

Aboriginal offenders and full Parole: A profile

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Currently, Aboriginal issues in Canada are a major focus of correctional research. In the last two years, two Supreme Court of Canada rulings have acknowledged both the existence of widespread prejudice against Aboriginal people and the over-involvement of Aboriginal people in the criminal justice system.² Another continuing concern is the high numbers of Aboriginal people incarcerated in Canada. Although Aboriginal people comprise only about 3% of Canada's population, they account for approximately 17% of all federal inmates.³

A number of explanations have been put forth in an effort to explain over-representation. Early studies focused on differences in sentence length between Aboriginal and non-Aboriginal offenders. Recent research, however, has demonstrated that Aboriginal accused receive somewhat shorter sentence lengths.⁴ Policy-makers have also cited lower full parole release rates as a major contributor to the disproportionate number of Aboriginal offenders in correctional institutions.⁵ Under sections 123 and 124 of the *Corrections and Conditional Release Act*,⁶ offenders may serve a portion of their sentence supervised in the community under full parole. In 1996/1997, the federal full parole grant rate was 34% for Aboriginal offenders as compared to 41% for non-Aboriginal offenders — a difference of 7 percentage points. Data also indicate that Aboriginal offenders are more likely to be on statutory release. Of the 609 Aboriginal offenders under community supervision in 1996/1997, 48% were on statutory release as compared to 29% of non-Aboriginal offenders.

These differences, however, might not be solely attributable to differential treatment in the conditional release process. It is possible that the poor parole release rate for Aboriginal offenders may reflect other factors (e.g., criminal history) correlated with race group differences and not race itself. Both Case Management Officer and National Parole Board decisions are mandated to be based primarily upon an offender's estimated risk of re-offending.⁷ Research has consistently shown that Aboriginal offenders have more extensive and earlier involvement in the criminal justice system, more serious offences, and higher rates of recidivism.

In addition, some research has suggested that Aboriginal offenders have a mistrust of the correctional system that may, in turn, influence their likelihood to apply for full parole.⁸ The purpose of the present study was to identify and profile those Aboriginal offenders who applied for and were subsequently granted full parole with respect to their offence history and designated risk and need levels.

Sample

The sample for the current study was selected, retrospectively in July 1999, from the Offender Management System (OMS), an automated database maintained by the Correctional Service of Canada. All participants included were male federal offenders who had reached their full parole eligibility in 1996 and had received a comprehensive intake assessment to identify risk and need factors. The final sample consisted of 2,479 male federal offenders. Of these male federal offenders, 11.5% (n = 285) were Aboriginal offenders and 88.5% (n = 2,194) were non-Aboriginal offenders.

Method

Between-group comparisons of Aboriginal and non-Aboriginal offenders were conducted at two stages of the full parole review process, as outlined by the *Corrections and Conditional Release Act*:⁹ (1) Parole Eligibility and (2) the Parole Board Decision. At the first stage of the parole process (Parole Eligibility), a review of the Decision Hearing Review database of the OMS was conducted in order to determine the number of male federal offenders who applied for full parole upon reaching their eligibility date in 1996. Moreover, files were coded to indicate whether an offender had ever waived a full parole hearing on his current sentence. The next stage of the parole process is the Parole Board decision. Of those cases where an application for full parole was submitted upon reaching parole eligibility, the number of offenders who were granted full parole and the number of offenders who were denied full parole were aggregated.

Results

Criminal History and Risk/Need Level of the Overall Sample

With respect to criminal history, Aboriginal offenders appear to have been charged with more serious offences overall than non-Aboriginal offenders. As illustrated in Table 1, Aboriginal offenders were nearly three times as likely to have been charged with a homicide-related offence in either the current or a past sentence as compared to non-Aboriginal offenders (9.1% vs. 3.5%, respectively). Moreover, Aboriginal offenders were twice as likely to have been charged with an assault-related offence (35.8% vs. 17.7%), and a sex-related offence (37.5% vs. 18.7%). Interestingly, Aboriginal offenders were less likely to have been charged with a drug offence as compared to non-Aboriginal offenders. Given their more serious criminal history, it is not surprising that a higher percentage of Aboriginal offenders were designated as either high- or medium-risk (27.7% and 34.7%, respectively) as compared to non-Aboriginal offenders (20.3% and 23.7%, respectively). In addition, a significantly higher percentage of Aboriginal offenders were rated as high- and medium-need cases (32.3% and 47.0%, respectively) as compared to non-Aboriginal offenders (20.9% and 37.7%, respectively).

Release Type

Previous research has shown that Aboriginal offenders are less likely to be on full parole as compared to non-Aboriginal offenders.¹⁰ Aboriginal offenders in the current study were significantly less likely to be on full parole and more likely to be on statutory release. Table 2 displays the various forms of conditional release granted to Aboriginal and non-Aboriginal offenders. Of those Aboriginal offenders who had been granted conditional release on their current sentence, 6.3% were granted day parole, only 18.3% were granted full parole, and 74.4% were released on statutory release. Comparatively, 4.8% of non-Aboriginal offenders were granted day parole, 44.7% were granted full parole, and 50.2% were released on statutory release.

Full Parole Application Status

To examine the relationship between full parole release rates and the over-representation of Aboriginal offenders in correctional institutions, the first set of analyses focused on those offenders identified as having applied for full parole. As illustrated in Table 3, only 47.7% (n = 136) of Aboriginal offenders who reached full parole eligibility in 1996 applied. Comparatively, 73.5%

Table 1

Offence History and Risk/Need Levels of the Current Sample		
Variable	Aboriginal	Non-Aboriginal
<i>Offence History</i>		
Homicide offence	26 (9.1%)	76 (3.5%)
Sex offence	107 (37.5%)	410 (18.7%)
Assault offence	102 (35.8%)	389 (17.7%)
Robbery offence	79 (27.7%)	589 (26.9%)
Drug offence	32 (11.2%)	727 (33.1%)
<i>Offender Intake Assessment</i>		
Risk Level		
Low risk	107 (37.5%)	1198 (54.6%)
Medium risk	99 (34.7%)	521 (23.7%)
High risk	79 (27.7%)	439 (20.0%)
Need Level		
Low need	59 (20.7%)	870 (39.6%)
Medium need	134 (47.0%)	828 (37.7%)
High need	92 (32.3%)	460 (20.9%)

Table 2

Release Type for Aboriginal and Non-Aboriginal Offenders		
Conditional Release	Aboriginal	Non-Aboriginal
Day parole	18 (6.3%)	105 (4.8%)
Full parole	52 (18.3%)	980 (44.7%)
Statutory release	212 (74.4%)	1102 (50.2%)

of non-Aboriginal offenders applied for full parole. Moreover, approximately 59% of Aboriginal offenders in this sample waived a full parole hearing on their current sentence, whereas only 33% of non-Aboriginal offenders waived a hearing. These results were found to be highly statistically reliable ($p < .001$).

Aboriginal offenders identified as having applied for full parole were compared with non-Aboriginal offenders with respect to their past and current convictions. In general, results indicated that Aboriginal offenders have a criminal history characterized by more serious offences. Twice as many Aboriginal offenders who applied for full parole had a sex offence (32.4%) or an assault offence (30.9%) as compared to non-Aboriginal offenders (14% and 15.3%, respectively). Although only a small percentage of Aboriginal offenders had committed a homicide offence (8.1%), this was still significantly larger as compared to non-Aboriginal

Table 3

Offence History and Risk/Need Levels for Full Parole Applicants		
	Aboriginal	Non-Aboriginal
<i>Application Status</i>		
Applied	136 (47.7%)	1613 (73.5%)
Waived a full parole hearing	167 (58.8%)	722 (32.9%)
<i>Offence History</i>		
Homicide offence	11 (8.1%)	55 (3.4%)
Sex offence	44 (32.4%)	226 (14.0%)
Assault offence	42 (30.9%)	247 (15.3%)
Robbery offence	35 (25.7%)	361 (22.4%)
Drug offence	23 (16.9%)	613 (38.0%)
<i>Risk Level</i>		
Low risk	57 (41.9%)	987 (61.1%)
Medium risk	40 (29.4%)	337 (20.9%)
High risk	36 (26.4%)	259 (16.0%)
<i>Need Level</i>		
Low need	36 (26.4%)	739 (45.8%)
Medium need	50 (36.7%)	572 (35.4%)
High need	47 (34.5%)	272 (16.8%)

Table 4

Offence History and Risk Need Levels for Offenders on Full Parole		
	Aboriginal	Non-Aboriginal
Granted full parole	34 (29.3%)	409 (38.7%)
<i>Offence History</i>		
Homicide offence	2 (5.9%)	27 (6.6%)
Sex offence	14 (41.2%)	90 (22.0%)
Assault offence	10 (29.4%)	63 (15.4%)
Robbery offence	5 (14.7%)	84 (20.5%)
Drug offence	4 (11.8%)	120 (29.3%)
<i>Risk Level</i>		
Low risk	20 (58.8%)	298 (72.8%)
Medium risk	8 (23.5%)	70 (17.1%)
High risk	5 (14.7%)	34 (8.3%)
<i>Need Level</i>		
Low need	16 (47.0%)	231 (56.4%)
Medium need	10 (29.4%)	124 (30.3%)
High need	7 (20.5%)	47 (11.5%)

offenders (3.4%). In contrast, Aboriginal offenders were less likely to have a drug offence as compared to non-Aboriginal offenders (16.9% vs. 38.0%).

For offenders who applied for full parole, Aboriginal offenders were compared with non-Aboriginal

offenders on overall risk and need level. Table 3 provides the breakdown of risk and need level by Aboriginal status. Not surprisingly, most offenders who applied for full parole were classified as low-risk cases (59.7%). Of those Aboriginal offenders who applied, a larger proportion were rated as either low- or medium-risk (41.9% and 29.4%, respectively). Aboriginal offenders who applied, however, were more likely to be designated as high-risk as compared to non-Aboriginal offenders (26.4% vs. 16.0%). These differences were statistically reliable ($p < .001$).

With respect to overall need, results indicated that the majority of offenders who applied for full parole were low-need cases (44.3%). Interestingly, the majority of Aboriginal offenders who applied were either high- or medium-need cases (34.5% and 36.7%), while nearly half of non-Aboriginal offenders who applied were designated as low-need cases (45.8%). Only 16.8% of those non-Aboriginal offenders who applied were designated as high-need cases.

Federal Offenders Granted Full Parole

Statistical analyses were also conducted on the full parole grant rates of this sample of male federal offenders. Although offenders may have more than one hearing during a given sentence, the analyses in the following section focused only on the decision of the first hearing for each offender as only a small number of Aboriginal offenders had a second full parole hearing. This rendered a sample of 116 Aboriginal offenders and 1,058 non-Aboriginal offenders. As illustrated in Table 4, only 29.3% of Aboriginal offenders ($n = 34$) were granted full parole, whereas 38.7% of non-Aboriginal offenders ($n = 409$) were granted full parole on their first hearing. This difference was statistically significant ($p < .05$).

Given the differences in criminal history between Aboriginal and non-Aboriginal offenders in the entire sample, it is not surprising that those Aboriginal offenders released on full parole were more likely to have past or present offences characterized by violence. Approximately twice as many Aboriginal offenders on full parole had a sex offence (41.2% vs. 22.0%) or an assault offence (29.4% vs. 15.4%) as compared to non-Aboriginal offenders. Consistent with the correctional mandate, the majority of Aboriginal and non-Aboriginal offenders who were granted full parole were classified as low-risk cases (58.8% and 72.8%, respectively). As would be expected, fewer high-risk Aboriginal and non-Aboriginal offenders were granted full parole (14.7% and 8.3%, respectively). Similarly, Aboriginal and non-Aboriginal offenders granted full parole were more likely to be designated

as low-need cases (47.0% and 56.4%, respectively). In general, these results suggest that some of the disparity in full parole release rates may be accounted for by differences between Aboriginal and non-Aboriginal offenders with respect to overall risk and need levels.

Discussion

Two important findings arose from the current study. First and foremost, results demonstrate that Aboriginal offenders are far less likely to apply for full parole as compared to non-Aboriginal offenders. Given that a large number of Aboriginal offenders simply do not apply for full parole, it is not unreasonable to suggest that the gap in who is released on full parole is to some extent attributable to differential application rates. This finding is also consistent with research that has found that Aboriginal offenders have a mistrust of the correctional system.¹¹ Future research should address Aboriginal

offenders' attitudes and perceptions of fairness with respect to the conditional release process.

Second, the results suggest that Aboriginal offenders who apply for full parole are slightly less likely to be granted release. This finding should be interpreted with caution due to the descriptive nature of the findings. Aboriginal offenders in the federal system appear to have a criminal history that might substantially increase a perceived risk of failure on conditional release. Given that research indicates that past criminal behaviour is one of the most consistent predictors of future criminal behaviour,¹² it is possible that Parole Boards are heavily weighing the more serious and extensive criminal history of Aboriginal offenders in their decisions. Another goal of future research, however, should be to employ a predictive methodology to examine whether such factors are associated with parole recommendations. ■

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² *R. v. Gladue*, [1999] 1 S.C.R. 688; see also *R. v. Williams*, [1998] 1 S.C.R. 1128.

³ Solicitor General Canada, *Task Force on Aboriginal Peoples in Federal Corrections: Final Report* (Minister of Supply and Services, Canada, 1988).

⁴ C. LaPrairie, *Examining Aboriginal Corrections in Canada* (Ottawa, ON: Solicitor General of Canada, 1996).

⁵ R.A. Cawsey, *Justice on trial: Task force on the criminal justice system and its impact on the Indian and Metis people of Alberta*. (Edmonton: Government of Alberta, 1991).

⁶ *Corrections and Conditional Release Act*, RSC, 1992, c. 20.

⁷ *Case Management Manual*. (Ottawa, ON: Correctional Service of Canada, 1996).

⁸ J. Bonta, S. Lipinski and M. Martin, The characteristics of Aboriginal recidivists. *Canadian Journal of Criminology*, 34 (1992: pages 3-4 and 517-521).

⁹ *Corrections and Conditional Release Act*.

¹⁰ *Task Force on Aboriginal Peoples in Federal Corrections: Final Report*; see also *Examining Aboriginal Corrections in Canada*.

¹¹ J.C. Johnston, *Aboriginal offender survey: Case files and interview sample*, Research Report R-61 (Ottawa, ON: Correctional Service of Canada, 1997).

¹² K.S. Douglas and C.B. Webster, "Predicting violence in mentally and personality disordered individuals." *Psychology and Law: The State of the Discipline*, in R. Roesch, S.D. Hart and James R.P. Ogloff (eds.), (New York: Plenum, 1999). See also D. Klassen and W.A. O'Connor, "Demographic and case history variables in risk assessment", *Violence and Mental Disorder: Advances in Risk Assessment* in J. Monahan and Henry J. Steadman (eds.), (Chicago: University of Chicago Press, 1994). See also J. Monahan, *Predicting Violent Behavior: An Assessment of Clinical Techniques*. (Beverly Hills, CA: Sage, 1981).