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Report of the  
**PAROLE BOARD**

for the year ended  
31 December 2001

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*Presented to the House of Representatives in accordance with section 130(14) of the Criminal Justice Act 1985.*

## **MEMBERS OF THE PAROLE BOARD FOR THE YEAR ENDED 31 DECEMBER 2001**

The late Hon Justice Heron, retired High Court Judge, Chairperson  
The late Judge B Buckton, District Court Judge, Deputy Chairperson  
Mr M G Byers, Chief Executive, Department of Corrections  
Dr D G Chaplow, Director of Mental Health, Ministry of Health,  
Wellington  
Mrs J Jackson, Chief Executive, Maukau Urban Māori Authority,  
Auckland  
Mr D E Major, Chief Executive, NZ National Party, Wellington  
Fuimaono K Pulotu-Endemann, Health Consultant, Wellington  
Mr T B Wilson, Union Advisor, Hawkes Bay

Sir

I have the honour to forward the report of the Parole Board for the year ended 31 December 2001.

Hon A A T Ellis, QC  
Chairperson  
New Zealand Parole Board

# 1. GENERAL

## 1.1 *Introduction*

The number of cases considered by the Board during 2001 increased by 12%. This rate of increase is lower than the 24% increase in 2000, but higher than the 11% increase in 1999. Since 1998 the Board managed the higher number of cases by sitting in two divisions. The full Board attended the quarterly meetings where inmates eligible for discretionary release on parole were considered, and divisions of the Board deal with section 99 cases. In the latter, the Board's function was to determine the nature and duration of conditions to be imposed on inmates sentenced for serious violent offences who were not eligible for discretionary release on parole. In the interests of full involvement and consistent decision-making, it was not generally considered desirable for divisions of the Board to deal with parole cases.

In the last five years parole and section 99 cases almost trebled. The structure where the Parole Board was responsible for inmates serving sentences of seven years or more and the 17 District Prisons Boards were responsible for those with sentences of more than one year and less than seven years, had been in place since 1985. There have been significant increases in the prison population in the meantime. The proportion of inmates subject to sentences of seven years or more comprised 24% of the sentenced prison population at 31 December 2001 compared to 15.7% in 1992.

In 1998 the Minister of Justice agreed to a review of the Board's jurisdiction — with a view to reducing our workload — to be carried out by officials from the Ministry of Justice and the Department of Corrections. That review was subsumed into a wider ranging review of sentencing and parole, which culminated in the Government introducing the Sentencing and Parole Reform Bill into Parliament in 2001.

The less than well-understood scope of the Board's jurisdiction and the governing legislation (in particular the difference between a discretionary and a mandatory release on parole) have continued to be a source of frustration. In a number of high profile cases the Board's actions have been questioned when an offender has been released on parole because of the mandatory release provisions of the Criminal Justice Act.

Attention is drawn to the statistical analysis of reoffending attached to this report.

These reoffending statistics are not directly comparable to past Parole Board Annual Report statistics. Past Annual Report statistics were collated using a report derived from the Law Enforcement System (LES) database. This report was found to be non-Y2K compliant, so data relating to offenders' convictions past 2000 could not be obtained. This year's report's statistics are derived from the Department of Corrections IOMS (Integrated Offender Management System) database. Reporting parameters have been modified because:

- The IOMS database is relatively new and does not contain the long history of offenders and convictions recorded in LES.
- The Parole Board reporting parameters did not match up with those used by the Department of Corrections in its Annual Report. It is considered that the reoffending statistics in this report would be more easily understood if the reporting parameters matched those used by the Department of Corrections.

The first table compares reoffending rates for those offenders released on discretionary parole (i.e. at the Board's decision) to those released under the mandatory release provisions of the Criminal Justice Act. It is clear that those released on discretionary parole do significantly better than those released after two-thirds.

The second table compares reoffending rates for those offenders released on parole from an indeterminate sentence (life or preventive detention) to those released from a determinate sentence. Of particular note is that no offenders were reimprisoned within two years of having been released from an indeterminate sentence. This is a significant reflection on the Board's decision-making as the Board's discretion as to when and if to release an offender serving an indeterminate sentence is total.

The Board received regular reports on released offenders for the duration of their parole. For life parolees, those reports continue until the Board considers they are no longer required — generally a minimum of ten offence-free years on parole. These reports tend to confirm the validity of the statistics suggested in the tables. We believe these statistics indicate good results for parole in New Zealand in comparison with overseas results. Direct statistical comparison is not available because of divergent sentencing and parole laws and practices.

This year's statistics also indicate dramatic increases in numbers of recall and section 107 applications that the Board has been required to consider as a result of the services responsible for making these applications, Community Probation Service and Public Prisons Service, both reviewing their policy and process in this regard. Both applications are potentially tools in appropriate cases for reducing reoffending, so it is well regarded by the Board that both recall and section 107 applications are being made more frequently.

## **1.2 *Victims of Offences***

The Board considers that victims need a voice in the parole decision-making process and is pleased to note the increased awareness of the rights and needs of victims of offences in recent years.

The Criminal Justice Amendment Act 1999 requires the Board to have regard to any written submissions made by victims in addition to its existing task of considering whether the release of an offender may affect the safety of any person. The amendment also allows victims to make oral submissions with the leave of the Board. The Board recognises that victims are sometimes able to identify areas of concern in relation to themselves or others, so welcomes written and oral submissions from victims when considering an offender's case. Victims' oral submissions are heard separately from the offender's parole hearing and, when the victim requests, at a venue other than a prison.

The amendment also provides that the offender may be shown a copy of any victims' submission but is not entitled to be given the victim's address or to retain a copy of the submission. The Board changed its policy on victims' submissions in 2000, and now victims' submissions are generally withheld. The offender is generally advised at hearing that a victim submission was received and the contents summarised. The Board decides on the extent of disclosure case by case, taking into account any preference expressed by the victims.

## **2. BOARD FUNCTIONS**

### **2.1 *Discretionary (Early) Release on Parole***

The percentage of inmates approved for discretionary release on parole increased almost 8% during 2000 between 2000 and 2001. This may be related to improvements in the quality of Department of Corrections rehabilitative and reintegrative work with offenders since the introduction of the Integrated Offender Management (IOM) system.

Inmates subject to indeterminate sentences (life imprisonment and preventive detention) released on parole during the past year served an average of 12.2 years. Most of those offenders would have become eligible for parole after serving ten years imprisonment. This figure should not be taken as an indication of the Board's release policy. The figure is easily distorted because of the small numbers involved. Isolated special cases, for example where the Board approves release before normal eligibility because of terminal illness, have a significant impact on the average. It must also be considered that the offenders released on parole have been assessed as suitable for management in the

community. At every meeting, the Board declines parole to a larger group of offenders serving indeterminate sentences, who continue to serve much longer periods in custody.

The release of preventive detainees has occasioned comment in the media and Parliament again this year. The average term served by the 12 preventive detainees released since 1997 was 14 years. Two points need to be made for this information to be seen in context:

1. The number approved for release was a small fraction of total cases considered by the Board. In 2001 the Board considered preventive detainees' cases on 39 occasions. It approved release in four cases.
2. The average time served by preventive detainees eligible for parole but still in custody at 31 December 2001 was 14.6 years. Three inmates have served over 20 years and remain in custody.

The Board is very cautious in approving release on parole for this class of inmate, but at the same time must bear in mind that the legislation makes it clear that those receiving a sentence of preventive detention are entitled to consideration for parole. The legislation sets the minimum term at ten years (unless a longer period has been set by the sentencing judge) and it is the Board's role to decide how much longer the offender should be detained. Preventive detention is often the sentence imposed for chronic sexual offenders. The Te Piriti and Kia Marama programmes now successfully treat chronic sexual offenders in many cases. The Criminal Justice Act provides for eligible offenders to be sentenced to preventive detention where the Court believes that the protection of the public requires them to be detained in custody for a substantial period; there is no statutory intention that these offenders should never be released.

## **2.2 Release to Home Detention**

This jurisdiction became effective on 1 October 1999 and makes up a very small proportion of the Board's caseload. Serious violent offenders and offenders serving life imprisonment and preventive detention, who make up the majority of the Board's caseload, are not eligible for home detention. In 2001 the Board considered nine home detention applications and granted this type of release in five cases.

## **2.3 Imposition of Conditions — Criminal Justice Act, Section 99**

Section 99 cases are those offenders serving sentences for serious violent offences who only come before the Board for determination of the nature and duration of parole conditions and will be released at Final Release Date, after completing two thirds of the sentence imposed. The Board dealt with 176 such cases in 2001, compared to 165 in 2000.

Although the Board has no jurisdiction over determining the release dates of these offenders, they are subject to recall for the balance of their sentences. Breach of conditions is one of the statutory grounds for recall, so the fixing of conditions has considerable ongoing significance for this class of inmate.

#### **2.4 Section 105 Applications**

These are applications by the Chief Executive of the Department of Corrections for an order requiring an inmate to serve the full term of his or her sentence on the grounds that the offender is likely to commit a specified offence within that period if released into the community. The Board must review the order at least once every six months.

The Board made five new orders under this jurisdiction and reviewed existing orders on 19 occasions during 2001.

#### **2.5 Recall Applications**

The recall provisions are an integral part of the parole process and the Board regards the use of the recall procedure as an essential discipline for released offenders.

The Board dealt with a total of 35 recall applications during 2001, more than double the 15 application considered in 2000. It seems likely that the increase in numbers of recall applications is demographic as 80% percent of the applications relate to offenders on parole following mandatory release at two-thirds. Numbers of mandatory release cases have also increased dramatically in the last few years as a flow-on effect from the Criminal Justice Amendment Act of 1993. These offenders had previously not been subject to parole.

### **3. BOARD PROCEDURES: THE STRUCTURED DECISION MAKING SYSTEM**

The Structured Decision Making (SDM) system has been in place since September 1996 and plays an important role in assisting the Board to assess the risk posed by individual offenders. The system comprises a number of objective assessment tools and policies in relation to specific offender groups. As noted in previous reports, the Board continues to make a decision in each case on the basis of all the information presented to it in accordance with the matters it is required to consider under section 104 of the Criminal Justice Act 1985.

The information arising from the SDM system is one of a number of important sources of information. Others include background information about the offender and offence (sentencing notes, pre-sentence report, summary of the offence, criminal history); current reports from Department of Corrections staff about the offender; submissions from victims, the offender and supporters, and the Police; and impressions and further information obtained at the offender's interview.

The Department of Corrections now uses the RoC\*RoI risk rating widely to assess risk as part of the Integrated Offender Management (IOM) system. The Parole Board now includes the offender's RoC\*RoI rating as part of its risk rating information alongside the SDM system. This tool was validated as an accurate measure of risk of reoffending the Department of Corrections' study reported on in last year's Annual Report.

#### **4. BUSINESS CONDUCTED**

The full Board met for six to eight-day meetings in March, June, September and December. Divisions of the Board met for two to three-day meetings in February, April, July, October and November visiting Auckland (East and West Divisions), Christchurch and Wellington Prisons. The Board met on a total of 41 days, including special meetings convened to deal with extraneous matters. The Board also held a two-day general business and educational meeting.

Statistical details of the Board's work are set out in the following pages.

#### **5. THANKS**

The Board again acknowledges and expresses its appreciation to prison, community probation, psychological and forensic psychiatric services staff for their valuable assistance, without which the Board could not function satisfactorily.



**TOTAL CASES CONSIDERED 1997–2001**

	1997	1998	1999	2000	2001
Parole cases	150	199	222	288	327
— Home detention	-	-	(8)	(16)	(9)
Section 99 cases	114	131	144	165	176
Recall applications	3	15	13	15	35
Section 105 applications	2	4	7	9	7
<b>TOTAL</b>	<b>269</b>	<b>349</b>	<b>386</b>	<b>477</b>	<b>545</b>

**OUTCOMES IN PAROLE CASES**

	1997	1998	1999	2000	2001
Release on parole	37	46	39	47	78
%	24.7	23.1	17.6	16.3	24.0
Release to home detention	-	-	0	4	5
%	-	-	0.0	1.4	1.5
Release for deportation or removal	4	5	1	7	4
%	2.7	2.5	0.4	2.4	1.2
Declined parole — statutory release	5	8	16	9	18
%	3.3	4.0	7.2	3.1	5.5
Declined parole — postponed for further consideration	104	140	162	214	220
%	69.3	70.4	73.0	74.3	67.0
Miscellaneous, e.g. variation of conditions, early referral application	-	-	4	7	2
%	-	-	1.8	2.4	0.6
<b>TOTAL</b>	<b>150</b>	<b>199</b>	<b>222</b>	<b>288</b>	<b>327</b>

**OUTCOMES IN SECTION 99 CASES**

	1997	1998	1999	2000	2001
Special conditions imposed	81	87	99	102	115
%	71.1	66.4	68.8	61.8	65.3
Postponed for further consideration	33	44	44	62	57
%	28.9	33.6	30.6	37.6	32.4
Miscellaneous, e.g. deportation or removal	-	-	1	1	4
%	-	-	0.6	0.6	2.3
<b>TOTAL</b>	<b>114</b>	<b>131</b>	<b>144</b>	<b>165</b>	<b>176</b>

**RECALL APPLICATIONS**

	1997	1998	1999	2000	2001	
Discretionary release	Granted	3	13	6	9	7
	Declined	0	2	1	2	0
	<b>TOTAL</b>	<b>3</b>	<b>15</b>	<b>7</b>	<b>11</b>	<b>7</b>
Mandatory release	Granted	-	-	5	3	17
	Declined	-	-	1	1	11
	<b>TOTAL</b>	<b>-</b>	<b>-</b>	<b>6</b>	<b>4</b>	<b>28</b>

**SECTION 105 APPLICATIONS**

		1997	1998	1999	2000	2001
Number of original applications	Granted	1	1	2	9	5
	Declined	0	0	0	0	2
Reviews		1	3	5	5	19
<b>TOTAL</b>		<b>2</b>	<b>4</b>	<b>7</b>	<b>14</b>	<b>26</b>

**TIME SERVED BY OFFENDERS RELEASED ON PAROLE****(a) Inmates serving indeterminate sentences**

Inmates sentenced to life imprisonment or preventive detention become eligible for release on parole after seven years if sentenced prior to 1 August 1987, or after 10 years if sentenced after that date, unless a minimum term has been imposed by the court.

<b>Number of inmates released*</b>	1997	1998	1999	2000	2001
Life imprisonment	7	22	12	10	24
Preventive detention	2	0	4	2	4
<b>TOTAL</b>	<b>9</b>	<b>22</b>	<b>16</b>	<b>12</b>	<b>28</b>
Average number of years served	10.8	10.1	10.9	13.1	12.2

\*Does not include inmates recalled to continue a sentence of life imprisonment or preventive detention and subsequently released on parole.

**(b) Inmates serving determinate sentences**

Inmates generally become eligible for parole after serving one-third of their sentences and are entitled to be released under the mandatory release provisions of the Criminal Justice Act after serving two-thirds (66%) of their sentences in most cases.

		1997	1998	1999	2000	2001
(i)	Inmates released*	29	22	16	18	33
	Percentage of sentence served	55.4	55.2	51.3	51.5	55.5
(ii)	Length of sentence					
	10 years or more	8	8	5	2	8
	7 to 10 years	21	14	11	16	25
(iii)	Type of offence					
	Sex assault	2	2	2	1	2
	Child sex	9	7	3	4	10
	Violence	11	7	4	3	10
	Drugs	4	5	5	8	8
	Other	3	1	2	2	3
<b>TOTAL</b>		<b>29</b>	<b>22</b>	<b>16</b>	<b>18</b>	<b>33</b>

\*Does not include inmates released at final release (two-thirds) date or recalled offenders subsequently released.

## REOFFENDING BY LONG-SENTENCE OFFENDERS

### (a) *by Release Type*

	Within 12 months of release		Within 24 months of release	
	Reconvicted	Reimprisoned	Reconvicted	Reimprisoned
Offenders released by Parole Board decision	9.1%	4.5%	13.9%	6.2%
Offenders released after serving 2/3 <sup>rd</sup> s of determinate sentence	10.6%	4.9%	26.3%	8.1%

### (b) *by Sentence Type*

	Within 12 months of release		Within 24 months of release	
	Reconvicted	Reimprisoned	Reconvicted	Reimprisoned
Offenders released from life imprisonment or preventive detention	8.3%	0.0%	10.5%	0.0%
Offenders released from a determinate sentence	10.6%	5.3%	25.0%	8.6%

Reconvicted means reconvicted of any offence resulting in a community based sentence or imprisonment. Does not include offences against justice.

Reimprisoned means reconvicted of any offence and sentenced to imprisonment. Does not include offences against justice.

Reimprisoned is a subset of Reconvicted.

The reoffending statistics contained in the Parole Board Annual Report 2001 cannot be compared with reoffending stats in past Parole Board Annual Reports. These statistics were collated using data in Department of Corrections database IOMS where past Parole Board Annual Report statistics were collated from the LES database. The reporting parameters have been changed for the Parole Board Annual Report 2001 to reflect that IOMS data parameters differ from those in LES.

