatively minor offenses.

The board performs a full pardon process on each case. Each case requires about 10 hours of processing and hearing time or about 240 hours of BOP time in 2014. Statute defines a pardon as “an act of grace that forgives a criminal conviction and restores the rights and privileges forfeited by or because of the criminal conviction.” This definition suggests that pardons are for rare cases and special circumstances, not low-level offenders. The board’s administrative coordinator stated, “It doesn’t make sense to roll out a full pardon process for some of these low level cases.”

Because of the expense and time required to process these cases, we recommend that low-level cases receive an abbreviated pardon process. Such a process would require a statutory change. It may also be useful for the Legislature to work with BOP and BCI to determine if additional statutory changes to the definition of a traffic violation are needed to qualify more people with low-level offenses for expungements.

## Recommendations

1. We recommend that the Board of Pardons and Parole (BOP) review options to streamline the process for paroling less serious, low-risk offenders. The BOP should only select options

**Pardons are for rare cases and special circumstances, not low-level offenders.**

that maintain or improve criminal justice outcomes. This may require working with the Legislature for statutory changes.

2. We recommend that the Legislature work with the Board of Pardons and Parole and the Bureau of Criminal Identification to review whether expungement eligibility should be expanded to include more non-serious traffic-related offenses and/or approve an abbreviated pardon process for low-level offenders.

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## **Appendices**

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## **Appendix A**

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**Pennsylvania Board of Probation and Parole**  
**Structured Decision Making Tool**

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## **PENNSYLVANIA BOARD OF PROBATION AND PAROLE - 361**

### **PAROLE DECISIONAL INSTRUMENT**

This instrument is designed only to assist the Board in the exercise of its discretion. In furtherance of the requirement for the Board to give proper consideration to all factors set forth by the Probation and Parole Law, the Board has developed this instrument to assist in its consideration of the information surrounding each case. Notwithstanding any recommendation under this instrument, the Board retains the discretion to deny parole based on any factor that the Probation and Parole Law requires the Board to consider. A recommendation of "Likely to Parole" does not bind the Board to grant parole, nor does it in any way create a right, presumption or reasonable expectation that parole will be granted. Under Pennsylvania Law, parole remains a matter of grace and mercy shown to a prisoner who has demonstrated to the Board's satisfaction his future ability to function as a law-abiding member of society. The Board may not release a prisoner on parole until the expiration of his minimum term of imprisonment. However, the service of such minimum term does not, in any way, create a right, presumption or reasonable expectation of parole. The Board may, in a proper case, require a prisoner to serve the maximum period of incarceration specified by the sentencing court.

- I. Calculation of Weighted Factors**
- II. Parole Interviewer Notes**
- III. Board Action**
- IV. Decisional Factors**
- V. Special Conditions of Parole**
- VI. Board Decision Maker Voting Record**

2<sup>nd</sup> Vote Requested

**V NV (Instant)**

**Parole Decisional Instrument**

Name: \_\_\_\_\_ Parole No.: \_\_\_\_\_ Inst. No.: \_\_\_\_\_

SID No.: \_\_\_\_\_ Institution: \_\_\_\_\_

Custody Level at Time of Interview: \_\_\_\_\_ Age at Interview: \_\_\_\_\_

Type of Interview: \_\_\_\_\_ Date of Interview: \_\_\_\_\_ Total Sentence: \_\_\_\_\_

Minimum Date: \_\_\_\_\_ Maximum Date: \_\_\_\_\_ Supt/Warden Recommendation: \_\_\_ Yes \_\_\_ No

**I. Calculation of Primary Weighted Factors**

**Violence Indicator by Category**

**1. OVRT Category**

- Cat 1  +1
- Cat 1 \*  +2
- Cat 2  +3
- Cat 3  +4

**Risk/Needs Assessment**

**2. Level of Service Inventory - Revised**

- Raw Score \_\_\_\_\_
- High Risk  +2
  - Medium Risk  +1
  - Low Risk  +0

**Sex Offender Risk Assessment (Static 99)**

- Raw Score \_\_\_\_\_
- High Risk  +3
  - Medium Risk  +2
  - Low Risk  +1

**Institutional Adjustment**

**3. Institutional Programming**

High Risk Violent Offender, Sex Offenders, Multiple DUI's, Murder II and Murder III, Domestic Violence

- +0 Completion of Required Program
- +1 Participation in Required Program
- +2 Waiting List for Required Program
- +3 Unwilling to Participate in Required Program

Low Risk

- +0

High Risk Non-Violent Offender

Medium Risk Violent or Non-Violent Offender

- +0 Waiting List, Participation, Completion in Required Program
- +3 Unwilling to Participate in Required Program

**4. Institutional Behavior**

- 1. Crimes Code Violation - Criminal charges pending in which probable cause has been established or a conviction has occurred from an offense that was committed while serving sentence currently under consideration for parole; and/or  +5
- 2. Drug/Alcohol Offense - Determined to be in possession of any controlled substance and/or positive test result of drugs or alcohol; and/or
- 3. Assaultive Behavior - Verbal or physical aggression which is documented by the Department of Corrections or the Board of Probation and Parole; and/or
- 4. Community Corrections Residency (CCR) Failure - Return to institution as a result of inappropriate behavior occurring while in prerelease status; and/or
- 5. Pattern of Institutional Misconducts - Three or more misconducts of any class or two or more class 1 misconducts.

No occurrence within one year of the parole interview date or since date of last review, if review period is less than one year.  +0

**Parole Suggestion**

Notate cumulative score from first four components

Suggests Parole

Suggests Parole Refusal

1 to 6

7 or greater

Minimum Date: \_\_\_\_\_ Maximum Date: \_\_\_\_\_

Instant Offense and Sentence: \_\_\_\_\_  
\_\_\_\_\_

**II. Parole Interviewer Notes**

**1. Preparation/Interviewer Notes:**

\_\_\_\_\_  
\_\_\_\_\_  
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**2. Professional Assessment/Interviewer Impressions:** (i.e. motivation for change, realistic assessment of parole challenges, insight into criminal behavior, overall risk, reentry plan)

\_\_\_\_\_  
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**3. Other Comments:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**III. Board Action**

**Board Action to Parole**

You are:

1. Paroled on or after \_\_\_\_\_ to an approved plan upon condition that there are no misconducts.  
(date)

2. Paroled on or after \_\_\_\_\_  
(date)

a. Upon completion of programming as indicated by recent DOC assessment to an approved plan.

b. Upon completion of: \_\_\_\_\_ to an approved plan.  
(specify program)

3. Paroled on or after \_\_\_\_\_ to a community corrections residency/specialized ccc with violence  
(date)

prevention programming. You shall enter into and actively participate in the community corrections residency until successfully discharged. You shall obey all the established rules of the community corrections residency. Any violation of the program rules or regulations may constitute a violation of parole and may result in sanctions and arrest. You must have an approved plan prior to release from the residency.

a. Upon completion of programming as indicated by recent DOC assessment

b. Upon completion of: \_\_\_\_\_  
(specify program)

4. Paroled on or after \_\_\_\_\_ to inpatient treatment program. You shall enter into and actively  
(date)

participate in the inpatient treatment program until successfully discharged. You shall obey all the established rules of the inpatient treatment program. Any violation of the program rules constitutes a violation of parole and may result in sanctions and arrest. (You must sign appropriate release form for confidential information.)

a. Alcohol and Other Drug (AOD)

b. Alcohol and Other Drug with Dual Diagnosis Component

c. Other \_\_\_\_\_  
(specify)

5. Paroled on or after \_\_\_\_\_, or earlier, if successful adjustment of three months in pre-release  
(date)  
to an approved plan.

6. Paroled on or after \_\_\_\_\_  
(date)

a. To Board/back time detainer sentence only.

b. To State Detainer sentence:

while confined must complete any remaining required correctional program(s) from current sentence

c. To other detainer; approved home to be available

Check One

County

Sentence

Untried Case

Other State (approved home necessary if untried case)

Federal

Sentence

Untried Case

Violation of Probation/Parole

Immigration and Customs Enforcement Detainer

Immigration and Customs Enforcement Deportation Order

Other: \_\_\_\_\_  
(specify)

**III. Board Action Continued**

**Board Action to Refuse Parole**

You are:

- a. To be reviewed in or after \_\_\_\_\_.  
(month/yr.)
- b. To be reviewed upon completion of programming as indicated by recent DOC assessment.
- c. To be reviewed in or after \_\_\_\_\_, or earlier, if recommended by the  
(month/yr.)  
Department of Corrections/County Prison Staff.
- d. To be reviewed in or after \_\_\_\_\_, or earlier, if successful adjustment  
(month/yr.)  
of three months in pre-release.
- e. To serve your unexpired maximum sentence \_\_\_\_\_, or to be reviewed  
(date)  
earlier, if recommended by Department of Correction/County Prison Staff due to appropriate adjustment and program completion.
- f. To serve your unexpired maximum sentence \_\_\_\_\_ due to your negative  
(date)  
interest in parole. Review only upon application.
- g. To serve your unexpired maximum sentence \_\_\_\_\_.  
(date)

**Requirements for Next Review**

At your next interview, the Board will review your file and consider:

- a. whether you have successfully participated in/successfully completed a treatment program for
 

<input type="checkbox"/> 1 sex offenders	<input type="checkbox"/> 4 Thinking For a Change or other cognitive behavioral program	<input type="checkbox"/> 5 Violence Prevention
<input type="checkbox"/> 2 substance abuse		<input type="checkbox"/> 6 Continue IEP pursuant to DOC requirement
<input type="checkbox"/> 3 Batterer's Intervention		<input type="checkbox"/> 7 Other: _____
- b. your compliance with DOC ordered mental health services.
- c. whether you have (received/maintained) a favorable recommendation for parole from:
 

<input type="checkbox"/> Department of Corrections	<input type="checkbox"/> Warden of County Prison
--	--
- d. whether you have (received/maintained) a clear conduct record.
- e. whether you have completed the
 

<input type="checkbox"/> Department of Corrections' prescriptive program(s).
<input type="checkbox"/> County Prisons' prescribed program(s).
- f. \_\_\_\_\_ to be available at the time of review.  
(evaluation/report)
- g. Other: \_\_\_\_\_

**Continuance - Decision Pending**

A decision in your case is pending:

- a. Receipt of information  
(Specify Non-Victim Information)
- b. Disposition of criminal charges
- c. Disposition of detainer(s)

Initials \_\_\_\_\_

Date \_\_\_\_\_

Victim Information Needed (Confidential)

LSI-R:  
Supt/Warden Recommendation:

Static 99:  
Parole Suggestion:

**IV. Decisional Factors**

	List of Factors	How Did Factor Relate to Parole Decision:		Tech Codes
		Approval	Refusal	
	<b>A. Weighted Factors</b>			
1.	<b>Violence Indicator:</b>			
	<ul style="list-style-type: none"> <li>Violent</li> <li>NonViolent</li> </ul>			
2.	<b>Program Completion:</b>			
	<ul style="list-style-type: none"> <li>Your reasonable efforts to comply with prescribed institutional programs.</li> </ul>			PM
	<ul style="list-style-type: none"> <li>Your current involvement in prescribed institutional programs.</li> </ul>			PN
	<ul style="list-style-type: none"> <li>Your participation in and completion of prescribed institutional programs.</li> </ul>			PO
	<ul style="list-style-type: none"> <li>Your unacceptable compliance with prescribed institutional programs.</li> <li>Your need to participate in and complete additional institutional programs.</li> </ul>			RX RM
3.	<b>Institutional Behavior:</b>			
	<ul style="list-style-type: none"> <li>Your institutional behavior, including reported misconducts.</li> <li>Your positive institutional behavior.</li> </ul>			RN PY
4.	<b>Risk Assessment (LSIR/Static 99):</b>			
	<ul style="list-style-type: none"> <li>Your risk and needs assessment indicating your level of risk to the community.</li> </ul>			RT
	<b>B. Non-Weighted Factors</b>			
5.	<b>Recommendation:</b>			
	DOC/County Warden			
	<ul style="list-style-type: none"> <li>The positive recommendation made by the Department of Corrections.</li> <li>The positive recommendation made by the Warden of the county jail.</li> </ul>			PF PG
	<ul style="list-style-type: none"> <li>The negative recommendation made by the Department of Corrections.</li> <li>The negative recommendation made by the Warden of County Jail.</li> </ul>			RG RH
6.	<b>Period of Adjustment in Pre-release (CCR):</b>			
	<ul style="list-style-type: none"> <li>Your successful period under pre-release.</li> <li>Your pre-release failure.</li> </ul>			PU RU
7.	<b>Prior Supervision History:</b>			
	<ul style="list-style-type: none"> <li>Your prior satisfactory parole supervision history.</li> <li>Your prior unsatisfactory parole supervision history.</li> </ul>			PI RI
8.	<b>Evaluations/Assessments:</b>			
	<ul style="list-style-type: none"> <li>Reports, evaluations and assessments/level of risk indicates your risk to the community.</li> </ul>			RJ
9.	<b>Interview Responses:</b>			
	<ul style="list-style-type: none"> <li>Your demonstrated motivation for success.</li> <li>Your failure to demonstrate motivation for success.</li> </ul>			PX RS

**IV. Decisional Factors Continued**

	List of Factors	How Did Factor Relate to Parole Decision:		Tech Codes
		Approval	Refusal	
10.	<b>Offender Perception of Offense:</b> • Your acceptance of responsibility for the offense(s) committed.			PA
	• Your stated remorse for the offense(s) committed.			PB
	• Your minimization/denial of the nature and circumstances of the offense(s) committed.			RA
	• Your refusal to accept responsibility for the offense(s) committed.			RB
	• Your lack of remorse for the offense(s) committed.			RC
11.	<b>Detainers:</b> • The existence of a pending detainer sentence filed against you. <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> County			RP
	• The existence of detainers filed against you. <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> County			RK
	• The existence of filed against you. <input type="checkbox"/> an ICE Detainer <input type="checkbox"/> deportation order			PL
12.	<b>Your placement in a treatment program in the community.</b>			PS
13.	<b>The approved transfer of your parole supervision to another state.</b>			PT
14.	<b>Your negative interest in parole.</b>			RQ
15.	<b>Release Planning:</b> • Your development of a parole release plan.			PQ
	• Your failure to develop a parole release plan.			RO
16.	<b>Other factors deemed pertinent in determining that you should not be paroled.</b> _____ _____ _____ _____ _____ _____ _____			RR
17.	<b>Judicial Input:</b> • The negative recommendation by the trial judge.			RE
	• The positive recommendation by the trial judge.			PD
18.	<b>Prosecuting Attorney Input:</b> • The negative recommendation by the prosecuting attorney.			RF
	• The positive recommendation by the prosecuting attorney.			PE
<b>CONFIDENTIAL #19 NO DISTRIBUTION OF THIS INFORMATION</b>				
19.	<b>Victim Input:</b>	Noted <input type="checkbox"/>		

**V. Special Conditions of Parole**

Imposed	Mandatory	
		<b>EDUCATION/EMPLOYMENT</b> <span style="float: right;">Low Medium High</span>
<input type="checkbox"/>	<input type="checkbox"/>	You shall maintain (employment/vocational training/schooling/ other: _____) [CIRCLE] as approved by parole supervision staff. If unemployed you shall engage in an active job search and provide verification as directed by parole supervision staff.
<input type="checkbox"/>		You shall enroll in and attend ABE/GED as directed by supervision staff.
		<b>FINANCIAL</b> <span style="float: right;">Low Medium High</span>
<input type="checkbox"/>	<input type="checkbox"/>	You shall not open, maintain, write checks on, make withdrawals from, make deposits to, or charge expenses to any checking, savings, or credit card account in your or another's name, unless approved in advance and in writing by parole supervision staff.
<input type="checkbox"/>	<input type="checkbox"/>	You shall utilize a wage attachment for your court ordered financial obligations if available through your employer.
		<b>FAMILY/MARITAL</b> <span style="float: right;">Low Medium High</span>
<input type="checkbox"/>	<input type="checkbox"/>	You shall comply with supervision under the Domestic Violence Protocol.
<input type="checkbox"/>		You shall support dependents, if any.
		<b>ACCOMODATION/LIVING CONDITIONS</b> <span style="float: right;">Low Medium High</span>
<input type="checkbox"/>	<input type="checkbox"/>	You shall submit to electronic monitoring for _____ days following release from incarceration, excluding any time spent in a community corrections residency, inpatient program or detainer status, and during periods of unemployment.
<input type="checkbox"/>	<input type="checkbox"/>	You shall obey curfew restrictions as deemed appropriate by field supervision staff.
<input type="checkbox"/>		You shall not operate a motor vehicle without a valid Pennsylvania driver's license, proof of insurance, vehicle registration and supervising agent's written permission.
		<b>COMPANIONS</b> <span style="float: right;">Low Medium High</span>
<input type="checkbox"/>	<input type="checkbox"/>	You shall not directly or indirectly have contact or associate with the co-defendant(s), gang members or _____ for any reason.
<input type="checkbox"/>		You shall not directly or indirectly have contact or associate with persons who sell or use drugs, outside a treatment setting or possess drug paraphernalia.
		<b>ALCOHOL/DRUG/MENTAL HEALTH/SEX OFFENDER PROBLEMS</b> <span style="float: right;">Low Medium High</span>
<input type="checkbox"/>	<input type="checkbox"/>	Out-patient (drug/alcohol/sex offender/mental health/other _____) [CIRCLE] treatment is a special condition of your parole supervision until the treatment source and/or parole supervision staff determines it is no longer necessary. You shall sign the appropriate release form for confidential information.
<input type="checkbox"/>	<input type="checkbox"/>	Upon your release, you shall submit to an evaluation to determine your need for (drug/alcohol/sex/mental health/OVR other _____) [Circle] treatment. If treatment is recommended, you must enroll and successfully complete all treatment recommended. You shall sign the appropriate release forms for confidential information.
<input type="checkbox"/>	<input type="checkbox"/>	You shall attend a community support group (i.e., Twelve Steps, Alcoholics Anonymous, Narcotics Anonymous or secular alternative program) as directed by field supervision staff or treatment provider.
<input type="checkbox"/>	<input type="checkbox"/>	You shall submit to urinalysis and achieve negative results in screening tests applied for the detection of the presence of controlled substances or designer drugs. You must pay the costs of the tests (Act 97-_____).
<input type="checkbox"/>	<input type="checkbox"/>	You shall not consume or possess alcohol under any condition for any reason.
<input type="checkbox"/>		You shall not enter establishments that sell or dispense alcohol except as approved by parole supervision staff.

**V. Special Conditions of Parole Continued**

Imposed	Mandatory				
<input type="checkbox"/>	<input type="checkbox"/>	You shall take psychotropic medication if prescribed by your doctor.			
<input type="checkbox"/>	<input type="checkbox"/>	Sex offender protocol. <input type="checkbox"/> 1 Minor victim <input type="checkbox"/> 2 Adult victim			
<input type="checkbox"/>	<input type="checkbox"/>				
<input type="checkbox"/>	<input type="checkbox"/>				
		<b>ATTITUDES/ORIENTATION</b>			
		<table border="1" style="display: inline-table;"> <tr> <td style="width: 33px; text-align: center;">Low</td> <td style="width: 33px; text-align: center;">Medium</td> <td style="width: 33px; text-align: center;">High</td> </tr> </table>	Low	Medium	High
Low	Medium	High			
<input type="checkbox"/>	<input type="checkbox"/>	Removal or termination from the (inpatient program, community corrections residency, or contract facility) [CIRCLE] for any reason, other than successful completion may result in sanctions or a violation of your parole.			
<input type="checkbox"/>	<input type="checkbox"/>	You shall not directly or indirectly have contact with victim(s), or victim's families, including correspondence, telephone contact, or communication through third parties. _____			
<input type="checkbox"/>	<input type="checkbox"/>	You shall not travel or reside in _____ (county, city, town) [CIRCLE] for any reason.			
		<b>OTHER SPECIAL CONDITIONS</b>			
<input type="checkbox"/>	<input type="checkbox"/>	All above/previously imposed parole conditions apply to every sentence for which you are now on parole, constructive or otherwise.			
<input type="checkbox"/>		You shall comply with any directives and /or deportation orders from Immigration and Customs Enforcement (ICE).			
<input type="checkbox"/>	<input type="checkbox"/>	You shall abide by the rules and regulations of the institution. (This applies to detainer cases only)			
<input type="checkbox"/>	<input type="checkbox"/>	You shall not possess ammunition under any condition or for any reason.			
<input type="checkbox"/>	<input type="checkbox"/>	Other: _____ _____			

**Special Instructions to Parole Supervision Staff**


**Special Instructions to Central Office Staff**


**Central Office Staff Notes**


**VI. Board Decision Maker Voting Record**

Violent Offense       Non-Violent Offense  
 Parole/Reparole      Refuse

1. Parole Hearing \_\_\_\_\_  
 Date \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. Board Member \_\_\_\_\_  
 Date \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

3. Board Member \_\_\_\_\_  
 Date \_\_\_\_\_  
 \_\_\_\_\_  
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4. Board Member \_\_\_\_\_  
 Date \_\_\_\_\_  
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5. Board Member \_\_\_\_\_  
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6. Board Member \_\_\_\_\_  
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7. Board Member \_\_\_\_\_  
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8. Board Member \_\_\_\_\_  
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9. Board Member \_\_\_\_\_  
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10. Board Member \_\_\_\_\_  
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**Ohio Parole Board**  
**Structured Decision Making Tool**

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OHIO PAROLE BOARD  
VOTE SHEET

Date:

Name:	Number:	Institution:	Time Served:
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**Type of Hearing:**

Offense:	County	Sentence
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**SRT/RT:**

**Other:**

**Static-99:**

**TCU:**

**STG Level:**

*Details of Offense/Parole Violation Behavior:*

**Criminal History**

**Ability to Control**

**Responsivity to Programming**

**Institution/Community Behavior**

**Release Plan**

**Case-Specific Details**

**Offender Change**

**Discordant Information**

**Observations**

OHIO PAROLE BOARD  
VOTE SHEET

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<b>Rationale</b>
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**ACTION:**

**Parole Board Member(s):**

## **Appendix B**

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BEFORE THE BOARD OF PARDONS OF THE STATE OF UTAH

IN THE MATTER OF: \_\_\_\_\_
(Offender Name)

RATIONALE FOR DECISION

Date of Hearing: \_\_\_\_\_

Type of Hearing: \_\_\_\_\_

In making its decision following the above referenced hearing, the Board considered the sentence and commitment imposed by the court, the nature of the offense, the applicable sentence guidelines calculated by the Board, the offender's risk to victims or public safety, the offender's past criminal behavior, and the following additional mitigating or aggravating factors.

AGGRAVATING

MITIGATING

CHARACTERISTICS OF THE OFFENSE

- Used weapons, weapon facsimiles, or dangerous instrumentalities
Extreme cruelty or depravity
Abused position of trust, special skill, or responsibility
Offense constitutes a "Hate Crime", pursuant to Utah Code. Ann. §76-3-2030.4
Offender exhibited grooming, stalking, or enticing behaviors
Number of victims or number of incidents
Personal gain derived from offense

OFFENDER'S TRAITS AT THE TIME OF THE OFFENSE

- Motive (intentional, premeditated or impulsive, reactionary)
Role in the offense (organizer, leader of follower, minimal participant)
Pre-arrest actions (obstruction or evasion of justice or early withdrawal or self-surrender)
Age, cognitive abilities, developmental disabilities, or mental health
Post-arrest behavior (continued criminal activity or abandonment of all criminal activity)

OFFENDER'S BACKGROUND

- Criminal history significantly underrepresented by guidelines (5+ felonies, 9+ misdemeanors)
History of similar offenses or behavior
Pattern of increasingly or decreasingly serious behavior or offenses
History of unsuccessful or successful supervisions
Incarceration history (prior, repeated, or first incarceration or parole)

VICTIM CHARACTERISTICS

- Child victim or crime was committed in the presence of a child
Extent of injury or loss (physical, emotional, financial, social, etc.)
Victim relatively vulnerable or aggressive, provoking, or engaged in criminal activity

OFFENDER'S REHABILITATIVE EFFORTS, PROGRESS OR STATUS

- Degree of public safety risk
Acceptance of responsibility (denial or minimization of culpability or complete acceptance)
Remorse for offense (lacks or demonstrates remorse and apparent motivation to rehabilitate)
Timeliness and extent of efforts to pay restitution or other financial obligations
Efforts at relevant or required programming (enrollment, participation, removal, or completion)
Institutional Behavior (disciplinary violations, CAP compliance, exemplary behavior)
Conduct towards DOC officers, agents or staff, treatment providers, Board staff
Degree of meaningful support system
Degree of meaningful re-entry plan
Employment possibilities (demonstrated history, special skills, or likelihood)
Lengthy history of alcohol or substance abuse or apparent rehabilitation

OTHER FACTORS

- Offender has extraordinary institutional vulnerability (age, health, other)
Offender subject to detainer or significant incarceration on other sentences in other jurisdiction

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## **Agency Response**

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**Angela F. Micklos**  
*Chair*  
**Robert S. Yeates**  
*Vice-Chair*

**Chyleen A. Arbon**  
*Member*  
**Clark A. Harms**  
*Member*  
**Jesse Gallegos**  
*Member*

**STATE OF UTAH**  
**BOARD OF PARDONS AND PAROLE**

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January 13, 2016

John M. Schaff, CIA  
Auditor General  
Office of the Legislative Auditor General  
Salt Lake City, UT 84114

Dear Mr. Schaff:

The Board acknowledges and appreciates the professionalism of the Legislative Auditor General staff and their concerted effort to thoroughly understand the parole and pardon processes. We recognize the great lengths taken to gather and analyze this information, and we are confident that the audit recommendations will strengthen the Board's processes. The Board is committed to providing the best possible service to the people of Utah and agrees with the audit recommendations.

1- The audit recommends that the Board develop a strategic plan, track key data elements, and improve transparency. The Board fully embraces these goals and is already making progress thanks to legislative funding for a Board research consultant as part of JRI, and ongoing assistance from the National Parole Resource Center.

The Board also supports the recommendation to evaluate its organizational structure and will seek expertise from the Governor's office and other state agencies to accomplish this goal.

2- The audit recommends adopting a structured decision making tool and the increased use of evidence based practices. The Board is working with the National Parole Resource Center to meet the ten best practice targets, and has already drafted new forms to improve communication of the rationale behind its decisions.

3- The Board supports adopting an electronic file management system, as recommended in the audit. The anticipated first steps will be working with an electronic records consultant to design a system that meets Utah's needs, and changing business practices to take full advantage of such a system.

4- The audit report suggests process efficiencies regarding both parole decisions and pardons for less serious offenders. The Board will explore which of these options will increase efficiency while maintaining or improving both public safety and the quality of the parole and pardon

processes. Additionally, the Board supports changes to expungement eligibility requirements that will provide better public service without compromising community safety.

The Board is confident that our continued dedication in these areas, combined with the additional required resources, will promote public safety, improve transparency, and use taxpayer money efficiently and wisely. We appreciate your efforts to define opportunities for improvement.

Thank you for the report and insightful recommendations.

Sincerely,



Angela F. Micklos  
Board Chair