

## Parole conditions make it hard to succeed

Michigan Administrative Rule 791.7730 says that orders of parole shall contain conditions *that are reasonably necessary to assist a parolee to lead a law-abiding life*. Further, the rule requires there to be *a reasonable relationship between parole conditions and both the prisoner's previous conduct and present capabilities*.

**F**or all parolees, conditions include: reporting to the parole agent immediately after release, not changing residence without permission, not leaving the state without permission, not possessing a firearm, finding a job and staying out of trouble. Also common are requirements for repaying fees, fines and restitution. Some offenders are given special conditions, such as participating in substance abuse or mental health treatment, or avoiding contact with particular individuals.

The most numerous and most onerous conditions are reserved for sex offenders. Regardless of the specific facts of the offense or the offender's history, every parolee convicted of a sex offense faces standard special conditions that prohibit them from: having any contact with people younger than 18, marrying or dating a person who lives with or has custody of a person younger than 18, working or residing within areas defined by state law as school safety zones, being within 1,000 feet of parks, public swimming pools and playgrounds, possessing or using a camera, and using a computer capable of accessing the Internet without written permission from their parole officer. Identical conditions are standard for sex offenders who receive probation. And prohibitions on contact with minors are also applied to non-sex offenders whose crimes even peripherally involved minor victims.

Although there appears to be no national research testing the effectiveness of parole conditions, there are certainly more opportunities to violate parole when the number of conditions are extensive and when they severely restrict living and working choices.

Furthermore, the relationship between parole supervision and deterrence or rehabilitation is also not clear. According to the Urban Institute report *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry*, authored by Jeremy Travis, Amy Solomon and Michelle Waul

"We do know that supervision strategies

that simply increase the level of supervision, such as intensive community supervision, increased drug testing, and home confinement, have not been found to reduce re-offending. Rather, enhanced supervision involves increased surveillance that increases the likelihood of detecting technical violations. If noncompliance with technical conditions of release signaled patterns of criminal behavior among individuals, then returning them to incarceration might prevent future crime. However, research on the issue has shown no support for the argument that violating parolees on technical conditions suppresses new criminal arrests. Accordingly, there is no solid evidence to support the conclusion that solely increasing parole supervision will result in fewer crimes."

The authors report that nationally parole violations accounted for one-third of prison admissions in 2001. Of the parole violators returned to prison, nearly one-third were returned for a new conviction and two-thirds for a technical violation.

**M**ichael Jacobson, President of the Vera Institute of Justice, says in his book, *Downsizing Prisons: How to Reduce Crime and End Mass Incarceration*, "... the number of parole violators who reenter the nation's prisons is a major driving force behind our prison systems' enormous size and ongoing expansion." Jacobson writes that one reason more people are being sent back to prison for violating parole is because the focus of correctional agencies has now shifted from rehabilitating to minimizing the risks these offenders seem to pose.

In Michigan, the proportion of prison admissions that were technical rule violators grew from 13.0% in 1992 to 21.8% in 2005. The proportion that were parolees sentenced for new crimes stayed virtually the same at roughly 14.5%. The MDOC is attempting to reduce parole revocations through the Michigan Prisoner Re-Entry Initiative (MPRI), which focuses heavily on connecting parolees to employment, housing and community services. However, the parole board has not eased up on conditions that can make it very difficult to find work and housing.

Some experts believe excessive parole conditions make it harder to succeed. *A Handbook for New Parole Board Members*, published in 2003 by the Association of Paroling Authorities International and

the National Institute of Corrections, was prepared by five authors with extensive experience. The Handbook says conditions “. . . should be realistic and not simply a prescription for failure.” The authors caution against the “first impulse” of many parole board members to “assume that more is better.”

Say the authors: “The notion seems to be that if the board puts every imaginable condition on an offender, he or she will be so well-constrained that there won’t be a danger to the public. Or, at a minimum, if the offender does re-offend, the board will appear to have been vigilant by establishing these extensive conditions.”

**T**hey continue: “Current thinking among some parole boards and supervision agencies is . . . that piling on extensive conditions simply sets an offender up to fail. It can become so burdensome to comply with the conditions that many offenders will fail . . . simply because there are too many hurdles.”

The Michigan parole board insists that special conditions are based on an assessment of the offender and the crime. In response to an inquiry from CAPPs, the MDOC said: “The parole board does not feel that all sex offenders should be treated as pedophiles. Special conditions of parole are assigned based on the nature of the crime and the offender. Our primary responsibility is to protect the public, including children.”

However, Kathleen Schaefer, a professional probation and parole consultant and president-elect of CAPPs, says more oversight is needed to ensure that special conditions are related to the circumstances of the offense. Schaefer, an MDOC employee for 26 years, was manager of the Macomb County probation department at the time of her retirement. Her experience includes supervising units that managed adult sex offenders.

Schaefer notes that the parole board keeps increasing the burden on sex offenders, in particular, without any evidence of benefit to public safety. For instance, while state law prohibits sex offenders from living, working or loitering within 1,000 feet of public or private school property, the parole board has expanded the prohibition to include child care centers, parks, public swimming pools, playgrounds, arcades or “other places primarily used by individuals age 17 or under.” One of Schaefer’s clients, convicted of CSC 3<sup>rd</sup> for having sex with a 15-year old girl when he

was 23, cannot live with his fiancée in the house she bought for them because it is a few blocks from a toy store.

A former special parole condition that prohibited contact with individuals 16 and under has been changed to include individuals 17 and under. Thus, parolees whose offenses had nothing to do with children are barred from jobs that might bring them in contact with 17-year old co-workers.

Schaefer also says more oversight of the discretion given to agents to interpret conditions and more guidance about when to seek waivers is needed.

Two therapists experienced in conducting group counseling for sex offenders agree that parole conditions can be counterproductive.

“The stipulations are so limiting that people on parole are not actually afforded the opportunity to reintegrate back into society,” says John Shanle, Ph.D., a clinical psychologist in the Detroit area.

“Blanket conditions put these people under stress and for many, being under stress is what caused them to act out in the first place. By using excessive conditions, many of which cost the offender a great deal of money, we unconsciously put them back under stress. All the restrictions alienate, isolate them and make it hard to succeed.” Shanle notes that offenders usually do better when they are with their families for support.

**S**hanle also explains, “Most offenders are not pedophiles; pedophiles will always prefer children and usually don’t get caught. Wasting resources on people who aren’t going to re-offend isn’t the way to go. Sex offenders have very low recidivism rates, but the public doesn’t want to hear that. People don’t want to believe that 90 percent of the sex offenses with children involve someone who the child knows. Families don’t want to hear, ‘Watch out for Uncle Jim.’” He says one of the biggest factors in succeeding while on parole is finding employment.

Dr. Steven Miller, who ran the first sex offender group for Detroit Records Court while with the state forensic facility, says because of all the restrictions, “a sex offender cannot find a normal way to reenter society.”

Numerous examples illustrate the difficulties.

Harvey Reese, whose crime involved sexual relations with a 15-year-old girl when he was 23,

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was returned to prison for three and one-half years because he gave a ride to his pregnant cousin and her sons when he ran into her at a fast food restaurant. Paroled again this year, he has 33 parole conditions to meet. Once again, Reese can not have contact with any minor, including his own children, brother, nieces and nephews. Although his fiancée and their three-year-old daughter, born after his return to prison, visited Reese faithfully while he was incarcerated, he can have no contact with the child or marry his fiancée. (See profile in the Spring 2007 issue of *Consensus*. See also the Mitchell Kania profile in this issue, page 14.)

The case of David Randazzo, on probation for fourth-degree CSC for fondling a 13-year-old relative, was described in an Oct. 4<sup>th</sup> Detroit News article, *Sex offender wants to stay put; Man may be forced to move for 18th time unless judge lets him live within 1,000 feet of park*. Randazzo has been forced to move 17 times to avoid being within 1,000 feet of children in many settings that go beyond the state school zone statute. On probation for four years so far, Randazzo told the News: "I don't go to parks. I don't do anything. I sit at home and watch TV. I'm not a threat to anybody." A circuit court judge later ruled that Randazzo does not have to move because his original probation conditions only required that he not live within 500 feet of a park.

Barbara L. Janoskey, paroled on March 3, 2007, was forced to quit her job at a local McDonalds because it contained a playland. Janoskey, who was addicted to crack at the time, was convicted in 2001 of armed robbery for attempting to steal money at gunpoint from people in a car at an ATM machine. A nine-year-old was in the backseat. Upon release, Janoskey initially lived with her parents. Her prohibition on contact with minors meant that her nieces and nephews could not visit their grandparents.

"I have been home for a little more than six months now," said Janoskey, who finally moved into her own apartment. "It is not fair to my family. My children do not understand why they could visit me and talk to me all the time while I was in prison, and now that I am home, they can't even talk to me on the phone. My parents were not able to have their

grandchildren over until I moved into my own place, because I was living there. It is sad that I worked hard for six years to change who I was, to become the mother, sister, daughter and aunt that I should have been all along, and I still am not permitted to have those family connections that I so badly need," she said.

David Taylor, paroled in February of 2007, was told he could have no contact with his children, including his 17-year-old son.

When he was 18, Taylor shot and killed a man he says shot at him earlier in the day. Because it was dark, Taylor could not see that the man was carrying his small son, who was also injured. The jury convicted Taylor of second-degree murder, but acquitted him of any deliberate attempt to harm the child.

Restrictions on Taylor impacted his ability to get a job. Offers for two positions – one at a fast food restaurant and the other at a nursing home – had to be refused because people 17 and under worked at both places. He has been unable to attend family gatherings because children are usually present.

Judy Putnam of the Lansing Bureau of Booth Newspapers cited the cases of Reese and Janoskey in

"One of the most distinguishing characteristics of U.S. crime policy since the 1980s has been the gradual chipping away of individualized decision-making and its replacement with one-size fits all laws and polices."

-- Joan Petersilia, professor of criminology at the University of California, Irvine, and consultant to the U.S. Department of Justice in her book, *When Prisoners Come Home: Parole and Prisoner Reentry*

her June 24<sup>th</sup> article, *Get-tough policy helps bloat prison system*. Putnam also quoted Miriam Aukerman, an attorney with Western Michigan Legal Aid who specializes in prisoner re-entry. Noting that the parole board appears to apply conditions broadly, without considering the individual circumstances, Aukerman said: "I would say we have a schizophrenic approach as a state to the release of prisoners. We're making it harder by passing lots of laws and restrictions that undercut the ability of people to do the things we want them to do: Find employment and reintegrate with their families."