

**Paul Russell Wilson
Independent Review
New Zealand Parole Board**

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December 2018

Background summary and review questions

1. This review was commissioned by the New Zealand Parole Board in October 2018, to address the following two questions:
 - a. On the information available to the Board, was the release decision a reasonable one?
 - b. Is there anything to be learned by the Board, in the exercise of its function, from this tragedy?
2. The scope of the review is thus a narrow one, and is based on the information that was available to the New Zealand Parole Board at the time of the relevant hearings, and the options for action available to the Board in their decision-making, in light of the relevant legislation. The final decision to release Mr Wilson was made eight years ago, and therefore I approach this review with a significant degree of caution, given the well-known effects of the hindsight bias¹ on such reviews, whether formal or informal.

Finally, I was mindful of the wider context of the Board's decision-making work. For example, its most recent Annual Report shows that it conducted 8321 hearings in the 2017-18 year, for 5164 offenders, and declined to release more than three-quarters (76.5%) of those cases considered, including 89% of hearings for those on indeterminate sentences. Figures such as these suggest a cautious approach to granting parole, and that the Board accumulates a great deal of experience in its work in any given year.

¹The hindsight bias, also known as the "knew it all along" effect is a very well studied and commonly experienced type of decision trap in which people retrospectively overestimate the likelihood of an outcome that was in fact, very unlikely.

Statutory and legal principles guiding the Board's decision-making

3. Several sections of the Parole Act 2002 and its subsequent amendments are relevant to the Board's decision-making in this case.
4. Section 7 of this Act notes that:
“when making decisions about, or in any way relating to, the release of an offender, the paramount consideration for the Board in every case is the safety of the community.”
5. Section 15 covers the nature and purpose of special conditions that may be imposed. A special condition must not be imposed unless it is designed to—
 - (a) reduce the risk of reoffending by the offender; or
 - (b) facilitate or promote the rehabilitation and reintegration of the offender; or
 - (c) provide for the reasonable concerns of victims of the offender ...
6. Section 15 further states that:
The kinds of conditions that may be imposed as special conditions include, without limitation—
 - (a) conditions relating to the offender's place of residence (which may include a condition that the offender reside at a particular place), or his or her finances or earnings:
 - (ab) residential restrictions:
 - (b) conditions requiring the offender to participate in a programme (as defined in section 16) to reduce the risk of further offending by the offender through the rehabilitation and reintegration of the offender:
 - (ba) conditions prohibiting the offender from doing 1 or more of the following:
 - (i) using (as defined in section 4(1)) a controlled drug:
 - (ii) using a psychoactive substance:
 - (iii) consuming alcohol:
 - (c) conditions that the offender not associate with any person, persons, or class of persons:
 - (d) conditions requiring the offender to take prescription medication:

(e) conditions prohibiting the offender from entering or remaining in specified places or areas, at specified times, or at all times:

7. Section 28 outlines directions for release on parole:

(1AA) In deciding whether or not to release an offender on parole, the Board must bear in mind that the offender has no entitlement to be released on parole and, in particular, that neither the offender's eligibility for release on parole nor anything else in this Act or any other enactment confers such an entitlement.

(1) The Board may, after a hearing at which it has considered whether to release an offender on parole, direct that the offender be released on parole.

(2) The Board may give a direction under subsection (1) only if it is satisfied on reasonable grounds that the offender, if released on parole, will not pose an undue risk to the safety of the community or any person or class of persons within the term of the sentence, having regard to—

(a) the support and supervision available to the offender following release; and

(b) the public interest in the reintegration of the offender into society as a law-abiding citizen.

8. Section 29B of the Act provides for the Board to monitor compliance with conditions:

(1) If the Board is satisfied that, because of the special circumstances of an offender (other than an offender subject to an extended supervision order), it is desirable for the Board to do so, the Board may determine to monitor, during the specified period (12 months), the offender's compliance with the release conditions imposed on the offender.

(2) In monitoring the conditions, the Board may on each occasion do either or both of the following:

(a) ask the Department of Corrections for a progress report on the offender's compliance with the conditions:

(b) require the offender to attend a hearing notified to the offender in writing.

(3) Each power specified in subsection (2) may be exercised on 1 or more occasions during the specified period, but may not be exercised more frequently than at 3-monthly intervals.

History of appearances before and decisions made by the Board

9. Mr Wilson's first appearance before the Board was on 29 June 2007 at Christchurch Prison. Information provided to the Board at that hearing included the following: No positive drug tests were reported. Two incidents of fighting were described that were "sorted out quickly by unit staff"; there were no other incidents or misconducts. His initial low-medium security classification had been reduced to minimum (Aa) three and a half years previous. He had completed a National Certificate in Employment Skills and two unit standards in electrical theory and regulations with the Open Polytechnic.
10. Mr Wilson's RoC*RoI score—used to make determinations about level of risk of further offending and offending leading to imprisonment—was low and would not normally make him eligible for any of the Department's offending-related rehabilitation programmes since people with these scores typically acquire few or no further convictions even without formal help. Although he had completed Stopping Violence Courses Stage 1 & 2, I understand these are considered to be brief educational experiences rather than significant risk-reducing interventions.
11. The Board noted that Mr Wilson had been provided with a large number of individual treatment sessions with Departmental Psychologists. Despite this work, the way that Mr Wilson spoke about the offending for which he was imprisoned was concerning. They requested a "fresh psychological assessment which will focus on his offending . . . so that we can get a better view of his risk at the present time". Parole was declined and a request to be allowed to enter the Release to Work programme was also declined.
12. On 17 June 2008 at Christchurch Prison, the Board again considered Mr Wilson for parole. The Board noted a recent report from a Departmental psychologist that contained a number of recommendations for additional work on Mr Wilson's offending-related dynamic risk factors and aspects of how he talked about his offending. It was noted that Mr Wilson had made some positive changes in the language he used, but this progress was considered to lack depth. A request was made by Mr Wilson's family to allow him to be released to planned family

gatherings near the area where he committed these offences, and where the victim's family continued to reside. The Board declined these requests and declined parole.

13. The Board again met on 30 June 2009 at Christchurch Prison to consider Mr Wilson for parole. This was his third consideration for parole. A recent Departmental psychologist's report indicated that significant progress had been made in that Mr Wilson acknowledged the sexual aspects of his offending, and taken full responsibility for his behaviour. The board declined Mr Wilson's request to continue his reintegration via temporary releases to the Salisbury Street Foundation (SSF), a longstanding Christchurch-based residential care facility for released prisoners. An additional psychological assessment report was requested: to include a risk assessment using the Psychopathy Checklist-Revised, based at least in part on concerns raised by the victim's family. Parole was declined, and Mr Wilson was advised to spend time on consolidating his progress to date.
14. On 2 June 2010 Mr Wilson again appeared before the Board, at Christchurch Prison. He had again been recently reassessed by a Departmental psychologist who reached the conclusion that he would be able to "effectively manage his assessed low actuarial risk of reoffending at the present time" and found no evidence of notable psychopathic personality traits. The Board noted that despite all the work Mr Wilson had completed, he was still "unable to answer even relatively simple questions". Mr Wilson's explanation for his poor presentations at the Board was related to anxiety, and seems to have been at odds with how his psychologists evaluated his progress. He also had had a large number of outings into the community with no concerns raised. The Board declined parole, but recommended he undertake temporary day releases to the Salisbury St Foundation, and that he appear at a hearing of the extended board 6 months later.
15. Mr Wilson's fifth and final hearing while in Christchurch Prison was on 2 December 2010. The Board noted they had had a "more constructive dialogue with Mr Wilson this time" than at the previous hearing regarding the victim

family's position on his seeking parole. They also noted that one of the victims had requested a restorative justice meeting with Mr Wilson at the previous hearing, but the request had not yet been acted on. They asked that it proceed now. Mr Wilson's behaviour in self-care, on outings and in the community work gang continued to be viewed as "exemplary". He was noted to have transitioned successfully on day visits to the group programme at Salisbury Street Foundation. His risk of reoffending was judged to remain low, with Mr Wilson understanding factors that would elevate it acutely, and having strategies to respond to any such elevations. The Board noted that the highly structured management approach in operation at Salisbury Street Foundation would be a substantial challenge to Mr Wilson, and expected he would be there at least a year. The Board concluded that the combination of this "extensive support and oversight" at SSF, further oversight from the community probation service, and personal support from family and friends in combination met the requirement that he "not pose an undue risk to the safety of the community or of any members of it if released at this stage of his sentence. A parole date was set for 17 January 2011.

16. The Board further noted:

"He will of course be subject to the standard release conditions for life. He will also be subject to the following special conditions for five years from the date of release:

- 1 To attend for a psychological assessment if directed. To attend and complete any treatment/counselling as recommended by the psychological assessment to the satisfaction of your Probation Officer and treatment provider.
- 2 To notify your Probation Officer prior to starting, terminating or changing your position or place of employment.
- 3 To reside at [withheld] and participate in the Salisbury Street Foundation Programme to the satisfaction of the programme director and your Probation Officer.
- 4 After completion of the Salisbury Street Foundation Programme to reside at an address approved by a Probation Officer and not to move from that address without the prior written approval of a Probation Officer.

- 5 To attend for a progress hearing before the Extended Board in August 2011 on a date and at a place to be advised by the New Zealand Parole Board.

The following two special conditions will continue for life:

- 6 Not to visit the West Coast of the South Island for any reason.
 - 7 Not to have contact or otherwise associate with the victim(s) of your offending, or witnesses from your trial, directly or indirectly, unless you have the written consent of your Probation Officer".
17. Mr Wilson made a final appearance to the Board on 30 August 2011 at Christchurch Women's Prison for his progress and monitoring hearing. He was described as "doing very well" at Salisbury Street Foundation, and had just commenced employment. The Community Probation Service report for this hearing noted that he "has recently engaged with a Department of Corrections Psychologist, [withheld]" but no updated information on the outcome of that contact was mentioned in the information from that hearing; it must be assumed the contact was not the result of any concern about an increase in risk since it is not mentioned again. The Board required no changes, was satisfied he had made a "very good start" on reintegration, and judged that they did not need to see him again.

Response to Review Questions

18. I now turn to addressing the questions in light of this summary of the relevant information.

Review question 1:

On the information available to the Board, was the release decision a reasonable one?

19. As already noted in paragraphs [4] and [7], section 7 of the Parole Act 2002 requires that “when making decisions about, or in any way relating to, the release of an offender, the paramount consideration for the Board in every case is the safety of the community.”
20. Section 28 paragraph 2 notes that:
“The Board may [direct that an offender be released on parole] only if it is satisfied on reasonable grounds that the offender, if released on parole, will not pose an undue risk to the safety of the community or any person or class of persons within the term of the sentence, having regard to—
(a) the support and supervision available to the offender following release; and

(b) the public interest in the reintegration of the offender into society as a law-abiding citizen.”
21. To address the review question, I first summarise what I see as the key issues that the Board faced in considering Mr Wilson for parole, in the context of the legislation above.
22. Mr Wilson came to prison on a life sentence following a fatal family violence offence that included a non-consenting sexual component for which he was apparently not charged. He had a previous conviction for an offence that could also have had a poor outcome (given he entered a hotel bar with a loaded shotgun in a state of extreme emotional distress) against the same victim, but otherwise had no notable previous convictions. Offenders whose convictions

include a single, relationship-related homicide but who have little criminal history otherwise, and therefore relatively few of the common risk factors for offending, pose some challenges for decision-makers evaluating whether and when they may be ready for parole.

23. It is well understood in the international research literature that those who murder a current or former intimate partner with few or no previous convictions for other types of offending are very unlikely to be reconvicted in a similar way, or at all.
24. At my request, Dr Peter Johnston, Director of Research and Evaluation for the Department of Corrections, confirmed this finding using New Zealand data. He estimated, using data going back to 1972, that the likelihood of a person convicted of a homicide being convicted of a second homicide following parole for the first was in the region of 0.4%.
25. Dr Johnston found no cases of this type in which both victims were women. Therefore, without considering the particular features of Mr Wilson's case, but taking into account his RoC*RoI score, together with the international research literature on men who kill their intimate partners (or ex-partners), we would expect that a man with Mr Wilson's conviction history would meet the safety threshold for release. Considering the New Zealand homicide data from Dr Johnston, we would be very confident that offenders with his conviction history would not commit another murder.
26. But of course, such an actuarial approach is not on its own an acceptable basis for deciding on the release of a specific individual, and it appears that the Board was attentive from Mr Wilson's first appearance to the importance of evaluating the man who appeared before them, his progress to that point, and what steps might be necessary if his case was to meet that threshold for parole.
27. One of the traps for inexperienced parties evaluating offenders like Mr Wilson, is that because they are low risk offenders they often have characteristics that also make them very easy to manage in prison, where they may conscientiously set about making a very positive impression in such areas as work ethic, personal

responsibility, repeated negative drug tests, generally agreeableness around staff, and low rates of misconduct.

28. Yet the areas that are specifically of concern typically only arise when engaged for some time in a meaningful intimate/sexual relationship with a woman, and so have no credible analogue in a prison environment. Thus, it is difficult to be absolutely confident about the degree of progress made in key areas related to Mr Wilson's previous homicidal behaviour, such as emotional awareness, conflict resolution, and dealing with loss and rejection without resorting to controlling and violent behaviour. What is needed is a carefully controlled re-entry into the community, testing at each step whether the necessary standard with regard to community safety has been achieved, or is being maintained.
29. It seems clear from the records available, that the Board recognised at his first appearance that Mr Wilson's sentence plan was somewhat "off track", in that he had developed his employment skills in prison, and had a release plan that included an employer ready to take him on. But, at the same time, despite an unusually high number of individual sessions with Departmental psychologists, he seemed unable to talk about his index offending in a manner that gave confidence that it had been adequately addressed with him, and in particular, the sexual aspect of the offending seemed to have been overlooked. Thus, the Board directed that these aspects needed to be focused on with Departmental psychologists.
30. Over subsequent appearances, the Board evaluated through the psychologists' reports the extent of progress made that was directly related to his offending. They advanced their view of his progress with caution, and noted that his apparent anxiety at Board appearances made it difficult to evaluate for themselves his understanding of his offence process, the coping skills he was reported to have developed, and whether any significant change had occurred in his understanding of his offending from a victim's perspective. But according to the regular psychologist reports, there was steady improvement in these key areas throughout this period. Still, at one point, the Board "stood him down" for a

year because of their concern about the disparity between the progress reported by psychologists and his verbal performance at the Board.

31. In keeping with Section 28 (1)(a), a successful outcome relies not only on the Board making the best possible appraisal of the level and nature of the risk posed by an offender, but also on the availability of services and enforceable restrictions that can be brought to bear in the community in the months after parole begins, by way of standard and special conditions. Arguably, the purpose of these with a low-risk offender is to ensure that there is no “flare up” in risk factors on re-entry, and to test whether that prison-based appraisal of risk—conducted as it is in an environment that differs in important ways from the release environment—has been accurate.
32. The Salisbury Street Foundation has been regarded for many years as the flagship residential facility for transitioning offenders into the community, because it provides a high level of support and structure, and therefore can give confidence that everything that can reasonably be done is being done to minimise risk during this transition. Requiring that Mr Wilson be resident at SSF for an extended period after release given his overall estimated low level of risk of recidivism, was therefore a cautious approach that provided additional opportunities to test the soundness of the Board’s appraisal of risk to the community.
33. The remaining special conditions, as noted in paragraph [16] above allowed for additional support by way of additional psychological treatment and counselling if it was needed (Special Condition 1: To attend for a psychological assessment if directed. To attend and complete any treatment/counselling as recommended by the psychological assessment to the satisfaction of your Probation Officer and treatment provider).
34. Finally, the Board availed itself of the provisions in Section 29B of the Act, to require a post-release hearing, in this case six months after parole began, to monitor compliance. On that occasion, the information made available from those who were managing Mr Wilson on a day to day basis was very positive.

35. In considering the information provided to me, I conclude that the decision to grant Mr Wilson parole was a reasonable one.

Review Question 2:

Is there anything to be learned by the Board, in the exercise of its function, from this tragedy?

36. The second review question allows a consideration of the case with the benefit of hindsight. In order to address this broader question, I widened the scope of my review to examine the international research literature, particularly new research published since the decision was made to release Mr Wilson. Because reports from Departmental psychologists played a crucial role in the information drawn on by the Board, I also scrutinised the quality of the advice in the psychologists' reports quite closely. I concluded that on the basis of the information I was given for this review, there are no clear lessons for the Board to learn from this tragedy.
37. The research literature on intimate partner homicide has not advanced appreciably over the time since this decision was made. The accuracy of risk assessment instruments has not improved over this time, and those instruments in use are not acceptably accurate in distinguish risk of homicide from risk of assault. None of the research reviewed addressed the risk of subsequent partner violence following homicide. Mr Wilson did have a conviction for a previous partner assault (on the victim of his homicide). But despite the wide range of witnesses at the homicide trial, the only other evidence of previous partner assault noted in the trial transcript was a brief event in the build-up to the homicide. If this is an accurate picture, hindsight would allow for the possibility that Mr Wilson might murder his ex-partner, but even today an expert would not forecast further violent offending either toward women or men, based on the information known to the Board.
38. Recognition of the importance of assessing for family harm and family violence victimisation and perpetration among people serving correctional sentences has

improved considerably over the time since this decision was made, in parallel with a whole-of-government focus on family harm. But it is also difficult to see how this awareness would change the course of Mr Wilson's preparation for parole. As I understand Departmental business rules relating to rehabilitation and treatment allocation, Mr Wilson would not qualify today for the degree of intervention he received in prison, given the reported more than 300 sessions over a decade that Mr Wilson took part in with 4 Departmental psychologists, most of it directed towards factors relating to his victimisation and perpetration of family harm.

39. I turn now to the advice provided by the psychologists themselves in their reports to the Board. Before commenting, I note that like the Board, I have seen only those reports prepared for Board hearings, and not the actual treatment file, so my comments are necessarily based on those summaries and therefore may not adequately reflect the full scope of treatment.
40. "Offence maps"—a detailed account of the temporal sequence of thoughts, emotions and behaviour beginning in the build-up to the offence, including the offence event itself, and what the offender does afterwards—are used with offenders to guide treatment to reduce risk in several key ways. The first aim is to increase the offender's recognition of the early warning signs that may indicate increased risk in the future. Second, taking responsibility for all aspects of the offending is hypothesised to reduce antisocial thinking that may facilitate new offending, and to increase internal resistance. Finally, specific coping skills and other protective resources (e.g., helpful social supports) are developed to give the offender a range of responses to early warning signs that can be deployed to avert offending well before it becomes likely.
41. At Mr Wilson's first appearance to the Board, there were grounds for concern that insufficient time had been spent on attending to his offence map. In hindsight, the psychologist's report to this first Board hearing (20 April, 2007 [withheld]) was not as clearly oriented around dynamic risk factors for violence as it would be today, with the Violence Risk Scale now in widespread use. Furthermore, no mention was made of Mr Wilson's view of his sexual behaviour during the offence; the

Board were understandably concerned about this. It is important to remember that Mr Wilson was judged by psychologists at that point already to be at low risk of recidivism, and had undertaken a considerable volume of individual treatment, with a good deal of that treatment reported to have been focused on plausible risk factors for future offending. So this lack of explicit mention of dynamic risk factors in early reports does not mean that they had not been attended to. Later reports do make explicit mention of items from the Violence Risk Scale. The reason for the apparent omission of a focus on Mr Wilson's sexual behaviour immediately before the murder is not clear.

42. The later psychological reports appear to contain good quality information relevant to the Board's needs. The final report, completed by a very experienced psychologist, [withheld] (dated 16 April 2010) noted in the summary that that "a review of the dynamic factors associated with recidivism suggests that Mr Wilson will be able to effectively manage his assessed low actuarial risk of reoffending at the present time". Interestingly, the third recommendation in that report is that: "Regardless of contact with Psychological Services, as required in [the previous recommendation, which was for monitoring by Psychological Services after completion of the Salisbury Street Programme], he be required to immediately inform Psychological Services if he ever embarks on an intimate relationship (defined as a relationship consummated once by sexual intercourse) so that monitoring of that relationship can occur".
43. Such a recommendation, in my view (and presumably in the Board's since this recommendation was not included in the final parole conditions), was not necessary given his estimated low risk of recidivism, the resources he had been equipped with to manage his own risk, and the special conditions that were imposed. These allowed the Probation Officer discretion to refer back to Psychological Services during the first five years after release. However, the recommendation does acknowledge the very reasonable understanding that the circumstances in which Mr Wilson's risk level might be raised were narrow, might not occur for some time after release, and would likely do so with plenty of warning for additional formal support to be provided as necessary. The latter point is based on the observation that the homicide was the result of an

unusually antisocial response to abandonment and jealousy problems some months after the end of a relationship with a woman to whom Mr Wilson had been deeply attached for years. In other words, there were numerous signs in the previous offence process over weeks, before the murder, and it would be reasonable to assume any further moves toward offending, in the unlikely possibility that they occurred, would unfold slowly.

44. Proper consideration of hindsight requires information that was not available to me in this review. Again, as noted earlier in regard to Section 28 paragraph 2 of the Parole Act 2002, the Board's decision is to be made having regard for "the support and supervision available to the offender following release". In other words, it is important that the Board makes as accurate an appraisal as possible of the likely support and supervision that will be provided when it makes its decision. It follows then that a full consideration of what can be learned by the Board requires a detailed examination of the post-release support and supervision that was provided and I understand that such a review is being conducted separately. For example, I assume that the supervising probation officer(s) were fully aware of the need to increase monitoring of Mr Wilson if he began an intimate relationship. I also assume that if there was evidence of a need to resume psychological treatment, such a referral was made.
45. The only other area that today *might* receive more explicit attention would be the degree to which his family or whānau were engaged in supporting and monitoring him after release. Over the last decade, it has perhaps become more frequent for Departmental psychologists, especially in the STURP units (for which Mr Wilson was not eligible) or other staff such as probation officers to hold whānau hui. These are meetings that staff use to bring together the offender and family or friends who are willing to provide active support. Usually the aim is to support the parolee to brief these parties fully about the psychological and interpersonal circumstances that led up to his offending, possible early warning signals that the offender may need additional support to remain safe in the community, and strategies that can be helpful in providing that support. This comment requires verification using information that is out of the scope of this review; there may have been such meetings after release, but it does not appear this type of

preparation was undertaken before release. It is always worth noting that suitable and informed family and friends may be able to provide early detection and support functions that exceed those of formal agencies.

A handwritten signature in black ink, appearing to read 'Devon Polaschek', written in a cursive style.

Professor Devon Polaschek
December 2018