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# 'Struggling' Through Public Safety: An Examination of Parole Policy and Practice in Canada

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'Struggling' Through Public Safety:  
An Examination of Parole Policy and Practice in Canada

By

Kara Jeanne Brisson

A Thesis  
Submitted to the Faculty of Graduate Studies  
through the Department of Sociology, Anthropology, and Criminology  
in Partial Fulfilment of the Requirements for  
the Degree of Master of Arts at the  
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2011  
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## **Abstract**

According to David Garland (1990) punishment today is 'a deeply problematic aspect of social life' resulting in a 'crisis in penological modernism'. This study explores Garland's claim through an examination of Canadian parole policy and practice. Utilizing a governmentality analytic this study determines what rationales are assembled to support Canadian parole. This is achieved through a discourse analysis of the missions, mandates and objectives of Canadian parole policy and semi-structured interviews with Canadian parole agents working in the field. Understanding the field of Canadian parole as a 'field of struggle' illuminates implications in regards to the partnerships in parole, the agency of parole agents and the assemblage of parole governance in Canada. It is argued that Garland's claim in regards to a 'crisis' is unfounded in Canadian parole as there is a pervasive institutional identity evidenced by the discourses in Canadian parole policy and the practices of parole agents.

## **Dedication**

To the memory of Pete (Papa) Brisson,  
For all your thought - provoking chats.

And to Ryan,  
For your unconditional love and support.

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## I. Introduction

The relationship between crime and punishment has been criticized for being determined by crime which is over simplified. It is no longer sufficient to explain punishment as a moral problem and/or a state endorsed crime prevention or control mechanism. While penal systems do address the problem of crime, practices of punishment are heavily influenced by “cultural conventions, economic resources, institutional dynamics, and political arguments” (Garland:1991:120). More importantly, the practices and processes of punishment are exercised by a diverse group of actors who are situated in the realm of the social and are impacted (to varying degrees) by the social institution of punishment and their social positioning. As a consequence, punishment today cannot be characterized as a homogenous set of ideals and practices. Rather, as Pat O’Malley (1999:175) explains, “contemporary penal policy and practice is characterized by an unusual degree of incoherence and volatility.”

Many scholars [see Feeley and Simon: 1992, Garland: 2001, Hannah-Moffat: 2004, and 2005, Lynch:1998, O’Malley:1999, and Rose:1996] have attempted to explain the ‘volatile’ nature of contemporary penology. In his work on *Punishment and Modern Society* David Garland (1990:3) explains, “punishment today is a deeply problematic and barely understood aspect of social life, the rationale for which is by no means clear.” Garland (1990:7) calls this lack of an ideological framework or rationale the ‘crisis in penological modernism’ where what is placed in doubt is not just the effectiveness of particular policies but the very capacity of the state to simultaneously address the problem of crime and promote welfare. According to Garland (1990:4), “for nearly two decades now those working in prisons, probation, and penal administration have been engaged in an unsuccessful search to find a ‘new philosophy’ or ‘new rationale’ for punishment.” Further, agents in the penal sphere have been forced to rethink what it is they do, and to re-address foundational questions about the justification and purposes of penal sanctions, without thus far having found a suitable set of terms to rebuild an institutional identity (Garland:1990:6).

The following study set out to explore Garland’s claims regarding the ‘crisis in penological modernism’ through an examination of contemporary Canadian parole

policies and practices. Utilizing a governmentality analytic, in which history appears as socially constructed rather than determined by theory or logic, this analysis will determine what rationales are assembled to support contemporary Canadian parole (Foucault:1997, Hunt and Wickham:1994:75-78, O'Malley:2008:454-457, Rose et al: 2006:97-101). This is achieved through a multi-method analysis: The first part being a discourse analysis of the mission statements, mandates, and objectives of Canadian parole policy with the intent to reveal what is said in parole discourse. The second part being semi-structured interviews conducted with Canadian parole agents working in the field of parole with the intent to reveal what is seen in Canadian parole practice and procedure. Information collected in the discourse analysis, representing management discourse, is then compared and contrasted with the interview data, representing parole agent discourse. When taken together these two methods illuminate important similarities and disjunctures between managers (responsible for the creation of parole policy and management of parole operations in Canada) and field agents (responsible for the implementation of parole policy and practice in Canada). Also evident, are similarities and disjunctures between the agencies responsible for carrying out parole governance in Canada (primarily the National Parole Board and the Correctional Service of Canada)<sup>1</sup>.

Perhaps most intriguing, is that this study demonstrates that in Canada Garland's (1990) claim of a 'crisis in penological modernism' is unfounded. There is in fact a real and pervasive institutional identity evident in Canadian parole which is exercised, to varying degrees, through a chain of command by agents in the field. As such, the following study will draw on Bigo's (2005) notion of the 'field of struggle' and Larner's and Butler's (2004) work on local collaborative partnerships to explain the institutional identity found in Canadian parole policy and practice. This study will also address the ways in which Canadian parole policies and practices are implemented by Canadian parole agencies and exercised by agents working in the field of Canadian parole. Rather than viewing changes in parole governance as a 'crisis' it will be argued that parole is a contested 'field of struggle'. This approach will simultaneously acknowledge the agency of parole agents as well as explain the volatile and contradictory rationale informing Canadian parole policy and practice.

## II. Theoretical Overview

The following analysis specifically examines Canadian parole governance; as such, this analysis problematizes how parole is governed and the conditions under which parole operates and is transformed (Dean:2010:33). While lecturing on *Security, Territory, and Population*, Foucault (1978:67) initially coined the term governmentality to refer to the formal apparatus' of the state, the processes, practices, and relations of government. Foucault (1978) would later refer to this as the 'conduct of conduct', where conduct meant to lead or direct one's behaviour and/or actions requiring a level of deliberation in regards to how this leading or directing should be done.<sup>2</sup> Government then, in governmentality studies is

any more or less calculated and rational activity, undertaken by a multiplicity of authorities and agencies, employing a variety of techniques and forms of knowledge that seeks to shape conduct by working through the desire, aspirations, interests, and beliefs of various actors for definite but shifting ends and with a diverse set of relatively unpredictable consequences, effects and outcomes (Dean:2010:18).

This study will use Canadian parole as a case in which to analyze the authority granted to governing agencies within Canadian parole which includes the National Parole Board, Correctional Service of Canada, and community residential facilities. According to Dean (2010:18) "an analysis of government is concerned with the means of calculation both quantitative and qualitative, type of governing authority or agency, and the forms of knowledge, techniques, or other means employed, the entity to be governed and how it is conceived, the ends sought and the outcomes and consequences." However, it is equally important to emphasize that governance is never a finished process and so analyses of governance must avoid totalizing explanations and/or grandiose theoretical claims. According to Foucault (1978:67), by governmentality he meant "the ensemble formed by institutions, procedures, analyses, reflections, calculations and tactics that allows for the exercise of this very complex power." This study understands parole policy to be governed by an assemblage which includes the "ensemble" mentioned by Foucault (1978) as well as objectives, texts, and discourses all of which coalesce in regards to the rationale of the assemblage. In the introduction to their work *A Thousand Plateaus* Gilles Deleuze and Felix Guattari

(1987:4) use the metaphor of a 'body without organs' to describe the assemblage. Deleuze and Guattari (1987:22-23) explain that an assemblage establishes connections between multiplicities and acts on semiotic flows, material flows, and social flows simultaneously.

An assemblage is a capricious thing as its fluid and multiple nature makes it difficult to pin down a common element in the assemblage. According to O'Connor and Ilcan (2005:2-3), "the consistency of an assemblage lies in the regularity of its effects, and in the work of thought that aims to hold the disparate elements together by providing a coherent rationale for its functioning." Accordingly, this study aims to examine the coherent rationale that holds the various elements of the assemblage governing Canadian parole together. Still, elements of the assemblage of parole governance should be understood as having diverse historical trajectories, as being polymorphous in their internal and external relations, and as bearing upon a multiple and wide range of problems and issues (Dean:2010:40). In times of change, as evident in Canadian parole today, the parole assemblage is being disassembled and re-assembled as new problems arise and new solutions to these problems are formulated. <sup>3</sup> In the field of Canadian parole, the various assemblages associated with parole governance are being re-purposed borrowing from existing techniques, procedures, discourses, texts, and so on to constitute a re-assemblage. It is this re-assemblage that has become pervasive in Canadian parole refuting Garland's (1990) claim of a 'crisis in penological modernism'.

In examining the policies of the various agencies charged with overseeing Canadian parole as well as engaging in discussions with field agents working within these various agencies, and charged with implementing the policies associated with parole, I was able to determine how Canadian parole governance is re-assembled. This new parole assemblage or re-assemblage embraces a variety of past governing rationales which were once seen as dichotomous; however, in Canadian parole today these rationales have coalesced into an over-arching rationale which encompasses a multitude of volatile and contradictory techniques, procedures, objectives, tactics, and so on. Thus, this over-arching rationale or assemblage of parole governance holds the elements together forming their consistency.

### ***Assembling Parole Governance (Past to Present)***

Historically, three assemblages are said to have informed and constrained practices of parole governance. From the mid 19<sup>th</sup> century to the mid 20<sup>th</sup> century, industrialization made the discipline of the labour market the most compelling anchor for parole (Simon:1993:9). The primary function of disciplinary techniques is to train the offender in order to correct their criminal behaviour following the structure of factory life. Evidence of disciplinary techniques are present in contemporary Canadian parole policy and practice in regimented community management strategies and plans of care. During the 1950's and 1960's parole moved towards a clinical model drawn from medicine and social work (Simon:1993:9). This model of parole, associated with a welfare assemblage emphasizes the treatment and integration of offenders into the law-abiding community. Both treatment and reintegration remain (to varying degrees) an aspect of contemporary Canadian parole. Since the 1970's, a collapsing economy and increased legal and political demands for accountability have driven parole towards a managerial model associated with neo-liberalism (Simon:1993:9). Parole in Canada is abundant with instances of bureaucracy for example; parole agents are responsible for the collection of masses of paperwork such as static and dynamic risk assessments and community contact assessments among many others all of which form an offender's case.

Contemporarily, it is argued (see: Feeley and Simon:1992, Garland:1990, Hannah-Moffat:2005, Lynch:1998, Rose:1996, Simon:1993, and Dean:2010) that the two assemblages most commonly understood as governing parole are the welfare and neo-liberal assemblages.<sup>4</sup> According to the welfare assemblage, the subject of punishment is the 'delinquent' and the purpose of punishment is the transformation of the subject's soul, in order to address the needs of offenders (such as education, work, refamilialization, mental illness, addiction, and so on) through various treatment programs. Following the welfare assemblage, the parole agent assumes a counselor role in which they are required to have an ever-increasing knowledge of the offender in order to accurately assess and address offender needs best achieved through meaningful and regular interactions.

The welfare assemblage of parole governance suggests that the field of parole is governed in the interests of social protection, social justice, and social solidarity. However, this conception of the social is said to be undergoing a change from 'social welfare' to 'community risk'. Under the auspices of neo-liberalism governing the field of parole requires one to investigate, map, classify, document, interpret and demarcate a sector or community (Rose:1996:332). Feeley and Simon (1992) refer to this shift in penal governance generally as the 'new penology'.<sup>5</sup> This new penology is less concerned with social responsibility, moral fault, or the resultant treatment of offenders. Instead new penology is concerned with techniques of identification, classification, and management sorting aggregates of offenders according to dangerousness. Following the neo-liberal assemblage encompassing new penology the parole officer assumes the role of surveillance officer emphasizing risk management and strict control.

The neo-liberal assemblage of parole governance is intimately connected to the idea of risk. According to Francois Ewald (1993: 227) in the 20th century, at the dawn of neo-liberalism, the way was opened for the universalization of the notion of risk in which risk acquired an ontological status. Presently, it is still understood that risk never completely evaporates; while it can be minimized and localized it cannot totally dissipate (Dean:2010:195). Ewald's conception of risk as a form of rationality, a way of thinking about and representing events, is important in this exploration of Canadian parole governance as assemblages of parole governance use the notion of risk as a lens through which to view, interpret and represent parole. This interpretation of risk creates a division between active citizens capable of managing their own risk and 'high' risk, disadvantaged groups who require intervention in the management of their risk such as parolees (Dean:2010:195). Those deemed 'at risk' of being a danger to the community are subject to a range of practices with the intent to either eliminate them completely from communal spaces or to lower the dangers posed by their risk.

While there is an enduring argument in penology that a new penological assemblage has replaced the welfare assemblage of penal governance some scholars (see Hannah-Moffat: 2004 and 2005, Maurutto and Hannah-Moffat 2006:439, Lynch: 1998, Dean:2010, among others) warn that risk is too often juxtaposed with need and the so-called erosion of welfare practices are overestimated. New penal technologies

combine, merge, and continually reassemble risk with other logics in response to various institutional agendas. Accordingly, risk rationalities and practices should be understood as multiple and heterogeneous where the government of risk is assembled from diverse elements and put together in numerous ways (Dean:2010:211). Kelley Hannah-Moffat (2005) describes this process of merging in her conceptualization of the hybridization of risk and need. According to Hannah-Moffat (2005:30), “risk-based actuarial models have not simply replaced welfare strategies...[instead] risk is melded with other policy orientations such as rehabilitation and restorative justice.” Further, although the notion of need can be considered distinct from that of risk, such distinctions are difficult to ascertain in part because needs are presented in correctional policy as dynamic risk factors under the umbrella of criminogenic factors (Hannah-Moffat:2005:373). The parole officer in this conceptualization must be flexible, enforcing strict controls in some cases and acting as a counselor in others depending on the needs of the offender (Information Guide to Assist Victims:2008:20).

Two studies were instrumental in the design and implementation of the following analysis. In her study, Mona Lynch (1998) conducted ethnographic field research, specifically participant observation and formal and informal interviews, in a parole office in central California.<sup>6</sup> According to Lynch (1998:844) front-line parole agents emphasize the role demands they feel are worthwhile within a set of broad organizational constraints, and will subvert or downplay tasks and duties deemed unimportant or problematic. What Lynch (1998) discovered was that, although agents often referenced a neo-liberal and welfare assemblage of parole governance, parole agents embraced a traditional law-enforcement role and took an individualistic approach to the management of cases rather than following preventative models of parole associated with risk management. In a study conducted by Bayens et al. (1998) on “The Impact of the ‘New Penology’ on ISP” (Intensive Supervision Probation), ISP workloads and the attitudes of criminal justice workgroups in the midwestern county of the United States were studied through a discourse analysis of various documents and case loads associated with parole work in the midwest.<sup>7</sup> Bayens et al. (1998:59) found that the new managerial objective of providing custody without walls and allocating increased face-to-face contact with high risk offenders in the community on ISP promised by the new penology

is not being achieved. As such, Bayens et al. (1998) conclude that the new penology is more rhetoric than reality. Both of these studies demonstrate that parole can be useful to explain the upper management of parole as evident in parole policy; however, field level operations involve a more complex narrative about the ways parole is being (re) defined by parole agents (Lynch:1998:866). It is this contested dimension of parole that I utilize as the point of departure for the critical discourse analysis and interviews which comprise the current study. Canadian parole agents working in a variety of parole agencies (including the National Parole Board, Correctional Service of Canada, and non-governmental parole agencies) were interviewed over a twenty week period of time. Interviewees occupied a variety of positions within Canadian parole such as parole officers or agents, executive directors of agencies, directors of policy operations, and managers of training and recruitment.<sup>8</sup>

### ***Parole in Canada***

According to the Correctional Service of Canada (CSC), parole is a community sanction whereby offenders serve part of their sentence in the community where, in some cases they adhere to certain conditions and are supervised by staff known as parole officers (or agents). Full parole is a form of conditional release that allows an offender to serve part of their sentence in the community (CSC:2007:1). Offenders (with the exception of those serving life sentences for murder) are eligible to apply for full parole after serving either one third or seven years of their sentence (CSC:2007:1). Offenders serving life sentences for first degree murder are eligible to apply for parole after serving 25 years in prison and offenders serving life sentences for second-degree murder are eligible to apply for full parole between 10 and 25 years of their sentence and the court sets these dates at the time of sentencing (CSC:2007:1).

While on day parole the offender resides at a correctional institution or community residential facility but is given the opportunity to participate in community-based activities (CSC:2007:1). Offenders serving sentences of two to three years are eligible for day parole after serving six months of their sentence and offenders serving three years or more are eligible for day parole six months prior to full parole eligibility (CSC:2007:1). Further, offenders serving life sentences are eligible for day parole three years before their full parole eligibility date. Offenders (except those serving life

sentences or indeterminate sentences) are also granted day parole to prepare for statutory release. According to statutory release, by law offenders are automatically released after serving two thirds of their sentence (National Parole Board:2009:1). In March 1994, bill C-254 facilitated the denial of statutory release to offenders convicted of: A sexual offence against a child; possession of child pornography; causing bodily harm with the intent to torture and lure a child by way of the internet; causing death or serious injury; high treason; or sexual exploitation of a person with a disability (Department of Justice:2010:1). Bill C-254 granted CSC the authority to review all statutory release cases to determine whether they should refer the case to the National Parole Board (NPB) where the NPB is granted the authority to order the offender detained until sentence expiry or order special residency requirements be upheld during the offenders period of release (Department of Justice:2010:1). As such, it appears that statutory release has become a “gating” mechanism whereby neo-liberal legislation has withstood charter challenges overriding welfare policies of the past. The authority to grant parole is found in the Corrections and Conditional Release Act (CCRA) and the respective provincial legislation under the auspices of the Commissioners Directives. According to the CCRA, the NPB has exclusive jurisdiction and absolute discretion to grant, deny, terminate or revoke parole for offenders in federal, territorial, and many provincial institutions (with the exception of Ontario and Quebec where there are provincial parole boards) (CSC: 2009).

### **III. Analysis/ Findings**

#### ***Corrections and Conditional Release Act (CCRA)***

The CCRA, approved in 1992, is an extensive body of legislation detailing the authority of both the CSC and the NPB. According to the CCRA (1992:4), “the purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful, and safe society.” While notions of safety are often coupled with discourses of risk, the welfare assemblage is a big supporter of maintaining a peaceful society and justice is an ideal of both the welfare and neo-liberal assemblages; however, differently conceived. So, in outlining the purpose of corrections in Canada the CCRA points to three elements of a good or well-ordered society (justice, peace, and safety) the implementation of which can be interpreted in a variety of ways according to a number of rationales. The CCRA continues to outline the powers and authority of both the CSC and the NPB. The NPB has the authority to grant parole or statutory release to an offender if it finds that the offender will not present an undue risk to society and will contribute to the protection of society through successful reintegration. Whereas, the CSC is responsible for programs that rehabilitate and reintegrate offenders into the community that have been granted parole or statutory release (CCRA:1992:5-6 and 47-48). Important to note here is that the duty to protect society is bestowed upon both the CSC and NPB which will be re-visited in a closer examination of their respective policies and practices. The CCRA outlines the responsibilities of both the CSC and NPB, and in so doing, engages discourses of public safety, risk-management, and rehabilitation and reintegration as well as offender need identification through treatment and programs. The CCRA promotes a strong commitment to the protection of society in such a way that does not overtly support one model of parole governance over another.

In my discussions with field agents I was reminded on several occasions that agents working within either the CSC or NPB and the agencies themselves are bound by legislation. An interviewee, responsible for the oversight of policy, explained that one of their major responsibilities was to ensure that the policies of the organization reflects the legislation and supports the legislation because failure to do so could mean insufficient program funding (Interview: Dec 1st 2010). Another interviewee explained how both parole managers and agents are governed by legislative documents: The

“CCRA is number one” in regards to the basic laws and regulations around conditional release and the CCRA “creates a sort of paddock for board members where so long as they stay within the law (such as the CCRA) they are okay” (Interview: Dec 2nd 2010).

These interviewees made it clear that parole agents are bound by law and legislation and should a parole agent choose to work outside the law or legislation repercussions would follow. However, this was not the case for all levels of Canadian parole. In a discussion with a director of a community residential facility it was explained that community residential facilities (CRF) are contracted agencies so, while certain benchmarks and expectations are established, these agencies are not held to such stringent legislative demands (Interview: Jan 5th 2011).<sup>9</sup> More concerning to the CRF was the possibility of an audit (every three years) where standards such as first aid and CPR must be maintained by all employees (Interview: Jan 5th 2011). Nevertheless, legislation sets the tone for parole policy and with a strong commitment to protecting the public resonating in the CCRA it seems likely that this discourse of public protection will be reflected in the policies of the NPB and CSC.

### ***National Parole Board (NPB)***

The mission statement of the NPB as outlined in their policy manual states: “The NPB, as part of the Criminal Justice System, makes independent quality conditional release and pardon decisions and clemency recommendations and the board contributes to the protection of society by facilitating as appropriate, the timely integration of offenders as law-abiding citizens” (NPB:2010:1.1) The NPB is granted a large amount of responsibility and authority in their ability to determine who is eligible for parole, conditional release, or a criminal pardon and clemency recommendation. I was reminded on several occasions by agents working within the NPB that the Board is an independent organization whose decision-making authority is unique when it comes to parole decisions in Canada. As such, the NPB policy manual is a very important document as it (along with the legislation) provides the boundaries within which parole decisions are to be made and Board members and staff are to be held accountable. The NPB policy manual outlines four core values, the first of which is to contribute to “the attainment of a just, peaceful, and safe society” therefore reflecting the paramount concern of the CCRA (NPB:2010:1.1). Core values two and three explain that the NPB

respects the dignity and equal rights of all members of society and welcomes the contribution of qualified individuals to promote the Board's mission (NPB:2010:1.1). Core value four is unique in that it states the Board is "committed to openness, integrity, and accountability in the execution of its mandate" (NPB:2010: 1.1). It is not typical for governing agencies, particularly those in such a close relationship with the state, such as the NPB, to operate at a transparent level; rather in the case of many governing agencies (as will be clear in the case of the CSC) gaining access to and understanding their policies and practices requires a substantial amount of effort and perseverance.

Agents within the NPB also spoke of the open and transparent nature of the organization noting public hearings, public access to decision registries, media presence during some trials, and regular information published for public viewing. However, when questioned about the role of public opinion in regards to parole and conditional release decisions it was made clear that the NPB is an independent organization and that Board members are "expected to provide independent decisions and are not influenced by government, politicians, or media" (Interview: Dec 1st 2010). However, one respondent had a more complex response: "The real answer, the truth is that [public/media attention] does have an effect on the board member experience" (Interview: Dec 2nd 2010). It was then explained that in a situation of intense public scrutiny where a case could go either way the Board is more likely to vote "No" in regards to a parole or conditional release decision (Interview: Dec 2nd 2010). Therefore, while the NPB prides itself on being open and transparent this transparency is a controlled transparency in which the Board determines who has access to information and what information is available to the public.

The policy manual of the NPB explains that the Board's decision-making policies are based on the following principles: (1) "The protection of society is the paramount consideration in any conditional release decision" which is consistent with the CCRA (NPB:2010:1.2). This discourse of protection is consistent with both risk-management strategies and needs identification techniques. Principle (2) states: "Supervised release increases the offender's potential for successful reintegration and thereby contributes to the long term protection of society" (NPB:2010:1.2). This principle, while emphasizing the importance of supervised release, refrains from using language characteristic of

new penology such as monitored release and couples this idea of supervision with successful reintegration characteristic of the welfare model of parole governance. Principle (3) states: “Restrictions on the freedom of the offender in the community must be limited to those necessary and reasonable to protect society and to facilitate reintegration” (NPB:2010:1.2). Agents of the NPB confirmed these three principles of conduct with the exception of future changes to principle three. It was explained that currently the law requires that the Board seek the least restrictive option for the offender consistent with public safety; however, this phrase is going to be altered so that the board focuses specifically on public safety with no mention of “least restriction to the offender” (Interview: Dec 2nd 2010). In the words of one respondent, “it’s a subtle change but it is also a very significant and profound difference” (Interview: Dec 2nd 2010). This is significant because the Board, following the rationale of public safety, will be free to interpret the best means to achieve this goal with very few restrictions and will not have to consider the impact on the offender as entailed in current legislation.

Mechanisms and means of assessment are crucial in an examination of governance and the policy manual for the NPB outlines the “criteria for assessing if the offender presents an undue risk to society and the processes of pre-release decisions” (NPB:2010:2.1). According to the NPB’s policy manual (2010:2.1) “the determination of undue risk is based on an assessment of the offender’s likelihood of re-offending taking into account the nature and severity of the offence that could be anticipated should the offender re-offend.” However, Board members, in reviewing an offender’s case, will also analyze the offender’s criminal and social history including an assessment of the offender’s identified needs, issues surrounding employment, the nature of the current offence, previous breaches of supervision conditions, inventory of violent behaviour, family violence, mental health status, recommendation of the sentence judge, victim information, information from provincial authorities and information from community contacts (teachers, family, employers, friends, and so on) (NPB: 2010: 2.1). Determining the risk of the offender requires an analysis of multiple criminogenic factors from education and family to violence and criminal history. It seems that risk here encompasses a wide breadth of elements including those typically

associated with a neo-liberal conception of risk but also those elements more closely associated with discourses of need.

The NPB (2010:2.2) also outlines, “hallmarks of quality decision making” to assist board members in assessing whether or not an offender presents an undue risk to society and to ensure quality decisions are being made. According to the NPB (2010:2.2) the hallmarks of a quality decision include a decision that; reflects the Board’s commitment to the protection of the public while maintaining the principle of least restrictive determination; reflects that an impartial consideration of a case was undertaken; reflects all relevant aspects of the case, including the offender’s patterns of behaviour; reflects an assessment and analysis of risk factors and needs areas; and reflects an assessment of the community management strategies to be employed during the period of supervision in order to address offender needs and manage risk. Rather than privileging one strategy over another these hallmarks demonstrate that penal policy is not necessarily a consistent whole. Once again a rationale of public safety is being utilized in order to destabilize a risk/need dichotomy. As O’Malley (1999) observes, we are witnessing ‘mixed models of governance’ or a hybrid assemblage of parole governance under the rationale of public safety where strategies of risk management are melded with other policy orientations such as reintegration and rehabilitation. When asked to describe the top job priority of Board members respondents all made mention of their responsibility to make ‘quality decisions’. It was explained that quality decision making requires Board members to stay true to the philosophies of the NPB as outlined in the policy manual and specifically the hallmarks in order to ensure the best possible decisions are being made (Interview Dec 1st 2010).

The NPB policy manual also outlines the procedures for imposing special conditions on an offender’s release as well as post release interventions. According to the NPB policy manual (2010:7.1) Board members must be satisfied that without the assistance and control afforded by compliance with the suggested special condition, the offender presents an undue risk to society. A special condition must relate directly to a need identified in the decision documentation or behaviour that the Board members consider inappropriate or unacceptable (NPB:2010:7.1). The Board will remove or vary a condition when the condition or part of the condition is no longer reasonable and

necessary in order to protect society and to facilitate the offender's reintegration in society. The policy detailing whether or not special conditions are necessary for an offender's release or when to remove these conditions is predicated on an idea of balance: Balancing the safety of the community by mitigating undue risk and balancing the need for a smooth transition into the community. Once again need and risk are presented as being reciprocally related, and in the case of special conditions, risk and need are fluid terms shifting and merging the rationales of traditional assemblages of parole governance under the rationale of public safety. Similar to special conditions, the NPB will intervene in an offender's release when either behaviour or circumstance suggests an increase in the level of risk. When assessing whether or not risk has changed the Board will review and analyze the offender's many factors including progress in addressing the community correctional plan, the parole officer's risk assessment, any circumstances surrounding a breach of special conditions, and a comparison of the offender's behaviour with previous patterns of criminal behaviour (NPB:2010:8.1). Important to note here is that in evaluating changes in offender risk the NPB does not rely solely on a static conception of risk in which offenders are sorted into dangerous aggregates for the purpose of long-term management. In the case that the NPB has to intervene in an offender's release, returning the offender to an institution is not an ideal response, as this would counter the principle of successful reintegration unless of course the offender was found guilty of committing another offence for which they are required to serve another sentence in an institution. Nevertheless, the NPB must walk a fine line when imposing special conditions or intervening in an offender's release: Managing undue risk to society while addressing offender's needs is no easy task particularly when conceptions of what constitutes undue risk and offender need are fluid embracing the logic of a hybrid assemblage of parole governance under the rationale of public safety.

The NPB is a unique organization in that it has absolute authority or independent administrative tribunal to grant, deny, cancel, terminate, or revoke any form of parole. The CCRA and the NPB policy manual attribute a great amount of autonomy to Board members when it comes to making important and arduous parole decisions. As my examination of the policy manual demonstrates while there are guidelines or hallmarks

in place to ensure quality decisions are being made Board members are still granted a vast amount of discretion in their decision-making. It will soon become clear that this is in profound contradiction to the decision-making capabilities of agents working in the CSC. In fact, the NPB policy manual (NPB:2010:8.1) makes a point in explaining that “neither release decisions nor decisions in regards to special conditions will be left to the discretion of the parole supervisor” as this would “inappropriately delegate authority to the parole supervisor.” Board members analyze and assess all information collected by parole officers working within CSC which is important because the means by which this information is collected and the assemblage of parole governance this information favours may impact the decision-making of Board members. While an analysis of the NPB’s policy manual indicates that Board members and staff embrace a hybrid public safety assemblage of parole governance, I now turn to an analysis of the policies guiding the CSC in order to determine whether or not this agency is providing the NPB with information saturated in a similar discourse.

### ***Correctional Service of Canada (CSC)***

Similar to the NPB’s policy manual the CSC’s Commissioner’s Directives outline the principles and core values which reflect the CCRA and provide parole agents with the framework upon which all of their responsibilities and tasks are based. The mission of the CSC is to provide “clear direction to all staff of the service in the exercise of their responsibilities and a basis upon which the service will be held accountable” (CSC: 2003:2 ). According to the Commissioner’s Directives (CSC:2003:2) all internal regulatory documents must conform to the mission document, and promote the achievement of the mission. Where the NPB upheld the importance of decision-making the CSC is concerned with accountability, internal regulation, and the dissemination of rules and standards of operations by upper management through a chain of command. According to the Commissioner’s Directives (CSC:2003:2) the core values of the CSC are as follows: (1) Respect the dignity of individuals, the rights of all members of society, and the potential for human growth and development; (2) recognize that the offender has the potential to live as a law-abiding citizen; (3) the strength and major resource in achieving their objectives is that staff and human relationships are the cornerstone of this endeavour; (4) the sharing of ideas, knowledge, and values is essential to the

achievement of their mission; (5) managing the service with openness and integrity. These values shed light on the structure and techniques used to govern parole agents behaviour or what the 'conduct of conduct' is for a parole agent working in the CSC. According to the mission of the CSC (2003:3), "[parole officers] must be as loyal in their implementation as they are fearless in their advice...they must have an unshakable conviction about the importance and primacy of the law and constitution." While CSC recognizes the importance of its staff in carrying out the policy objectives of the Commissioner's Directives there is a clear effort on the part of the CSC to govern the decision-making and behaviour of those working within the organization according to the mandates of the Commissioner's Directives as well as the Canadian law and constitution.

The Correctional Service of Canada has strict rules which forbid parole officers and staff from providing opinions on policy to members of the public. In one particular correspondence I was informed that employees are bound by the standards of conduct and in whatever they do at work, they are expected to follow policy, regardless of whether they agree with it or not. Failure to do so could "jeopardize public safety and depending on the severity result in strict disciplinary action". Further, I was told the standards of conduct for employees states that, "disagreement with a policy does not mean that staff members can neglect their duties." Employees are free to question policy, procedure, or instructions but are expected to do so within appropriate channels. In particular, "employees must not be critical of policy or operations in front of offenders or the public; to do so is to encourage a lack of respect for the correctional service of Canada and its staff." In all of my correspondence with the CSC I was told that any questions I may have in regards to the work of parole officers I could find by reading the Commissioner's Directives. Further, the Commissioner's Directives were explained to be an exact replication of the daily tasks of parole officers.

In one particular discussion with a parole agent I was informed, "parole officers are bound by the Commissioner's Directives which cover everything...the Commissioner's Directives are our bible and can determine whether a case is followed properly so they are extremely important documents" (Interview: Oct 13th 2010). This particular interviewee with their reference to the 'biblical' importance of the

Commissioner's Directives illustrates that employees maintain a certain reverence and respect for these policy documents. Further, the CSC as an organization maintains strict control over the decision making capacity of parole officers and staff in mandating that they adhere to CSC policy exclusively in their daily operations in order to maintain public safety. This is in contrast to members of the NPB who analyze and review cases in order to maintain public safety with a large amount of discretion in their decision making. Still, parole officers working in the CSC are bound by the Commissioner's Directives to follow the techniques, assessment models, decision making strategies, and practices laid out in the policy documents of the CSC.

The community supervision framework of the Commissioner's Directives (CSC:2008:1) provides direction for a parole officer on the progress required to monitor and document an offender's progress throughout his or her period of community supervision in the interest of safe reintegration and public safety. According to the principles of the community supervision framework (CSC:2008:3) "public safety is the paramount consideration in all post-release interventions, recommendations, and decision-making both in the short and long term." Similar to the policy manual of the NPB, the community supervision framework holds public safety above all else merging both the traditional clinical or welfare model of parole governance and the neo-liberal risk-management model of parole governance. The community supervision framework (CSC:2008:9) further explains, "the parole officer will intervene to address the offender's needs and manage risk and any offender safety concerns by making effective use of community resources and collateral contacts [family members, friends, co-workers, teachers, and so on]." Here we see that both addressing offender needs and managing offender risk are an important responsibility of the parole officer. According to the community supervision framework (CSC:2008:3) ratings of risk refer to static factors, dynamic factors, level of motivation or reintegration potential. It is the combination of static risk with dynamic need that allows for a fluid and malleable conception of risk associated with a hybrid assemblage of parole governance (Maurutto and Hannah-Moffat: 2006:443). Agents working in the field corroborated that the implementation of the Commissioner's Directives involved a collaborative approach involving various members of both the public and private sectors in order to ensure a smooth transition

for an offender and to ensure public safety via risk assessment (Interview: Oct 13th 2010). A closer examination of the tools and resources utilized by parole officers to determine offender risk and need will further illustrate the duality of risks and needs in CSC policy and practice.

The community transition and post-release assessment (CSC:2008:1) provides parole officer's direction on assessing and managing an offender's transition into the community following release from an institution. According to this document, level of intervention refers to the minimum frequency of face-to-face contacts per month that the parole officer is required to have with his/her assigned offender (CSC:2008:1). The highest level of intervention is called intensive supervision practice (ISP) and includes an increased level of face-to-face interviews, collateral contacts, case conferences, and appropriate treatment intervention (CSC:2008:3). Offenders designated as in need of intensive supervision are rated as having 'low' re-integration potential and 'high' static and dynamic risk factors. While this rating reflects a neo-liberal strategy of managing risk the means of intervention (increased contact with parole officers and community partners) reflects a traditional welfare response. Aside from ISP, intervention is ranked according to levels: A, B, C, D, and E.<sup>10</sup> The number of contacts with parole officers varies per level from a minimum of four face-to-face contacts per month to a minimum of one face-to-face contact every three months (CSC:2008:5). The number of face-to-face contacts is determined by a ranking system which gives primacy to the efficient control of internal system processes sorting offenders into aggregates: level A ('high' risk) and so on (Feeley and Simon:1992:450). According to the post-release assessment (CSC:2008:7) the parole officer will assign a level of intervention that is proportionate to the risk posed by the offender and the need for support in his or her safe reintegration. All assessments throughout an offender's period of community supervision will focus on offender risk, need and reintegration potential using a variety of assessment techniques (as per the Commissioner's Directives) in an integrated process (CSC:2008:7). It is clear that both offender risk and need are understood as important factors in the assessment of an offender's level of intervention and an integration process of assessment would suggest that risk and need are reciprocally related.

According to the CSC (2008:1) parole officers are to determine levels of intervention based on static factors, dynamic factors, levels of motivation, and reintegration potential. Static factors are considered unchangeable factors and include historical information related to risk available at the time of the offender's admission to federal custody, such as a rating on the statistical recidivism scale and a criminal history record. Dynamic factors are considered factors which the offender has the power to control such as changes in their personal situation, health, and progress related to the correctional plan. Motivation includes a feeling of personal responsibility for ones problems, willingness to change, level of external support from the community and possession of skills and knowledge required to effect change in behaviours. Integration potential encompasses all of the above factors; static factors, dynamic factors, motivation, and all of the above factors will result in a ranking of 'low', 'medium', or 'high' to be determined by the parole officer.

In examining the various assessment mechanisms laid out by the Commissioner's Directives it is clear that static factors reflect a neo-liberal or new-penological understanding of risk whereas dynamic factors reflect a need oriented discourse associated with a welfare approach to parole governance.<sup>11</sup> Similar to the NPB's policy manual the CSC's Commissioner's Directives and the various assessment mechanisms for determining offender risk also encompass offender need utilizing a fluid conception of risk. In a fluid conception of risk, where risk is merged with a needs-based welfare logic such as rehabilitation and clinical assessments new forms of risk management are produced such as targeted treatment (Maurutto and Hannah-Moffat: 2006:438). As such, rather than being purely neo-liberal based or welfare based, these conceptions of risk-management reflect a hybrid assemblage of parole governance grounded in a public safety rationale. These various assessments, rankings and levels of intervention are utilized by parole officers in the creation of a profile and correctional plan for each offender in order to ensure public safety by developing a plan that will increase the offender's potential for safe reintegration into their communities (CCS: 2007:1).

Despite the highly structured nature of these assessment mechanisms my discussions with parole agents demonstrate that the creation of a parolee's profile and

correctional plan is more complicated than what is presented in the Commissioner's Directives. The problems or issues facing each offender are more complex than what the categorization techniques (in the Commissioner's Directives) capture; hence, it becomes the job of the parole officer to couple these assessment mechanisms with their notes and detailed case descriptions. When asked to describe the offenders they work with one interviewee replied; "challenging...while each offender is unique they can be grouped together according to their deficits whether that be mental health issues, drug addictions, violence, criminal history and so on"(Interview: Oct 13th 2010). However, this interviewee became concerned that they were being too "harsh" in their description of offenders and amended their earlier description stating; "primarily offenders lack social skills, problem solving skills, and interpersonal skills" (Interview:Oct 13th 2010). This interviewee's first explanation of the problems or issues facing offenders is an endorsement of the assessment mechanisms found in the Commissioner's Directives. However, after some contemplation the interviewee determined these risk-based categorization techniques are too "harsh" suggesting there is room for interpretation on the ground by parole agents. While categorizations attempt to sort offenders according to dangerousness and risk the parole agent's interaction with parolees uncovers the different facets of the problems or issues offenders face and parole agents must make judgments 'off the chart'. However, this is juxtaposed by a management discourse (evident in policy) which maintains that the Commissioner's Directives and assessment mechanisms are always upheld in the field. Again, in my correspondence with the CSC I was informed that employees are bound by standards of conduct and are expected to follow policy. Nevertheless, describing the offenders parole agents work with, via case formation, agents utilize both policy documents and their own experiences within the field. Where the Commissioner's Directives emphasize categorization and risk-based aggregates, agents working in the field often append more detailed notes providing descriptions of parolees, complicating the standard assessment mechanisms. Similarly, both Lynch (1998) and Bayens et al. (1998), in their work, demonstrate that field level operations in parole provide more complex narratives than upper management evident in parole policy.

Agents working within the CSC highlighted the importance of assessment mechanisms in the creation and implementation of correctional plans for offenders. This process begins in the institution with the parole officer assessing the offender's progress throughout their time in the prison and from this assessment the parole officer will recommend any necessary programs and/or restrictions needed upon the offender's release (Interview: Oct 13th 2010). The main questions asked here are: "Is the offender manageable in the community and can the offender's risk be managed in the community?" (Interview: Oct 13th 2010). In order to answer these questions the parole officer will interview various community contacts associated with the offender as well as determine whether or not the programs the offender needs are available within the community. It was emphasized that the parole officer merely recommends special factors or conditions for the management of offender risk within the community. These recommendations for a community strategy are then sent on to the NPB where the strategy will be reviewed and ultimately determined as appropriate or inappropriate. Nevertheless, the parole officer is responsible for completing an assessment of offender risk utilizing the Commissioner's Directives as well as their own experiences in the field which encompass a fluid conception of risk and need characteristic of a public safety (hybrid) assemblage of parole governance.

Similarly, offenders who reside in a community residential facility (primarily for long term offenders or 'lifers') are assigned a 'plan of care'. According to an agent working within a Canadian CRF the goal is to create a culture where the offender feels safe and that their basic needs are met (Interview: Jan 5th 2011). Further, the 'plan of care' outlines the goals the residential facility expects the offender to accomplish while under their roof and is reviewed once a month in a staff meeting. Questions asked in this case are: "Has he achieved his goals? Does he need new goals? And is this the wrong goal?" (Interview: Jan 5th 2011). While the CRF is primarily concerned with managing offender risk and maintaining public safety the 'plan of care' is a much more dynamic assessment mechanism and involves a substantial amount of reflection and flexibility on the part of the CRF. As such, the overall goals and rationale behind this assessment mechanism are similar to that of the NPB and CSC; however, the implementation reflects a more traditional clinical or social work model of parole

governance. Also, important to note here is that offender's residing in a CRF are assigned both a 'plan of care' and a community strategy plan some of which will overlap but nevertheless these offenders have two assessment mechanisms to fulfill. The Commissioner's Directives of the CSC detail the responsibilities and tasks of parole officers and provide parole agents with guidelines, tools, and models for assessing offender risk. Similar to the policies of the NPB, the CSC utilizes a fluid conception of risk resulting in a hybrid public safety assemblage of penal governance.

### ***Changes in Canadian Parole***

In my interviews with Canadian parole agents a central and consistent topic of discussion was changes in Canadian parole. I was informed by an agent that Canadian parole is currently undergoing "massive changes" as per the 'Transforming Corrections' policy documents recently released (Interview: Oct 13th 2010).<sup>12</sup> All of the interviewees corroborated that Canadian parole is presently undergoing changes and that big changes for Canadian parole are in the making. In 1997, the legislation changed in regards to long-term supervision orders (such as parole) so that instead of the final date of sentence being the warrant expiry date offenders could be subject to a long-term supervision order extending their sentence beyond warrant expiry up to ten years (Interview: Dec 1st 2010). More recently, regulations have changed at the NPB where parole decisions regarding lifers, and dangerous offenders was once made by a panel of three Board members this has been reduced to two Board members (Interviews: Dec 1st 2010 and Dec 2nd 2010). A key change for community residential facilities occurred under the Ontario provincial government led by Mike Harris: "We lost our contract in terms of providing beds for provincial parolees because the [Harris government] did away with all the support for provincial parole" (Interview: Jan 5th 2011). At all levels of Canadian parole I was informed that change is imminent: "We are on the cusp of a major shift as legislation passes and then certainly there will be lots of changes in philosophy" (Interview: Dec 2nd 2010). One interviewee made mention of the changes I have discussed earlier in regards to restrictions for offenders: "Currently the law requires that Board members seek out the least restrictive option consistent with public safety; however, this phrase is going to be altered so that the focus is specifically on public safety removing mention of least restriction to the offender" (Interview: Dec 2nd

2010). The current federal conservative government's 'get tough on crime' approach was credited on several occasions for changes present and future in Canadian parole (Interviews: Dec 2nd 2010 and Jan 5th 2011). In utilizing a governmentality approach, changes at various times and levels of Canadian parole governance are uncovered; however, these changes do not unfold in a linear manner. Instead, Canadian parole has undergone and will continue to undergo cycles of assemblage and re-assemblage where techniques, objectives, and strategies of parole governance will be created, modified, dismissed, and re-surface.

#### **IV. The Public Safety Assemblage of Canadian Parole Governance**

According to David Garland (1990) there is a 'crisis in penological modernism' and while it is true that agents in the penal sphere (including Canadian parole agents) have had to rethink what it is they do and re-address foundational questions about the justifications and purposes of penal sanctions Garland's (1990:6) claim is unfounded in the case of contemporary Canadian parole. This analysis has demonstrated that contemporary Canadian parole policy and practice is governed according to an assemblage of public safety. The public safety assemblage is important in that it is a hybrid assemblage coupling the traditional welfare model and neo-liberal model of parole governance. Public safety acts as the rationale or consistency that aims to hold the disparate elements of the assemblage together (O'Connor and Ilcan:2005:2-3). This rationale is both community based and individualized deploying a wide array of technologies of parole intervention. Agents working within the field of Canadian parole are able to do so with a dual purpose: (1) Managing offender risk and (2) ensuring the safe reintegration of the offender according to the rationale of public safety. Where these were once considered dichotomous, operating at opposite ends of the spectrum of parole governance, agents today explain these goals as being interchangeable. One particular parole agent described the duality of Canadian parole as follows: "The number one goal is the protection of public safety and the number two goal is the integration of offenders" (Interview:Oct 13th 2010). When asked if these goals were compatible they replied "absolutely yes because one goal mitigates the other if we are properly integrating offenders then we are protecting public safety and if we are ensuring public safety we should be properly integrating offenders" (Interview:Oct 13th 2010). Canadian parole agents prided themselves on maintaining public safety: "I believe protecting the community has genuine value...that's a big part of my role and one that I value and feel is important" (Interview:Dec 2nd 2010). "To tow the party line: I feel like I am contributing to the safety of my community" (Interview:Oct 13th 2010). My analysis of the mission statements and mandates of Canadian parole policy also emphasizes the duality of parole governance according to the rationale of public safety. <sup>13</sup> Therefore, the assemblage governing Canadian parole today is a hybrid assemblage merging risk and need logics similar to Hannah-Moffat's hybridization of risk and need;

however, the rationale behind this hybridization (public safety) is unlike anything discussed thus far.

Where scholars (see Feeley and Simon:1992, Garland:2001, Hannah-Moffat 2004 and 2005, Lynch:1998, O'Malley:2008, and Rose:1996) have been primarily concerned with the shift from 'social welfare' to 'community risk' this analysis has demonstrated that Canadian parole has once again undergone change merging 'social welfare' and 'community risk' into 'community safety' or public safety. Similar to the findings of Lynch (1998) the public safety rationale is a malleable rationale allowing agents in the field of Canadian parole to emphasize and de-emphasize certain strategies and techniques as they see appropriate in a particular situation. However, unlike the findings of Lynch (1998) and Bayens et al. (1998) Canadian parole agents are embracing (to varying degrees) the discourses of parole governance found in policy and at the managerial levels and expressed a sense of pride in carrying out orders from above. The community safety or public safety approach offers a distinct institutional means towards its ends, which entails a move away from a predominately central statist approach to problems of crime to one that relies instead upon the forging of partnerships on a number of different fronts (Gilling: 2001: 384). These partnerships present new ways to solve old problems. Further, "community safety is characterized by an eclectic set of measures designed for tackling crime and insecurity and this eclecticism is viewed as a virtue, 'hitting the problem from all sides' and dealing with symptoms and causes in a holistic approach that stands in stark contrast to the partial and limited nature of previous approaches" (Gilling: 2001: 385).

## **V. Exploring Implications**

### ***Gaps in Partnerships***

Understanding the field of parole as a 'field of struggle' illuminates the ways in which parole agents and organizations operate within parole utilizing competing and contradictory tools, mechanisms, and strategies according to the rationale of public safety (Bigo:2005). The 'field of struggle' also demonstrates gaps between the partnerships in Canadian parole and the agency of the parole agent in decision-making. Bigo (2005:109-113) warns that we should not "wrongly analyze professionals in the field as willing allies or accomplices" and that the field is established between these 'professionals' with specific 'rules of the game'." Accordingly, in the case of Canadian parole the CSC, the NPB, and community residential facilities, while working quite intimately together, are distinct organizations charged with separate responsibilities and authority despite their congruent goals and assemblage of governance. The struggles that take place in the 'field of struggle' are fundamental in order to understand the internal mechanisms of the field of parole and the processes of formation and reach that characterize it (Bigo:2005: 125). It is the 'field of struggle' conception that allows for an analysis of this assemblage or networks of heterogeneous and transversal practices (Bigo:2005:133). Larner and Butler (2004) describe the struggle and contestation involved in collaborative partnerships through the efforts of a range of actors. The parole agent at various levels of parole governance exercises their agency in their navigation of the public safety assemblage and in so doing maintain a connection between the various organizations and levels of Canadian parole.

Where the NPB, CSC, and community residential facilities are similar in their goals, objectives, and assemblage of parole governance they differ in the means used to achieve these goals and objectives. Unlike the NPB, where emphasis is placed on autonomy in decision-making, the CSC is a highly structured and bureaucratic agency utilizing reports, scales, check-lists, and guidelines to govern the behaviour and decision-making practices of its employees. The exclusive jurisdiction over decision-making granted to the NPB and the highly monitored and confined assessment tools utilized by the CSC has resulted in a disconnect or gap between these two agencies. This gap could have important implications in the realm of both parole policy and

practice particularly in decision making and case rulings. The individual granted the autonomy to make parole decisions is not the same individual who collects the information upon which this decision is based. Nor are the information collection methods and the decision making guidelines held accountable to the same policy documents (NPB- policy manual for Board members and CSC- Commissioner's Directives for parole officers). So while these policies are consistent in their adoption of the public safety assemblage there remains an important and consequential gap in regards to the structure and authority granted to each agency.

Parole agents throughout the various levels of Canadian parole were quick to point out this gap and the effects it has on their work practices and partnerships with fellow parole organizations. One interviewee explains that parole officers are responsible for supervising offenders within the community and they are collectors of information (Dec 1st 2010). The Board members will review this information provided by the parole officer but they are not expected to concur with these recommendations. The parole officer is a conduit or contact point - they submit information to be analyzed by Board members for the purposes of decision making. This explanation illustrates that agents within Canadian parole work closely together but are involved in a complicated relationship that sometimes involves misunderstandings. As one interviewee explains, "there are lots of misunderstandings between CSC and the Parole Board of Canada" and so workshops are offered in which it is explained "why we do what we do, how we do it, and what their role is in all of that" (Interview:Dec 2nd 2010). It was explained that there is a "strong relationship" between the CSC and NPB and the NPB hold the CSC "to task" because they "count on them" to report accurately and responsibly and there is a "trust" between these two agencies (Interview:Dec 2nd 2010). "It's the kind of relationship where [CSC] is mostly the givers and [NPB] is mostly the taker...and [CSC] can become frustrated with what they feel is [NPB's] bureaucratic compulsion for certain things but when it is explained that these requirements are found in law and are tested in court [CSC] gets on board pretty quickly" (Interview:Dec 2nd 2010). The struggles in the field of parole also occur at the lower levels within community residential facilities. The community or parole component of CSC is such a small part of the larger organization - an organization that from the perspective of a community residential

facility thinks in “paramilitary terms” (Interview: Jan 5th 2011). “CSC thinks in very institutional terms its very difficult for [certain authorities] to get their heads around a community residential facility they would picture a jail in the community” (Interview:Jan 5th 2011).

It was through my discussions with Canadian parole agents that my observed difference between Canadian parole policy documents truly became compounded and it became clear that the Canadian parole agent (particularly the parole officer as contact point) has a challenging job as policy interpreter. Canadian parole agents must navigate the field of parole, ‘a field of struggle’, in order to implement the goals of the public safety assemblage. Further, agents must work together in order to fulfill legislative demands and as a result of shared values and objectives; however, interviewees have demonstrated the ways in which these partnerships or relationships are complicated by the major differences in structure and authority amongst the various organizations and the ‘volatile and contradictory’ nature of Canadian parole.

### ***The Problem of ‘Public’ Safety***

This study has also uncovered an issue in regards to the public safety assemblage of governance and the rationale of public protection. It is this assemblage or rationale of parole governance that agents and organizations reference when explaining the various mechanisms, tools, strategies, and techniques of parole in Canada. The overall goal of public safety allows Canadian parole organizations to shift and change their strategies and techniques borrowing from traditional models or more recent models of governance. The rationale of public safety draws heavily on the notion of social cohesion as evidenced by a community or public. However, nowhere in this analysis did either Canadian parole policy documents or agents working within Canadian parole make mention of the inclusion of the Canadian public. Both the policy documents and agents on several occasions attested to the fact that Canadian parole organizations are independent organizations and act independently of the public. Despite the fact that parole hearings are open to the public and the media, despite the fact that parole officers rely heavily on information collected from community contacts, and despite the fact that parole agencies are ‘open and transparent’ the public are not consulted in regards to parole decisions, community strategies or most importantly what

constitutes public safety. In fact, nowhere in these policy documents is public safety even defined and if it is being defined among parole agents it is done behind closed doors. As a result, there is an imposed sense of public safety where 'we' the public are informed what in fact will make 'us' safe. This presupposes a form of a well-ordered or normative society in which it can be assumed that a singular public agrees on a singular conception of safety which can be determined by a governing body.

This sort of governing stems back centuries to what governance scholars call pastoral, ambivalent, or parental governance. Foucault (1978 and 1997) explains pastoral governance as a game in which a select few were taught to govern others and these others allowed themselves to be governed because it appeared this governing was being done in such a way as to 'guard' or 'look out for the others'. Agamben (1998:77) describes this process as ambivalence in which the governing body appears as ambivalent and therefore has no difficulty extending itself over every field of the social. More recently paternal or parental governance is described as acting on behalf of the good of another person without that person's consent - as a parent would do for children (Suber:1999:632). It is this governing on behalf of others without their consent according to pastoral power, ambivalence, or parental governance that appears to be the case in Canadian parole. While the public safety assemblage of parole governance is useful in that it allows for a hybrid conception of Canadian parole governance, embracing a fluid understanding of risk and need and utilizes a multitude of techniques and strategies, the rationale of public protection has afforded the government (in the case of Canadian parole) the authority to act on behalf of the 'public' without first consulting this 'public'. The public safety assemblage has allowed for an instantiation of parental governance whereby organizations and agents responsible for Canadian parole act on behalf of the public determining what constitutes public safety and how this will be achieved in Canadian parole policy and practice.

## **VI. Conclusion**

### ***'Struggle' Not 'Crisis'***

While this study has shed light on the practices and policies of Canadian parole this field is significantly under-researched and scholars should continue to research parole in Canada. Future research projects should concentrate on the gaps between the various organizations and structures in Canadian parole and the consequences that result from these gaps. Also, researchers should further explore the role of the public in Canadian parole policies and practices asking specifically: Should the public be consulted in regards to parole decisions and what constitutes public safety? While scholars such as Lynch (1998) and Hannah-Moffat (2004 and 2005) have begun to investigate the role of the field agent further research is needed in order to understand the field agent's perception of their role in parole governance. This study did successfully compile a variety of perspectives in regards to the narratives of parole agents; however, I was unable to interview parole board members due to a lack of resources and time which are needed to pursue this exclusive group. The suggestion is that future researchers, with more time and resources, should pursue the difficult to reach groups within Canadian parole organizations (such as Parole Board members). These difficult to access groups will provide further insight into Canadian parole policy and practice and would be worthwhile pursuing. Lastly, research should be done in regards to the offenders experience and their interpretation of Canadian parole in order to determine the ways in which this is similar and unique from the parole agent's experience.

Canadian parole today is characterized by a new hybrid penology endorsing public safety as a paramount goal encompassing both neo-liberal risk-management strategies and traditional welfare-based strategies. This public safety assemblage permeates both parole legislation and policy documents and is embraced by agents in the field who implement (to varying degrees) the policy objectives from above. It was explained that parole in Canada coalesces what has previously been understood as dichotomous rationales of governances in which risk is fluid encompassing the needs of offender's in order to ensure the offender's smooth transition into the community and to mitigate undue risk to society. It was argued that due to the structure and authority

granted to the various organizations within Canadian parole there exists a gap or disconnect which has consequences in regards to decision making and makes the field agents job as policy interpreter particularly difficult. Also, the public safety assemblage is problematic as it utilizes the notion of public safety in justifying the various means of parole without consulting the public in regards to what constitutes public safety.

It is clear that past examinations of penal governance have often resulted in over simplified explanations of a very complex field that cannot adequately be explained by a singular body of practices and/or mechanism of governance. The dual methods and governmentality analytic utilized in this study allowed for a more holistic exploration of Canadian parole and was better able to explain what constitutes Canadian parole policy and practice accounting for multiplicities, contradictions, and the public safety rationale that allows these contradictions to coexist. Parole in Canada does not suffer from a lack of a rationale or a suitable set of terms that defines the institutions identity as Garland (1990:6) would have us believe. Therefore, parole in Canada is not in 'crisis'; rather, Canadian parole is engaged in a struggle in which organizations responsible for parole governance and agents working in the field navigate the public safety assemblage of Canadian parole utilizing incoherent and inconsistent policies and practices.

### **End Notes**

1. This study, primarily concerned with the governance of Canadian parole, utilized the following research questions: Are Canadian parole agencies experiencing changes in policy orientations? Does Canadian parole policy and/or practice demonstrate an orientation towards a neo-liberal, welfare, or hybrid parole assemblage? In what ways do policies affect the work practices of parole agents? These questions (among others) were first explored in a critical discourse analysis of the policies laid out by corrections Canada in the Commissioners Directives, the National Parole Board in their policy manual and in parole legislation such as the Corrections and Conditional Release Act. The above mentioned research questions (along with others) were also explored through semi-structured interviews with agents working in the field of Canadian parole. These interviews focused on the practices and decision-making processes deployed by agents in their everyday work and pay particular attention to whether or not field agents are embracing the policy discourses of upper management. Through these interviews the voices of parole agents are useful in developing the particulars of parole practice on the one hand and exposing the resources and constraints on agent decision-making on the other. Through a process of comparing, contrasting, and amalgamating these two methods I was able to illuminate various representations of the field of parole as well as

uncover the assemblage of parole governance informing both policy formation and the work practices of agents in the field.

**2.** Recently, scholars (see Hunt and Wickham: 1994:75-78, O'Malley:2008:454, and Rose et al:2006:85-90) have expanded Foucault's concept of governmentality to include generalized and disperse practices rather than being only what states do.

**3.** Dean (in O'Connor and Ilcan:2005:3) describes this transformative movement as a process of folding, a process that takes place in the domain of government.

**4.** The welfare assemblage is often discussed in relation to the welfare state; whereby, the state enforces solidarity and prevents dissolution by providing for the needs of the national population, ensuring the rights and liberties of socially responsible citizens and neutralizing the threat of social dangers (Dean:2010:181). While the welfare assemblage finds its heritage in the welfare state, the welfare assemblage of parole governance is particularly concerned with offender needs and is concerned with the treatment and transformation of offenders in order to restore peace and prevent recidivism.

**5.** According to Feeley and Simon (1992:450) new penology involves the emergence of new discourses where probability and risk increasingly displace discourses of clinical diagnosis (of needs) and restorative justice (or reintegration). Further, new system objectives give primacy to the control of system processes in place of objectives of rehabilitation and new techniques that target offenders as an aggregate rather than as individuals (Feeley and Simon:1992, Lynch:1998, Foucault:1978, and Hannah-Moffat: 2005). Feeley and Simon (1992:455) explain, "new penology is neither about punishing nor rehabilitating individuals it is about identifying and managing unruly groups."

**6.** Lynch (1998) found evidence of discourses of new penological strategies favouring risk management techniques associated with the neo-liberal assemblage. However, Lynch's results demonstrate that discourses favouring welfare and law-enforcement strategies also shape parole agent's identity formation.

**7.** According to Bayens et al. (1998:53) ISP is expected to provide increased levels of offender surveillance and within most ISP programs risk and needs assessment further separates offenders into levels of supervision (high, close, intermediate, and reduced supervision). The results of the study by Bayens et al. suggests that ISP officers spent most of their supervision time with offenders assigned to the intermediate classification not with offenders assigned to the high or close classifications.

**8.** A detailed description of the interviewee's gender, ethnicity, race, education, amount of time working with the agency's, and other background information has been excluded from this study in order to maintain the anonymity and confidentiality of participants. Further, specific locations and names of individual organizations or institutional

branches have been omitted in order to maintain the anonymity and confidentiality of participants' place of work.

**9.** A CRF would be in a contractual agreement with either the CSC or NPB and expectations are set out by the contracting organization according to their respective legislative demands.

**10.** Level A being the most frequent level of intervention for offenders ranked as 'high' risk, level B 'medium' risk, level C 'low' risk, level D offenders with no conditions at level C for a minimum of one year, and level E for offenders with no conditions at level C for a minimum of one year (CSC:2008:5). The initial thirty day period of an offender's release is an assessment period for the parole officer to accurately assess the offender's required level of intervention (CSC:2008:6).

**11.** Static factor assessment includes offences (previous and current), severity of offence, type of victim, degree of force used, degree of physical and psychological harm to victim, and a sex offence history checklist (CSC:2008:1-10). However, dynamic factor analysis is used to obtain the level of need for each target domain being assessed (CSC:2007:1). These domains include: employment, marital/family, associates/social interaction, substance abuse, community functioning, personal/emotional orientation, attitude and an overall dynamic factor rating (CSC:2007: -2).

**12.** In November 2009, the CSC began making amendments to some of the existing elements of the Commissioner's Directives through a series of documents: 'Transforming Corrections'. Preliminary changes include; enhancing offender accountability, enhancing correctional programs and interventions, and strengthening community corrections (Transforming Corrections:2009:2). The CSC goes on to list some of the objectives which have been implemented including; a controversial electronic monitoring pilot project, a pilot project for enhancing staff safety, and community consultations regarding the location of parole offices and community residential facilities. The CSC also notes ongoing objectives which include; the development of an integrated approach for offender reintegration planning, the evaluation of ongoing pilot projects, and the clarification and the development of the role of community based residential facilities (Transforming Corrections:2009:8).

**13.** Recall: "The purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful, and safe society" (CCRA:1992: 4). "The protection of society is the paramount consideration in any conditional release decision" (NPB: 2010:1.2). Also, the Commissioner's Directives were written in the interest of safe reintegration and public safety (CSC:2008:1).

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