How the parole system is operated in Hawaii

Sources for this lecture available online at www.cpja.ag.hawaii.us

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The goal of this lecture is to provide a general description of the parole system specifically in Hawaii.

Sources are 1999, 2001 but most up to date that are publicly available to describe Hawaii.

The differences between “parole” and “probation”
- Probation =
- Parole =

Laws of HI allow a convicted felon to be sentenced to either probation or prison
- If the offender is sent to prison, a non-Judicial body, the Hawaii Paroling Authority (HPA), determines the minimum sentence (i.e. date prisoner becomes eligible for parole)
- Exercises supervision over the released prisoner
- An offender may be on parole in the community for a stipulated period of time and then discharged, or the offender may be found in violation of the conditions of his/her release and can then be returned to prison
- Thus, the HPA performs all of these functions for the parole system in Hawaii

In HI sentencing (relating to parole and prison) is a responsibility divided among all three branches of government—Judiciary, Legislative, and Executive.
- Most unique is that decisions to grant, and most certainly revoke parole, rest under the Executive, rather than Judicial branch of government.
- In most states the Judiciary (courts) handle this function

The HPA consists of one full time chairperson and two part time members
- Is appointed by the Governor and confirmed by the State Senate
- The HPA is attached to the Department of Public Safety for administration purposes but as of 1999 decisions of the HPA are not subject to the approval of the Department of Public Safety.
HPA sets the minimum sentence for a person sent to prison (the earliest date when they will be eligible for parole).

HPA also decides whether or not to grant parole in the first place, the conditions of parole, and whether or not to revoke parole.

- For details see Appendix of 1999 report on first slide
- In many (if not most) states these things fall under the Judicial branch

Factors HPA considers in fixing a minimum sentence include:

- the nature and circumstances of the offense and the history of the inmate,
- the need for the sentence imposed to reflect the seriousness of offense, promoting respect for the law, and providing just punishment.
- The sentence must further afford deterrence to criminal conduct, protect the public from further crimes by this inmate, and provide educational or vocational training. Mitigating factors are spelled out in the HRS (Hawaii Law).

Decision to grant or deny parole based upon a number of criteria:

- Inmate has to have a viable parole plan, have been a “good boy or girl” while locked up, and agree to the “Terms and Conditions of Parole” set by the HPA board.
- Decision to violate parole made when the HPA board decides “the preponderance of the evidence” suggests the parolee violated those terms and conditions.
- When there has been such a finding the HPA may revoke parole, defer revocation, or continue on parole.
- When the person successfully completes the term of parole the person is “free” from their prison term.

First, “generic” parole is called:

- “Community Supervision”

“Special units” do what names suggest:

- Intensive Supervision Unit (ISP)
- Mental Health Unit (MH)
- Sex Offender Treatment Program (SOTP)

Parole officers work closely with a psychiatric social worker

Parolees in MH are also subject to more rigid office and field visits and earlier curfews than “regular” parolees

- Must comply w/ mental health treatment and take meds (biggest issue)
  - Generally, these parolees only become a danger to themselves or others if they stop taking their medications.
Sex Offender Treatment Program (SOTP)

- Occurs both in prison and on parole
- Completion of prison-based program based upon "clinical discharge" [rather than "graduation"]
- HPA may require SOTP as a condition of parole
  - Challenged but upheld by HI Supreme Court
- As of 1997 the in-prison program evolved from a 25 to 70 week schedule emphasizing "relapse prevention" -- not "graduation!"

SOTP While on Parole [or "out of prison"]

- Each parolee required to report once per week for the first six months on parole
- Also subjected to alternative forms of contact, such as field visits and curfew checks, and treatment in private sex offender centers
- Must remain in this program and participate in therapy sessions until they are clinically discharged
  - 60-70 sessions twice a week FACTOID NOT ON TEST
  - Actual time varies because of "clinical discharge" MIGHT BE ON TEST
- Should the parolee not be clinically discharged at the end of the funded sessions, s/he must complete treatment at his own expense until clinical discharge
- Again, due to concern for public safety, SOT parolees are immediately sent back to prison if they are terminated from SOT treatment--only a clinical discharge is acceptable
- According to Director 1988-1993 relapse was quite low -- only 3 out of 192 committed new felony sex offenses (~2%)
  - 28% (54 of 192) had parole revoked for mostly technical violations
  - only about 21 (~38% of 54) had to go back to prison--based SOTP

Conclusion

- Although all three branches of government play a role:
  - parole essentially "run" by HPA (executive branch) which makes almost all major parole decisions including:
    - Setting minimum sentence (i.e. earliest date eligible for parole)
    - Whether or not to grant parole
    - Setting conditions of parole
    - Revoking parole
- Special Units in HPA