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**REPORT  
OF  
THE TASK FORCE ON RELEASE OF INMATES**

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Task Force on Release of Inmates  
Montreal, November 30, 1972

The Solicitor General of Canada  
Ottawa, Ontario

Sir,

We have the honour to submit herewith the report of the Task Force on the Release of Inmates together with our recommendations.

Yours truly,

(Sgd.) James K. Hugessen  
Chairman

(Sgd.) James A. Phelps  
Member

(Sgd.) Irvin Waller  
Member

(Sgd.) Richard G. Gervais  
Member and  
Executive Secretary

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## INTRODUCTION

The present task force started work<sup>1</sup> in the month of June, 1972 and consists of four members:—

Chairman: HON. MR. JUSTICE JAMES K. HUGESSEN,  
Superior Court and Court of Queen's  
Bench (Criminal Jurisdiction),  
Montreal, Quebec

Member: MR. JAMES A. PHELPS, Director  
Matsqui Institution,  
Abbotsford, British Columbia

Member: PROFESSOR J. IRVIN WALLER,  
Centre of Criminology,  
University of Toronto,  
Toronto, Ontario

Member and  
Executive Secretary: MR. RICHARD G. GERVAIS  
Political Scientist,  
Montreal, Quebec

The terms of reference of the task force as approved by the Minister were as follows:

"To study the existing structures and procedures regarding the release of prisoners prior to completion of the sentence imposed by the Court, with particular reference to:—

- (a) Composition and structure of parole authorities;
  - (b) Parole from provincial prisons;
  - (c) Temporary absence and day parole;
  - (d) Remission of sentence and mandatory supervision;
  - (e) The relationship between parole and sentencing;
  - (f) The procedure of parole selection including statistical bases;
  - (g) Parole violations; the process for application of sanctions;
  - (h) The desirability of appellate or review structures;
  - (i) The liaison between parole services and penitentiary services;
- and to report and make recommendations thereon".

The chapters of this report are organized around these headings.

The original deadline for the report of the task force was October 31, 1972 but this was subsequently extended to November 30, 1972.

We have benefited from the submissions and public hearings being conducted by the Standing Committee on Legal and Constitutional Affairs of the Senate of Canada, whose chairman, Senator J. Harper Prowse, and Executive Director, Mr. Réal Jubinville, have afforded us their cooperation and assistance.

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<sup>1</sup> Immediately following appointment, the task force set up its offices in quarters located at 100 Notre-Dame Street East, Montreal, which had very kindly been made available to us by the Minister of Justice of Quebec, Hon. Jérôme Choquette.

Through their good offices, we have had made available to us the proceedings of the committee and the various briefs and memoranda filed by interested persons. These have provided an invaluable source of material. Because of this cooperation and our limited time span, we did not think it appropriate to make any public call ourselves for submissions or to hold any public hearings.

As a result we have deliberately conducted our proceedings in a series of informal discussions across the country with a wide range of informed and experienced persons. In particular, we have visited representatives of every provincial government in Canada (senior civil servants and, where possible, the ministers to whom they were responsible). We have held private conversations with all members of the National Parole Board and have attended a number of panel hearings. We have held discussions with the staff of a large number of district offices of the National Parole Service and held meetings with various levels of staff from a number of penitentiaries as well as with inmate groups. We have met with senior policemen, judges, community representatives, native organizations, after-care agencies and ex-inmate groups. We have held useful discussions with the Chairman and Executive Director of the National Parole Board and with the Commissioner and Deputy-Commissioner of penitentiaries. We have met with members of the headquarters staff of the Department of the Solicitor General as well as with other task forces working in related areas. From all of these persons we have received the fullest cooperation.

We have discussed the parole and prison term setting systems with a wide range of officials in the United Kingdom, the United States federal system and in the States of New York and Washington. We also had the honour to meet with the U.S. House of Representatives Subcommittee inquiring into federal and state parole systems.

As our ideas crystallized, we held three informal seminars with informed and interested persons from several university criminology programs at the State University of New York at Albany, l'Université de Montréal, and the University of Toronto. At these sessions, some of our tentative conclusions were critically tested.

A full list of the persons and groups with whom we have discussed our terms of reference appears as Appendix C to this report. To each of them, we extend our sincerest thanks.

Our bibliography, which appears as Appendix D lists the wide range of literature studied for purposes of this inquiry.

During the summer months, we engaged, on a part-time basis, the services of two research assistants, M. Michel Nicolas, a graduate student in criminology at l'Université de Montréal and Mr. Terrence Semenuk, a student in law at McGill University. Both have made helpful contributions to our work.



## CHAPTER I

### THE PRESENT SYSTEM

Before entering in detail into the questions which are contained in our terms of reference, we think it appropriate to outline the present structures and procedures for the release of prisoners prior to completion of sentence. In each chapter we indicate what we believe to be the principal weaknesses of the present system which require modification.

Under the present system in Canada, virtually no convicted person spends in prison the full period of time which is indicated in the sentence of the court. There are, broadly speaking, three ways in which a prisoner may be released from incarceration prior to the expiry of the full term of the sentence. These are parole, temporary absence and remission.

Another major factor to be borne in mind is that there is no unified system of corrections in Canada. Under the terms of the British North America Act "The Administration of Justice" and "The Establishment, Maintenance and Management of Public and Reformatory Prisons" are matters falling within the exclusive jurisdiction of the provincial legislatures.<sup>1</sup> On the other hand, "The Criminal Law . . . including the Procedure in Criminal Matters" and "The Establishment, Maintenance and Management of Penitentiaries" fall within the exclusive legislative jurisdiction of the Parliament of Canada.<sup>2</sup> While the British North America Act does not in itself contain any definition or other indication as to the distinction to be drawn between penitentiaries on the one hand and prisons and reformatories on the other, such distinction, at the time of the passage of the British North America Act in 1867, had already been established for twenty-five years as being based upon the length of the sentence being served, rather than upon the nature of the institution itself.<sup>3</sup> This distinction continues to this day and the Criminal Code provides that definite sentences of imprisonment aggregating two years or more shall be served in a penitentiary.<sup>4</sup> However little justification there may be, either in the division of jurisdiction itself, or in the way in which the distinction between the two types of institution is made, for the purposes of the present Report we have assumed its continuation.

#### Parole

While responsibility for the custody of convicted persons is a matter of divided jurisdiction between federal and provincial authorities, the paroling of persons convicted of offences against federal statutes is, with two notable exceptions, an exclusively federal matter.

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<sup>1</sup>Section 92, subsections 6 and 14.

<sup>2</sup>Section 91, subsections 27 and 28.

<sup>3</sup>Statutes of United Provinces of Canada, (1842) 6 Victoria chapter 5, section 3: "For each and every offence, for which by any of the said Acts, the offender may on conviction be punished by imprisonment for such term as the Court shall award, or for any term exceeding two years, such imprisonment, if awarded for a longer term than two years, shall be in the Provincial Penitentiary."

<sup>4</sup>Section 659.

The National Parole Board has "exclusive jurisdiction and absolute discretion to grant, refuse to grant or revoke parole".<sup>5</sup> This jurisdiction extends both to federal penitentiaries and to provincial prisons or reformatories. The two exceptions previously noted are the provinces of British Columbia and Ontario.

Section 150 of the Prisons and Reformatories Act<sup>6</sup> allows the courts of British Columbia to sentence any person under the age of 22 years, convicted of an offence punishable by imprisonment for three months or more, to a term of not less than three months, followed by an "indeterminate" term of not more than two years less a day; Section 151 permits the lieutenant-governor to appoint a provincial parole board whose jurisdiction extends only to the indeterminate portion of such sentences.

Section 44 of the Prisons and Reformatories Act provides that any male person convicted in Ontario of an offence punishable by imprisonment for a term of three months or more may be sentenced to imprisonment for a term of not less than three months and an "indeterminate" period of not more than two years less a day; Section 55 makes provision for female persons who are convicted of any offence punishable by imprisonment for a term of two months or more, and permits the imposition upon such persons of an "indefinite" sentence not exceeding two years. In each case such sentences are to be served in a "reformatory" and the law provides that the superintendent of such "reformatory" shall retain such a person "until the term for which he has been sentenced is completed or until he is otherwise paroled or discharged in due course of law".<sup>7</sup> The lieutenant-governor of Ontario may appoint a provincial board of parole with jurisdiction over such indeterminate or indefinite sentences.<sup>8</sup>

Both Ontario and British Columbia make use of this permissive legislation and in both provinces there is an active provincial parole board dealing with the indeterminate portion of sentence.

A number of other provinces have statutory provisions for provincial parole boards<sup>9</sup> but in the absence of enabling federal legislation such boards are limited in their operations to persons imprisoned for infractions against provincial statutes. In practice most of these provisions would appear never to have been activated.

The National Parole Board was originally established in 1959 as a result of the Report of the Fauteux Committee.<sup>10</sup> It is at present composed of nine members, including a chairman and a vice-chairman, and has its office and centre of operations in Ottawa.

In considering federal penitentiary cases, the Board, although specifically exempted from such a requirement by Statute,<sup>11</sup> has adopted the practice of granting hearings to all applicants for parole. For this purpose, the Board makes use of its statutory authority to divide itself into divisions<sup>12</sup> and such divisions, known as "panels", consisting of two members each, regularly visit each of the federal penitentiaries. As a general rule, every penitentiary in Ontario and Quebec is visited once a month by a panel of the National Parole Board; penitentiaries in the Atlantic provinces, the Prairies and British Columbia are visited once every two months.

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<sup>5</sup>Parole Act, R.S.C. 1970, Chapter P.2, Section 6.

<sup>6</sup>R.S.C. 1970, Chapter P-21.

<sup>7</sup>Sections 46 and 59.

<sup>8</sup>Section 51.

<sup>9</sup>P.E.I. Parole Act 20 Elizabeth II Chapter 28 (1971) N.B. Parole Act 1964, Chapter 9 Manitoba An Act to Amend the Corrections Act 1970, Chapter 64 Saskatchewan The Corrections Act 1967, Chapter 64 Alberta The Corrections Act R.S. Chapter 70.

<sup>10</sup>Report of a Committee Appointed to Inquire into the Principles and Procedures Followed in the Remission Service of the Department of Justice of Canada. Chairman Gerald Fauteux, 1956.

<sup>11</sup>Parole Act, Section 11: "The Board . . . is not required to grant a personal interview to the inmate or to any person on his behalf".

<sup>12</sup>Parole Act, Section 5.

Hearings<sup>13</sup> by National Parole Board  
Two Member Panels in 1971

Maritimes . . . . .	450
Quebec . . . . .	1,271 <sup>14</sup>
Ontario . . . . .	1,238
Prairies . . . . .	734
British Columbia . . . . .	648
Total . . . . .	4,341 <sup>14</sup>

Source: Secretary, National Parole Board, October 1972.

Where two members of the panel are in agreement and where the case does not fall into one of a number of reserved categories requiring action by more than two members of the board,<sup>15</sup> they will, if possible, render their decision at the hearing and give their reasons to the inmate concerned. Where the two members cannot agree or where the case requires action by more than two members, the interviewing panel will "reserve" the decision and report to the Board at Ottawa where other members of the Board, without seeing the inmate, will give their opinions and decisions. It is also common for a decision to be reserved because of lack of information on file.

Although statistics for the reason for reserved decisions are not available, the total for first decisions<sup>16</sup> reserved by panels of the National Parole Board were distributed as follows in 1971:—

<b>Application for Parole</b>	
Federal . . . . .	1,065
Provincial . . . . .	822

<sup>13</sup>No statistics are kept on revocation hearings. It is estimated that no more than 2 or 3 revocation hearings occur each month. These would be additional to the statistics in the table.

<sup>14</sup>No statistics are available for the month of July 1971 in Quebec. The figure quoted is based on an estimate that the average for other months of 106 hearings took place that month.

<sup>15</sup>Section 5 of the National Parole Board Rules (SOR/71-151) reads as follows:  
"5 (1) Subject to subsection (2), a division of the Board may carry out such of the duties and functions of the Board as are specified by the Chairman.

(2) No division of the Board consisting of less than five members shall carry out any of the duties or functions of the Board in relation to an inmate

(a) in respect of whom a sentence of death has been commuted to imprisonment for life or to a term of imprisonment,  
(b) upon whom a sentence of imprisonment for life has been imposed as a minimum punishment, or  
(c) whose case is included in any class of cases specified by the Chairman".

In a memorandum dated Feb. 8, 1972, the present Chairman of the Board describes as follows the categories of cases requiring to be dealt with by more than two members:

"1. Dangerous Sexual Offenders — may be dealt with by seven Members if these first seven are unanimous. Otherwise the case must be dealt with by nine Members.

2. As provided for in Section 5(2) (a) (b) all the cases in which life was given as a minimum sentence and which cases must go to the Cabinet for release to be approved, a division of *at least* five Members must review the case.

3. Subsequent to the authority delegated to me by Section 5 (2) (c), I have directed that at least five Members must deal with the following cases:

- a) habitual criminals
- b) armed robberies
- c) drug cases — if parole by exception is considered
- d) all F.L.Q. cases
- e) all notorious cases
- f) all white collar criminal cases in which a large sum of money is involved.
- g) all cases in which the inmate previously violated parole."

<sup>16</sup>Apparently it is common for such decisions on applications to be reserved more than once. Some cases are reserved more than ten times.

#### Suspension of Parole

Federal . . . . .	209
Provincial . . . . .	59

Source: National Parole Board, 1972.

The decision of the Board with regard to parole is final, except in the case of persons serving a commuted sentence of death or a mandatory sentence of life imprisonment. In these latter cases, the Board's jurisdiction is limited to recommending parole and the final decision as to whether or not such recommendation is to be accepted rests with the Governor in Council.<sup>17</sup>

As a general rule, no person is eligible for parole until he has served at least one-third of the sentence of the court, or four years, whichever is the lesser.<sup>18</sup> Persons serving life terms do not become eligible for parole until the expiry of ten years or seven years, depending on whether such life term is or is not a mandatory term or one to which a sentence of death has been commuted.<sup>19</sup> Persons serving terms of two years or more do not become eligible for parole until they have served at least nine months. In all cases, other than persons serving mandatory life terms or terms to which a sentence of death has been commuted, the Board has jurisdiction in "special circumstances" to grant parole prior to the normal eligibility date.<sup>20</sup>

Under section 8 (1) (a) of the Parole Act the case of every inmate in a penitentiary for two years or more shall be reviewed, unless the inmate advises the Board in writing that he does not wish to be considered. However, it appears in practice that it is necessary to apply in order to obtain parole. Under section 8 (1) (b) an inmate serving less than two years must apply to obtain parole. As few as 56 per cent of those eligible from the penitentiaries applied in 1964, while 89 per cent applied in 1971.<sup>21</sup>

Persons serving terms in provincial prisons for offences against federal statutes become eligible for parole at one-third of the sentence. However, the procedure followed by the National Parole Board is different. Such cases are decided entirely on the basis of the documents submitted to the board and no panel hearings or personal visits by members of the board to provincial institutions take place.

In 1971, according to the National Parole Board 89 % of those eligible for parole from penitentiaries applied. This resulted in 4,559 applications for parole received from persons held in federal penitentiaries. In addition, 4899 applications were received from provincial institutions. Statistics are not yet available on the number of persons released on parole in 1971, but the following decisions were taken concerning these applications:—

	Federal	Provincial	Total
Parole Granted . . . . .	1,260	1,873	3,133
Parole in principle . . . . .	802	567	1,369
Parole with gradual . . . . .	60	39	99
Minimum parole in principle . . . . .	113	N/A	113
Short Parole . . . . .	None	35	35
Parole for deportation . . . . .	75	52	127
Parole for voluntary departure . . . . .	None	1	1
Day parole . . . . .	330	855	1,185
Re-parole . . . . .	145	71	216
Total Paroles Granted: . . . . .	2,785	3,493	6,278

Source: National Parole Board, October 1972.

<sup>17</sup>Parole Regulations — (SOR/68 — 21) Section 2(3).

<sup>18</sup>Parole Regulations, (SOR/64 - 475), section 2(1) (a).

<sup>19</sup>Parole Regulations, (SOR/68 - 21 and SOR/69 - 306), sections 2 (1) (b), 2(3), and 2(4). It should be noted that all inmates sentenced to life other than as a commuted death sentence on or before January 4, 1968 serve only seven years before receiving consideration for release on parole.

<sup>20</sup>Parole Regulations, (SOR/64 - 475), section 2(2).

<sup>21</sup>See Appendix "B".

The 2,785 paroles granted represents 61 per cent of the total applications for parole from federal penitentiaries; in contrast, 71 per cent of applicants from provincial institutions were granted parole.

Certain other matters fall within the jurisdiction of the National Parole Board. There was only one decision taken — favourable — on sentences of corporal punishment in 1971. Corporal punishment under the Criminal Code was abolished on July 15, 1972.<sup>22</sup> There were 813 decisions relating to driving license suspensions taken in 1971. The details are as follows:—

Decisions on Driving Licence Suspensions by the National Parole Board in 1971 <sup>23</sup>	
Favourable . . . . .	477
Adverse . . . . .	257
Deferred . . . . .	21
Reserved . . . . .	2
No Action . . . . .	55
Favourable cancelled . . . . .	1
Total . . . . .	813

Source: National Parole Board, October 1972.

With effect from July 10, 1970 the parole board was concerned with decisions under the Criminal Records Act.<sup>24</sup> Starting from that date, applications were processed, inquiries usually taking several months. Statistics are not available for the calendar year 1971 and it is not clear whether the number processed between July 1970 and December 1971 represents a backlog that may diminish. However, 434 decisions were taken in that period.

Decisions under the Criminal Records Act by the National Parole Board July 10, 1970 — December 31, 1971	
Granted . . . . .	395
Denied . . . . .	38
Deferred . . . . .	1
Total . . . . .	434

Source: National Parole Board, October 1972.

#### Temporary Absence

By comparison with parole, jurisdiction over the granting of temporary absence is divided along federal-provincial lines, and within the federal penitentiary system itself is far more decentralized. The statutory authorization for the granting of temporary absence is found in Section 26 of the Penitentiary Act<sup>25</sup> and Section 36 of the Prisons and Reformatories Act.<sup>26</sup> In each case the statute allows certain designated officials to permit an inmate to be absent with or without escort for unlimited periods for "medical reasons or for periods up to 15 days for humanitarian reasons or to assist in the rehabilitation" of

<sup>22</sup>Criminal Law Amendment Act 21 Elizabeth II, Chapter 13 (1972)

<sup>23</sup>These figures are based on a preliminary count and may be adjusted in later publications.

<sup>24</sup>R.S.C. 1970 (first supplement) Chapter 12.

<sup>25</sup>R.S.C. 1970, Chapter P-6

<sup>26</sup>R.S.C. 1970, Chapter P-21

the person in question. In the federal system, the power to grant such temporary absences for periods not in excess of three days for humanitarian or rehabilitative purposes is vested in the director of the institution where the inmate is held; absences for the same purpose in excess of three days and not exceeding fifteen days must be authorized by the Commissioner of Penitentiaries.

As has been indicated, the jurisdiction to grant or to refuse temporary absences rests solely with the custodial authorities and no outside body equivalent to the National Parole Board exercises any control over such temporary absences. While the practice varies somewhat from institution to institution within the federal system, temporary absences as a rule are only granted by the institutional director, or recommended by the institutional director to be granted by the Commissioner, after review of the file and an affirmative recommendation from a group or committee of institutional officers set up for this purpose, usually the inmate training board or an equivalent body.

The total number of such absences granted within the penitentiary system has been increasing rapidly, from 6,278 in the calendar year 1969 to 30,299 in the calendar year 1971.<sup>27</sup> Within the provincial prison system, the temporary absence program also appears to be growing, but we have not been able to compile precise statistics. Even with regard to the federal system, the statistical data available at the time of writing is limited. No differentiation is made between temporary absence for one day and such absences for 15 days. Statistics are not available on the number of prisoners receiving temporary absences as opposed to the number of temporary absences granted. It is our impression that there are few institutions where as many as 10 per cent of the inmates would be out on temporary absence on one day, while there are several institutions, particularly those with maximum security classification, where such temporary absences are rarely or never granted. It seems clear that the dramatic growth in the number of temporary absences has taken place almost entirely in the humanitarian and rehabilitative categories. There is a growing tendency, notwithstanding the terms of the statutes, to grant temporary absences both in the federal and certain provincial systems for periods in excess of three or fifteen days respectively by means of the device of issuing passes on a "back-to-back" basis.

## Remission

While parole and temporary absences are discretionary and are granted only in those cases in which the authority charged with their administration decides that the prisoner is an appropriate person to be released, the sentences of all inmates are subject to remission. There are two types of remission, statutory and earned.

Whether a convicted person is serving his term in a provincial or in a federal institution, he is entitled to be credited with statutory remission amounting to one-quarter of the entire term of his sentence.<sup>28</sup> The whole or any part of such statutory remission may be lost due to an inmate's misconduct or the commission of certain crimes.

Any remission so lost may be remitted by the authorities where it is "in the interest of rehabilitation" of the inmate.<sup>29</sup> In fact, while no precise figures are available, it would appear that the number of prisoners who serve their full term without any statutory remission is so minimal as to be insignificant.

In addition to statutory remission, persons incarcerated in either provincial prisons or federal penitentiaries are entitled to earned remission at the rate of three days per month.<sup>30</sup> Earned remission is, in theory, awarded by the institutional authorities for the inmate applying himself "industriously", but appears generally to be almost automatic in practice. Earned remission, once granted, cannot be withdrawn.

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<sup>27</sup>Senate of Canada — Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs, Issue No. 2, Wednesday, March 8, 1972, Appendix "B".

<sup>28</sup>Prisons and Reformatories Act, Section 17(1); Penitentiary Act, Section 22

<sup>29</sup>Prisons and Reformatories Act, section 17(4); Penitentiary Act, Section 23.

<sup>30</sup>Prisons and Reformatories Act, Section 18; Penitentiary Act, Section 24.

## CHAPTER II

### COMPOSITION AND STRUCTURE OF PAROLE AUTHORITY

In the present section we dealt with the composition and structure of parole authorities having jurisdiction over prisoners in federal institutions and the institutions of certain provinces as dealt with in more detail in our next chapter.

A number of the shortcomings to which the present system is subject are of primary importance. Since they are at the base of most of the criticism of the system and form the immediate *raison d'être* of the recommendations which follow, these need to be mentioned first before we discuss our analysis and modifications.

The present National Parole Board suffers from excessive centralization. Especially in the case of those institutions outside the provinces of Ontario and Quebec this leads to a feeling of remoteness on the part of the members of the board, parole service staff, institutional staff, inmates and the public. Members are often not fully attuned to the local situations in which they are called upon to make their decisions.

The members, based as they are in Ottawa, are obliged to spend great amounts of time in travelling across the country to penitentiaries to attend panels. As a result, they are not present at their desks in Ottawa. Even when travelling in panels of two, members of the board are subject to excessive time demands created by the requirements of transportation schedules and this inevitably gives rise to a pressure to rush through hearings and to work longer hours than either efficiency or good decision making should dictate. Upon their return to Ottawa, travelling panel members are greeted by desks piled high with every manner of file awaiting action: reserved decisions, decisions in which a panel has disagreed, decisions requiring action by more than two members, decisions relating to provincial prisons, driving license suspensions and the granting of pardons under the Criminal Records Act. All fall into this category and all tend to suffer. These pressures have an effect upon the time required to reach a decision. It has been suggested that they may also have an effect upon the quality of the decision.

Equally, members are not able to devote the time they should to public education and the fostering and maintenance of effective relationships with other relevant bodies such as police, courts, after-care agencies, news media or indeed the public in general. Furthermore, we would question whether such public relations in themselves are sufficient to adequately involve these bodies in the decisions of the Board. For example, a common police complaint is that even when their opinions are sought, they are not given sufficient weight by the Board.

There has been a shortage of information about the operations of parole and such information as has been available has not been fully utilized. A brief review<sup>1</sup> of the annual trends in granting, revoking and forfeiting parole shows that the parole board has more than tripled the absolute number of paroles in the ten year period from 1962 through to 1971. However, in that time the absolute number of revocations rose

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<sup>1</sup> See Appendix "B".

three-fold and the number of forfeitures ten-fold. This dramatic increase has never been adequately explained by the board to the public, due to the tenuous relationships between the board and those responsible for collecting and analyzing the information. The result has been that the relations with other persons and agencies, already exacerbated by the members, overloaded time schedules, have broken down, in some instances completely.

Finally, there has been no clear statement in the law or by the board as to the criteria which go into the granting of parole and little is known about the extent to which decisions taken adhere to consistent principles. Apparent disparity leads to increased uncertainty for the inmate and is undesirable per se.

To meet these problems and certain other deficiencies in the present system, we propose an alternative composition and structure of the parole authorities. In the remainder of this chapter we will discuss a two-tier structure of parole authority consisting of Regional and Local Boards. This would apply to all sentences of two years or more and to sentences of less than two years in some provinces. We also discuss the role of a National Commissioner for Parole and a Parole Institute, which would play essential roles in our structure. In the following chapter we will explain in which provinces this scheme would apply and the alternative scheme in the other provinces, and the relationship between the alternative scheme and the structure outlined below.

### LOCAL BOARDS

The first tier of the parole authority would be called the Local Board. This would consist of three persons representing respectively the institutional authority, the parole service and the outside communities into which parolees are released. The Local Board would have authority to grant parole except for those cases where a decision of the Regional Board is required in accordance with this report. It would also have the responsibility to finalize temporary paroles on its own authority or subject to the prior approval of such parole "in principle" as set out below.<sup>2</sup>

The exclusive authority of the Local Board would apply to full parole for inmates who do not fall into certain specific categories. Among the categories which would require decision by the Regional Board would be those serving terms of five years or more, those who have a history of crimes of violence, and any other category specified by the Regional Board.<sup>3</sup> Temporary paroles for these same categories of inmates would also have to be approved "in principle" by the Regional Board, although the authority for the final granting of temporary parole and their administration would be the responsibility of the Local Board.

We see the Local Board as being primarily based upon institutions or, when practical, groups of institutions. In this latter case we have in mind situations such as the Kingston and Laval areas. The local Board would always sit with three members and operate by majority decision. All the members would serve on a part-time basis only. One of such members would be director of the institution in which the inmate, whose parole decision is being made, is held; another would be the district representative of the parole service or his deputy; the third would be the community representative. Because of the volume of work and because the members of Local Boards would have other responsibilities, it would be necessary to have several persons in each category available to sit.

In the case of places like Matsqui or Cowansville, there might be two community representatives while for Kingston or Laval there would probably have to be as many as half a dozen. For example at Kingston, where approximately two out of five inmates are released to Toronto,<sup>4</sup> we would see two or three of the six community representatives coming from Toronto, perhaps another from Hamilton, another from London or Windsor, another from Kingston or Ottawa and another from one of the smaller communities. A similar scheme can be worked out for the other penitentiaries.

<sup>2</sup> See Chapter IV.

<sup>3</sup> Among such categories might be repeated parole violators and cases which have achieved public notoriety.

<sup>4</sup> Irvin Waller, *Men Released from Prison: A Means Towards Understanding the Correctional Effectiveness of Parole*. (Unpublished) Toronto: University of Toronto, 1971.



Ideally, one Local Board would apply to both provincial and federal institutions. Where it was necessary to form a separate Local Board for provincial institutions geographically separated from other institutions, the system would parallel that already described.

The representative of the parole service on the Local Board should be at a senior level, limited to persons having supervisory functions in the parole service.<sup>5</sup>

The community representative should be an interested and informed person appointed on recommendation of the National Commissioner for Parole after consultation with local citizen groups. Such groups might include ex-inmate groups, citizens advisory committees, boards of directors of after-care agencies, service clubs and trade unions.

In the case of the institutional staff, the person sitting on the Local Board should not be of a rank lower than assistant director.<sup>6</sup> In the case of small minimum security institutions geographically isolated from other institutions, this would mean only the director or, in his absence, the acting director. In the case of small provincial jails, this would normally refer to a person appointed by the provincial department of corrections or its equivalent.

### REGIONAL BOARDS

At the second tier of decision making, we would envisage Regional Boards based on the five regions of Canada, namely the Pacific, the Prairies, Ontario, Quebec and the Atlantic. For the time being, for practical reasons, the Yukon and Northwest Territories should be assigned to the jurisdiction of the Regional Boards in the adjacent regions.

The authority of the Regional Board would be to make all parole decisions (including decisions for temporary parole "in principle") for those categories of inmates who are not within the jurisdiction of the Local Boards, namely those serving terms of five years or more, those with a history of crimes of violence and other categories specified by the Regional Board.

We also envisage another major function for the Regional Boards, namely that of coordination of Local Boards through the power of review and supervision of their decisions. This is dealt with more fully under our chapter on Appellate and Review Structures below.<sup>7</sup>

#### Composition of Regional Boards

We view the composition of the Regional Boards as being determined largely by the nature of the training, experience or profession of the persons who are appointed to such boards. The parole decision is one which involves the weighing and assessing of a number of overlapping and often conflicting considerations.<sup>8</sup> Among the more important of these are:

- (i) reduction of numbers of people incarcerated
- (ii) assessment of risk and protection of society
- (iii) notions of justice and equalization of sentences
- (iv) acceptability of the parole decision and consideration for the victims of crime
- (v) management of the institutions and motivations of inmates
- (vi) facilitation of re-entry and reintegration of the offender into society

<sup>5</sup> W.P. 4 and above.

<sup>6</sup> Normally the person having line authority for inmate programs such as the assistant director in charge of inmate socialisation.

<sup>7</sup> Chapter IX.

<sup>8</sup> Keith O. Hawkins, *Parole Selection: The American Experience*. Unpublished Ph.D. Thesis. University of Cambridge, 1971. Robert O. Dawson, *Sentencing: The decision as to type, length and conditions of sentence*. Boston: Little Brown, 1969. John Hogarth, *Sentencing as a Human Process*. Toronto: University of Toronto Press, 1971; Canadian Studies in Criminology, I.

(vii) minimization of cost

(viii) humanization of the correctional process.

These considerations are not necessarily listed in the order of their importance nor, of course, are they understood by everyone involved in parole. However, they play a role overtly or covertly in any parole decision. In our view each must be taken into account in every release decision.

They do not, however, necessarily require equal weighting. The best way of achieving a balance between these competing considerations is not to ask one or even several persons having similar expertise and training to weigh and judge between them. Nor can members, originally from different disciplines, and who are appointed for long terms to parole boards be expected by themselves to give the appropriate weight to each factor. The solution is to allow a number of people, each of whom may be expected to represent one point of view in the parole process, to meet together and in the cut and thrust of debate to arrive at a proper decision. Additionally, persons having expertise in different fields may be expected to contribute not only to the value of the decision itself but also to its acceptance among their colleagues and by the public in general.

We have been much impressed in this respect by our observation of the operation of the English Board where the principle is followed of appointing members to the board because of their functions in other fields. The English Board ensures that each of their statutory categories<sup>9</sup> are represented on the panels that make the final recommendations to the Home Secretary.

On Regional Boards in Canada, we would see representatives of the following disciplines or trainings as being important contributors to the parole decisions:

An informed and interested citizen not directly involved in the correctional process,

a judge,

a senior police officer,

a psychiatrist or psychologist,

a criminologist or sociologist,

a person with responsibility for program in correctional institutions -- and,

a person with responsibility for the supervision of offenders in the community.

Each Regional Board should include women among its members. There are important considerations concerning wives or girl friends of the convicted offenders as well as children that can often be overlooked by all-male boards. It must also be remembered that the parole authority will be taking decisions on female prisoners.

In those areas where there are significant minority groups who form a disproportionate part of the prison population, in particular Indians and Metis in the western provinces and northern Ontario, the Regional Board should include at least one member from such a group. This is important to an understanding of the special background of inmates coming from these groups. It would also provide liaison in terms of understanding the decision taken by the parole authority and often in terms of finding suitable situations to which the inmate could be paroled. There may also be cases in which there is the additional advantage that a member of the parole authority, rather than an interpreter, speak the language of an applicant.

<sup>9</sup>The Criminal Justice Act 1967 provides that the Board shall consist of a Chairman and not less than four other members, and shall include among its members a person who holds or has held judicial office, a registered medical practitioner who is a psychiatrist, a person having knowledge and experience of the supervision or after-care of discharged prisoners and a person who has studied the causes of delinquency or the treatment of offenders. (Great Britain Report of the Parole Board for 1968, London H.M.S.O. 1969 para. 24). An informal tradition has been established to include other categories of persons.

In the case of the judge and the senior police officer, consideration should be given to requesting nominations from the provincial authorities in the province or provinces in which the Regional Board is to operate. This has a number of advantages, most importantly:

1. The province in question would be more willing to make such a person available for service on a Regional Board, and
2. this will provide an important provincial input into the appointment of paroling authorities.

In recommending that appointments be made by categories, we do not deny, and indeed would emphasize the importance of selecting persons of high calibre. It is of vital importance that in the selection of the members of the Regional Board, care should be taken to preserve a proper balance between the needs of society and the interests of the inmate. In making recommendations for appointments within the suggested categories, the National Commissioner for Parole should ensure such a balance.

In the sections which follow, we discuss the reasons which have led us to suggest each of these categories.

#### **An Informed and Interested Citizen not Directly Involved in the Correctional Process**

It is essential for the parole authority to have close ties with the community and to be aware of public attitudes.

Persons involved in the correctional process may give insufficient emphasis to relationships with the community. The principal function of the independent citizen would be to maintain ties with the community. Through his involvement in the parole decision making process, he should acquire knowledge about the system which can be transmitted to the community in a variety of ways, such as personal contacts and public talks. In addition, because of the fairly frequent turnover in this position, the persons occupying it should play an important function in stimulating public understanding of the dilemmas and problems posed by parole. They may also generate the sort of practical assistance for parolees which it may often be difficult for the professional to foster.

#### **A Judge**

One role of the judge on the parole authority is to emphasize the considerations that went into the original sentencing decision. He has personal experience with the problems of reconciling conflicting considerations in sentencing. He also has knowledge of attitudes and beliefs of individual judges who might have sentenced a particular parole applicant.<sup>10</sup> He would contribute to the interpretation of sentencing decisions. Moreover, his legal training will lead him to emphasize questions of individual rights and to relate the deprivation of liberty to the seriousness of the offence committed. He would also stress consistency in treatment between persons who are convicted of the same offence. In many cases he would emphasize the importance of the protection of the public and the need for public acceptance of the decision, considerations generated from his own experience on the bench.

There is an important form of cooperation which must exist between the courts and the parole authorities. They must understand each other's goals and have mutual confidence. These objectives would be furthered through the liaison function performed by a judge on the Regional Board. He will be able to explain to his colleagues the different considerations that are taken into account when the parole decision is made. Where such liaison does not exist, judges may tend to increase the length of sentences to insure that a particular inmate will be incarcerated for a minimum period of time. This may be done on beliefs generated

<sup>10</sup>To avoid confusion, the legislation should specify that a judge may sit as a member of a Regional Board even when it is considering the case of an inmate whose sentence was pronounced by that judge. Under the English system this happens frequently with no apparent role conflict. The parole decision is to a great extent based on information that is both more recent and more detailed than the sentencing decision with the result that the sentencing judge may indeed be as well placed as any other to contribute to it.

by one or two individual cases. Many judges do not realize that more than half the men released from the penitentiaries are not released on parole; the fiscal year 1969-70 was the first in which more persons were released from the penitentiaries on parole than were released at expiration of sentence.<sup>11</sup>

#### **A Senior Police Officer**

Protection of society is one of the main objectives of the police. It is they who, in cases of crimes of violence, see the victim and hear the public reaction. In the cases of the more common crimes against property, they are aware of the damage done. Police Departments also often maintain surveillance to keep track of persons, some of them parolees, likely to be involved in offences. In this role, they are familiar with men coming out of prison and going back to new crime.

Their contribution on the Regional Board must be to emphasize consideration for the potential victims of crime and the protection of society. Their understanding of the parole process and the resultant coordination between the police and the parole authority can do much to achieve the delicate balance between the need to integrate the offender into the community and, at the same time, to provide protection to that community. The police officer will bring to the Regional Board an understanding of police methods and problems and will aid in providing interpretation and background to police reports.

On the other hand, he will be able to go back to the various police departments and explain to them the sort of information that is needed for the parole decision and, in cases where the decision goes against the police point of view, show them that adequate consideration was given to it. We emphasize our belief that the crises created by the press over particularly sensational parole failures and fired by outspoken but disenchanted policemen or judges can largely be avoided by such participation.

An objection to the participation of police officers in the parole authority has been that the inmate will lose confidence in that authority. Where the police point of view is only one of many, we do not feel the inmates will lose confidence. In practice, we feel that confidence in the system comes from seeing that inmates do, in fact, get released and dealt with fairly on parole so that they will continue to apply and cooperate.

This must be weighed against the loss of police confidence in parole which results from inadequate liaison and decisions which disregard or give insufficient emphasis to the police point of view. More emphasis given to the protection of the public after an inmate is released from an institution will enable more paroles to be granted and not less. If this happens, then the inmate also will have confidence in parole.

The presence of a police officer is only a partial solution to the problems of cooperation between police and parole supervisors. It is, however, an important one.

#### **A Psychiatrist or Psychologist**

There are frequently difficult decisions of individual motivation or behaviour that arise in parole decisions. We do not see the presence of a psychiatrist or psychologist on the Regional Board as obviating the need to obtain special reports in individual circumstances. However, we do see the psychiatrist or psychologist aiding in the explanation of these reports and being able to articulate and emphasize the considerations brought out in the report. He should also advise when a psychiatric report might be necessary. Where there is such a report, the regional chairman should ensure that there is someone from this category present at the hearing. A psychiatrist or psychologist might also be expected to emphasize the aspects of parole concerned with trying to change the personality or modify the behaviour of the parolee.

#### **A Criminologist or Sociologist**

There is a need for an individual on the board who spends much of his time studying the origins of criminal behaviour and the operations of the criminal justice system. It is particularly important for such a

<sup>11</sup>Senate of Canada — Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs, Issue No. 7, Thursday, April 27, 1972, page 7:35.

person on a Regional Board to be from a university or other agency independent of government who is not under pressure to believe and accept the status quo. His role would be to raise questions which might otherwise be overlooked by those who are actively engaged in or responsible for the operation of the criminal justice system. He might also provide a liaison with the important resources available in universities and a close link with developments that are occurring in other countries. He would normally be expected to aid in the interpretation of material from the Parole Institute and the meaning of prediction tables that might be used.

While the parole applicant is entitled to representation at the hearing, the criminologist or sociologist should be selected as a person who, with voting power, will emphasize the applicant's point of view.

#### **A Person with Responsibility for Program in Correctional Institutions**

Among the factors affecting a parole decision are the related questions of institutional discipline and the motivation of inmates. These become more important if remission is abolished. This representative would emphasize these concerns. He will also provide important liaison with the parole authority on programs available in the institutions. He should aid in the interpretation of reports made by the institutional personnel. This member should be drawn from those having both administrative and program experience in institutions.

There are some possible disadvantages to this representative. Institutional behaviour of the inmate might be given too much emphasis in either a positive or a negative sense. There is also a danger that institutional staff would be too involved in personal relationships to be objective. As in the case of police and judges, our reply to this criticism is that he is only one of several members and that the other members are likely to emphasize the other considerations.

#### **A Person with Responsibility for the Supervision of Offenders in the Community**

The result of a parole decision is to release a man to supervision in the community. A person with experience of the community and in the supervision of such offenders is essential to an understanding of what can be achieved by community supervision. He should also provide improved liaison when it is necessary for the parole supervisor to pay particular attention to certain points in the parolee's life. He is likely to aid in the assessment of risk by saying to what extent the supervisor can provide adequate measures of control. He would emphasize the aspects of the supervision process which are concerned with trying to change the parolee or his environment as well as assist the parolee.

We would see that such a person could be either from the National Parole Service or from a private after-care agency. This person may also concern himself with the inmate's position and be one of the members of the Board who would act to some extent as an advocate for this point of view.

#### **Regional Chairman**

The Chairman would be the eighth and a full voting member of the Regional Board. He would be responsible for the regional secretariat, for overseeing the operations of Local Boards, for public relations within the region and for the organization of the workload of the members of the Regional Board. Due to his other commitments,<sup>12</sup> the regional chairman would not sit regularly, although he would be encouraged to do so. The actual chairing of the panels which hear cases should not rest with the regional chairman, but should be rotated among the members of the Regional Board on a regular basis. This would minimize the tendency for one member to dominate. The term of the regional chairman should be five years.

<sup>12</sup> The other functions of the regional chairman which are discussed in detail throughout this report, include:-

- coordination of the Local Boards.
- preparation of annual report.
- recommendations to National Commissioner for Parole for appointments to Local Boards.
- regional liaison with the Parole Institute.
- initial decisions on which reports would not be shown to the inmate.
- coordination of reports on parole violations and decisions on changes in parole conditions.

### **Quorum**

As members of the Regional Board are selected because they represent different professions, trainings and points of view, it is necessary that as many as possible should be present at every meeting of the board. A further advantage to such a procedure is greater consistency in decisions both as between different cases and between different hearings of the same case.

Ideally, a member from every category should be present at every meeting but some provision must be made for unavoidable absences and for the pressures of workload. Moreover, for reasons of consistency and cost, the number of members on a Regional Board should be limited. It is recommended therefore that a quorum of five members be present at every hearing other than a revocation hearing.

In order to meet emergency situations and to provide for some planned cross-pollination of members between different Regional Boards, there should be provision to allow any member of one Regional Board to sit temporarily on another Regional Board for the purpose of making up a quorum. It should be further provided that any member of a Regional Board who joins another Regional Board for purpose of the quorum should not be a member from a category which is already represented on the quorum for the meeting.

For certain special categories of cases, namely those serving a life sentence as a minimum or after commutation of a death penalty, and dangerous sex offenders, the regulations should specify that the parole release decision could only be made by a unanimous vote of eight members including the chairman of the Regional Board.

### **Full or Part-Time Members**

The use of part-time members has many advantages in theory. Assuming that Regional Boards always sat in panels on which each of the categories was represented, the gain in terms of input to the decision making process has been outlined above. Even more important is the output which a part-time member can generate: A member from a particular category who is appointed full-time to a parole board could, in due course, come to be regarded by his former colleagues more as a member of the parole board than one of them. If, however, such a person is appointed on a part-time basis, he will continue to associate three or four days a week with the fellow members of his profession and would contribute much to their understanding and acceptance of parole.

A Regional Board composed wholly of part-time members, however, creates logistical problems which are almost insuperable. As discussed in our chapter on the process of parole selection,<sup>13</sup> the inmate should have a right to a hearing before all the people who are going to make the decision to release him.

### **Logistics of Hearings**

Under the current system, two travelling parole board members meet the inmate with the classification officer and a representative from the parole service present. Opinion as to the optimum number of such hearings that should be held varies between 10 and 20 per day. It has been argued that hearings are not necessary in those cases where the decision to grant is obvious. However, this view overlooks the need to insure the parolee's understanding of and commitment to the conditions of parole.

In 1971, eight travelling board members saw, in panels of two, approximately 4,400 inmates, so that each member saw approximately 1,100 inmates.<sup>14</sup> Additionally, there is some preparation required before the hearing. Further to this, approximately 4,900 applicants from provincial institutions were considered on the basis of files without hearings (at least 1,225 files per member).<sup>15</sup> Individual parole board members

<sup>13</sup> See Chapter VII.

<sup>14</sup> Chapter 1, Page 3.

<sup>15</sup> Some of these files require the decisions of more than two members for such reasons as release before eligibility date or because they fall into other special categories as shown in footnote<sup>15</sup> on page 3.

have further emphasized to us the time taken by driving licence suspensions (an average of 200 per member in 1971). There are additionally more than 2,000 cases where a decision is reserved and so taken on the basis of files. It is impossible to assess the workload per member as reserved decisions may require action by as few as two or as many as nine members. Additionally, some cases may be reserved several times. The minimum average additional workload per member, due to reserved decisions, would be 500 decisions per year, but the actual number may be much higher.

Regional Boards would also have responsibility for hearing parole violations.<sup>16</sup> Based on current experience for paroles from penitentiaries, between 20 and 27 per cent of parolees will violate parole within two years and as many as 20 per cent may violate within one year.<sup>17</sup> Only one-half of these might involve discretionary revocation so that between 1 in 6 and 1 in 10 paroles granted would result in a second decision.

We propose that the Regional Board should aim to hold an average of 10 hearings a day. It would be good practice to allow as much time for the preparation and reading of the file as for the hearing itself. In round numbers, a full-time person would be able to hold 1,000 hearings at the rate of 10 hearings a day.<sup>18</sup>

**Regional Logistics**

There were approximately 7,850 inmates in the federal penitentiaries as of September, 1972 distributed as follows:-

Atlantic Region . . . . .	750
Quebec Region . . . . .	2,200
Ontario Region . . . . .	2,200
Prairie Region . . . . .	1,400
Pacific Region . . . . .	1,300

We have assumed that approximately one-half<sup>19</sup> of these inmates would be handled by the Local Boards. However, before implementation of the scheme, a decision needs to be taken as to what categories would be reserved to the Regional Board. Precise calculations as to personnel requirements could then be made.

In the Atlantic region, there would be approximately 375 hearings at each level in a year; that is, a full-time board would work one-third of the year or a part-time board would need to work once every three working days. However, it is expected that most provinces in this region would continue to leave authority for parole with the federal two-tier structure and so some extra workload would be generated by provincial prison cases.

We have recommended Local Boards to handle temporary parole decisions expeditiously and the details of temporary parole so that some of the pressure on the Regional Board would be relieved. In the Atlantic region it may not be necessary to establish Local Boards for all institutions. However, in Ontario

<sup>16</sup>See Chapter VIII.  
<sup>17</sup>Canada. Department of the Solicitor General, *Parole Recidivism Study, as of June 1972*.  
Robert Langlois, *Analyse de la récidive sur une période d'épreuve de 10 ans*. École de Criminologie Université de Montréal, Août 1972.  
Irvin Waller, unpublished research report *Men Released from Prison*, Centre of Criminology, University of Toronto September 1971.  
<sup>18</sup>On an average, a working week for a board member might consist of two days of preparation, two days of hearings and one day to cover travel, public relations, review of Local Boards and other board activities. Assuming a full-time person working 46 weeks (4 weeks holiday, one week for non-working days and one week for sickness):-  
46 weeks x 2 days x 10 cases per day gives 920 cases  
<sup>19</sup>Our estimates are a rough extrapolation from a one in ten sample survey of the standing population undertaken for us by the Penitentiary Service using somewhat different categories.

and Quebec it is likely that the workload of the Regional Boards will be higher than eight full-time members can handle. Board members from the Atlantic region could help in handling this workload as supernumerary members of the Regional Board.<sup>20</sup>

In Ontario and Quebec the Regional Boards would work full-time. The Pacific and Prairie Regional Boards might also have some theoretical additional capacity to allow members to assist in Ontario and Quebec.

### **Solutions**

While we favour the use of part-time members, the logistics suggest that it would be necessary for the number of members on some Regional Boards to be as high as thirty.<sup>21</sup> However, the difficulties in getting any sort of unified and consistent policy direction from such a board would be almost insuperable. This is the complaint presently being expressed by and about the English Parole Board which numbers a little over thirty members, and which has the advantage of having started with a much smaller number, so that the original direction of policy was relatively easy to determine.

Our solution would be, where necessary, to abandon the concept of part-time members in the true sense of the word in favour of a concept of short-term members. This is particularly applicable to the case of policemen, judges and parole officers, who are already employed by a government and who can be seconded to parole board service for short periods, without suffering any necessary career sacrifice. Such persons could be appointed for terms of one, two or even three years, without really being estranged from the norms or thinking of the groups which they represent. The same may be true of university and hospital personnel whose sphere of employment in today's world partakes more and more of the public rather than the private sector. Really the only member categories who might experience difficulty in accepting short-term full-time appointments would be professionals in private practice and "citizen" representatives. It might be possible to sacrifice the former group in favour of persons from universities, hospitals or government service. As for the latter group, the advantages of the part-time concept are probably not as important for citizens or community representatives as for the other member categories. Even so, in any region a board might, depending upon case-load and availability of suitable candidates, consist of both full-time and part-time members.

### **Payment of Members**

The members of the Regional Board would be taking major decisions and it is important that they be drawn not only from particular categories but that they be also of a high calibre. Therefore it is essential that their salary be adequate to insure a high quality of candidates. To this end, we suggest that full-time members be paid on a scale not lower than that of a county court judge. Part-time members should be paid on an equivalent scale.

### **FUNCTIONS CENTRALIZED IN OTTAWA**

The National Commissioner for Parole and the Parole Institute would be the only parole functions to remain in Ottawa. With the Regional Boards structured in the way we have described with such highly qualified members, we would envisage the disappearance of the National Parole Board as such. The Regional Boards should be as fully qualified to take all parole decisions as any board which could be designed. The present members of the National Parole Board could, if they wished, be integrated into the new structure with relatively little dislocation. Their experience and knowledge would contribute much to this system.

<sup>21</sup> In order to allow for daily meetings of panels of five part-time members and to provide a cushion for normal attrition due to vacations, illnesses and other unavoidable absences, a Regional Board in Ontario or Quebec would have to be composed of at least thirty members.

<sup>20</sup> See page 14 of this chapter.



### **The National Commissioner for Parole**

An identifiable person in Ottawa should be responsible for parole policy in Canada. To fulfill this role we propose a National Commissioner for Parole who, above all, would coordinate the various regional, local and provincial boards. As a central part of this coordination, he should ensure that the information supplied by the Parole Institute is effectively used in the operation of the parole authority. He should also be responsible for supplying whatever information the Minister or Parliament requires except that for which the Parole Institute is specifically responsible. Among the other functions of the National Commissioner for Parole would be public relations, budget, training, and making recommendations to the Minister for appointments to Regional and Local Boards after consultation with appropriate persons.

The National Commissioner for Parole should be ex officio a member of all Regional and Local Boards with the right to vote at any meeting thereof. He ought to meet regularly with the regional chairmen and organize conferences for regional, local and any provincial parole board members. He should prepare and coordinate an annual report to Parliament on the entire parole system.

### **Parole Institute**

We propose the development of a National Parole Institute which would report to the National Commissioner for Parole and also to the general public. This would be an information-gathering agency with responsibility, among other things:

1. To monitor the operations of all parole boards in Canada in order to assess the extent to which objectives have been achieved and to feed this information back to the parole authorities;
2. To contract or undertake, in collaboration with other agencies or individuals, fundamental research into general aspects of parole;
3. To monitor the effectiveness of parole and provide other management data;
4. To provide answers to questions posed by the Minister, Members of Parliament, the National Commissioner for Parole and Chairmen of Regional Boards;

The Parole Institute could be modelled along the lines of the parole section of the Home Office research unit in England or the uniform parole reports of the National Council on Crime and Delinquency Research Centre in the United States.

The relationship between the Parole Institute, the National Commissioner for Parole and other levels of parole authorities is particularly crucial. The publication of material from the Parole Institute and its availability to outside researchers, subject to the normal questions of confidentiality of individuals, is a necessary but not sufficient condition to ensure that the objectives would be achieved. It should also be the responsibility of the National Commissioner for Parole, on the basis of studies prepared by the Parole Institute, to suggest changes in the regulations concerning which cases should normally be decided by the Local Boards and which cases should be reserved for the Regional Boards. Such changes should normally be instituted on an annual basis. As one method to reveal or control inconsistency, parole prediction scores have been used in the United Kingdom and are currently being tested in the U.S. Federal Parole System. This score is derived by systematically combining certain pieces of information about the inmate, such as age, current offence, previous criminal record and employment history, into an equation which gives, for groups of individuals, the probability that individuals having certain background characteristics will be re-convicted. For instance, in the United Kingdom it was found that Local Review Committees varied enormously in the proportion of low risk inmates who were being recommended for parole. Thus, in an open institution, a lower percentage of low risk inmates were being recommended for parole than in a high security institution.<sup>22</sup> As a result of this, it was decided that all low-risk inmates should be automatically reviewed by the national board. In Canada, we see this as only one device that might be used to look for

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<sup>22</sup>Great Britain Home Office. Research Unit. *Selection for parole, by prison, January – December 1971 (statistics)*.

inconsistencies between the Local Boards and also between the operations of Regional Boards. We would see that some of the methodology employed by Hogarth<sup>23</sup> might also be applied to the investigation of disparities, and reasons for those disparities, between the various boards.

Where the Parole Institute identifies inconsistency in parole decisions, it should publicize the findings. For example, if proportionately many more robbers without prior criminal records were being released in Ontario than in Quebec, it would be the Parole Institute's responsibility to identify the disparity and publicize this difference. The National Commissioner for Parole would be expected to bring the various Regional Boards together to discuss the reasons for the difference and, if there was an undesirable inconsistency in the application of principles, to try to resolve the inconsistency. If a similar difference had been found between two Local Boards, based on different institutions within the same region, then all cases of robbery with no prior criminal record which were refused parole by the Local Board could automatically be reviewed by the Regional Board. A proportion of these cases could then be granted parole and the reasons would be relayed to the Local Board who had originally refused the parole.

To determine the effectiveness of the parole system, information should be collected and analysed, using follow-up methods, to show the offences by persons released on parole, both during the period of supervision and for a reasonable period after supervision was completed. Related to this, the Parole Institute would be charged with monitoring the lengths of time which were being spent in prison to ensure that this period was kept to the minimum necessary.

The Parole Institute would be capable of providing information on categories of individuals so that it would be possible to state the number of persons released on parole in 1973 who were re-arrested within 12 months of being paroled. It should be able to give details as to whether failure occurred during or following expiry of parole, and what sort of offence had occurred. Although this matter is beyond our terms of reference, failure rates between various regions and different styles of supervision could be compared. The information obtained from the RCMP fingerprint section and material provided by parole supervisors could be used for continuous follow-up of parole cases.

A Parole Institute representative would be required in the office of each Regional Board. A technique would be needed to link this person to the central data base in Ottawa. The regional representative would be responsible for ensuring uniformity in coding of data, as well as liaison within the region and with the provinces. He might also be involved in local "basic" research projects, and would cooperate with chairmen of regional and provincial boards on the specifications of questions that could be answered by the information system.

The Parole Institute should form a part of and be fully integrated with whatever information system is required by the institutional authorities and the police. To achieve this, there are a number of alternative structural locations for the Parole Institute:-

- (1) within the judicial division of Statistics Canada;
- (2) within headquarters of the Department of the Solicitor General;
- (3) a unit combining personnel from Statistics Canada and the Department of the Solicitor General.

We favour a unit as described in (3) because this would combine the equipment and methodological expertise of Statistics Canada with the cooperative personal links, practical knowledge and experience of personnel in the Department of the Solicitor General. We cannot over-emphasize the importance of coordination and cooperation between the National Commissioner for Parole and the Parole Institute to ensure that the monitoring is effectively applied and that the parole system progresses on the basis of information and not under the pressure of crisis.

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<sup>23</sup>Hogarth, John. *Sentencing as a human process*. (Toronto) University of Toronto Press (1971).

## CHAPTER III

### PAROLE FROM PROVINCIAL PRISONS

For the purposes of the present report we are assuming a continuation of the existing division of responsibility between the provinces and the federal government with regard to prisons; namely that the federal government will continue to have charge of all persons serving sentences of two years or more, and that the provinces will have charge of all persons serving sentences of less than two years. We recognize that there are a number of arguments which can be made in favour of changing this system in any one of three ways:-

1. Giving total responsibility to the federal government for all corrections.
2. Giving total responsibility to the province for all corrections.
3. Changing the existing division line which is at two years, to a lower term, notably that previously suggested by the Fauteux Report—6 months.<sup>1</sup>

We also assume that the present trend towards contracting will continue. The federal government should be able to contract its correctional responsibilities to the provinces and any province be able to contract its correctional responsibilities to the federal government.

It is clear that the National Parole Board as it currently operates is not attuned to the correction programs in some provinces. This is at least partially due to excessive centralization, decisions taken on the basis of files, and lack of effective input from the provinces in the parole decision. There is also a desire on the part of institutional, and in this case provincial, authorities to have more control over the parole decision. Our proposed system does not ignore the institutional input but we emphasize that there are other considerations which must be given at least equal weight.

A number of the provinces have expressed a desire to assume the responsibility for parole from provincial prisons, a responsibility which is generally now exercised by the federal government. The only exceptions to this general rule are the determinate/indeterminate and indefinite sentences in Ontario and the indeterminate sentences in the province of British Columbia. Some provincial governments, however, have expressed a desire to remain totally within the federal parole system.

We recommend that those provinces which, after considering our proposed parole structure, wish to assume responsibility for parole from provincial prisons should be allowed to do so. Our reasons are as follows:-

1. Under the present constitutional arrangements, the major responsibility for the administration of criminal justice is provincial. The investigation of crime, the prosecution of offenders, the establishment and administration of criminal courts and the incarceration of prisoners for less than

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<sup>1</sup> Canada, Committee Appointed to Inquire into the Principles and Procedures Followed in the Remission Service of the Dept. of Justice of Canada, *Report*, Page 89.

two years are all largely provincial responsibilities. If the correctional process, or indeed the whole criminal justice process, is to be seen as a continuum it would be logical that a quasi-judicial body within the provincial jurisdiction should have the paroling authority from provincial institutions, which is an essential part of the process. The fact that provinces have the authority for most components of the criminal justice process does not mean that there is at the present any coherent correctional continuum. However, such integration is a desirable goal. It is possible for a federally administered parole authority to be designed to meet such integration with provincial government departments. However, where the provincial governments want to use such responsibility we can see no adequate reason why they should not, provided federal legislation lays down certain common guidelines as detailed below.

2. The provinces already have the major responsibility in the related areas of health, welfare, education and social services and a rational parole system requires close liaison with such services. In contrast to these provincial areas, the federal government has responsibility for some related services such as manpower, unemployment insurance, and Indian affairs. There are also areas of the criminal justice system which are largely federal as, for example, drugs. The majority of prisoners in either provincial prisons or federal penitentiaries are serving terms for offences against federal statutes. On balance, however, the arguments weigh in favour of permitting provinces to assume increased responsibility for parole from provincial prisons.
3. It is more important that there should be consistency in the administration of parole policy within regions than that national consistency should be achieved at the expense of justifiable regional disparities. The parole decision, especially for shorter term prisoners, should be both geographically and psychologically close to the prisoner. Our proposals with regard to the federal parole system are designed with this in mind and the same considerations apply to any provincial parole system.
4. Two provinces, Ontario and British Columbia, already have experience in the area of parole. More importantly, most provinces are currently operating a temporary absence program and, on the basis of these programs, we have found no evidence against provincial responsibility for release decisions.

There are some disadvantages to giving provinces authority over parole from provincial prisons which may be met as follows:

1. Some provinces may not wish to assume this responsibility for reasons of cost, fear of the influence of local pressure on parole decisions, and fear of criticism when parolees recidivate. We suggest that only those provinces that wish to establish a provincial parole system should do so. No province would be forced to set up its own board and indeed every province could participate in the system of Regional and Local Boards, described in the previous chapter.
2. There may be inconsistency in standards applied by provincial boards. While permitting provincial governments to establish parole authorities, the problem of lack of consistency could be alleviated in a number of ways:-
  - a) federal legislation should lay down identical criteria for granting parole applicable to both federal and provincial authorities. We suggest such criteria in our chapter on parole selection.<sup>2</sup>
  - b) Equally, the legislation should lay down standard parole conditions as described in the chapter on parole violation.<sup>3</sup>
  - c) The provincial parole authorities should be obliged to report in the manner and form required to the National Parole Institute whose establishment we recommend in the previous chapter.<sup>4</sup> The purpose of such reporting would be to ensure that the provincial parole process was an open one, and one which could be not only seen, but also compared to parole processes in the federal

<sup>2</sup> See Chapter VII.

<sup>3</sup> See Chapter VIII.

<sup>4</sup> See Chapter II.

system and in those provinces who choose to operate their own systems. We see persuasive power on provincial parole boards being exercised by the simple publication of statistics which might point up regional discrepancies. Additionally, the National Commissioner for Parole would have authority to call meetings of all parole boards to discuss such matters of policy and should do so at least once a year.

- d) Federal legislation should establish minimum standards for procedural safeguards applicable to any provincial parole process. We indicate the nature of such safeguards in Chapters VII, VIII, and IX.

3. Transfers of parolees from one province to another, and enforcement of parole violations between one province and another, could create some difficulties. We recommend that these difficulties be solved along the following lines:-

When a parolee who is paroled by provincial authority is transferred out of the province, he should be transferred to the jurisdiction of the Regional Board in the region into which he is moving, and the responsibility for his supervision should then fall upon the National Parole Service. We prefer this solution to the possibility of referring a transferred parolee to the provincial authority in the province to which he is moving for two reasons:-

- i) It may be difficult for one province to oblige another province to take over responsibility for a specific parolee.
- ii) Since not all provinces will establish their own parole systems, but every region of Canada will have a Regional Board under our proposed structure, such a transfer permits a uniform and relatively simple procedure.

Consistent with such changed parole responsibilities, the system of indeterminate sentences in British Columbia and Ontario could be abolished. It is expected that these provinces would adapt their parole boards to the new structure. It is also hoped that provinces will adopt a uniform parole system for those incarcerated for offences against both federal and provincial statutes so that there would be consistency of application of policy within the province for all types of parole.

## CHAPTER IV

### TEMPORARY ABSENCE AND DAY PAROLE

The present confused line of demarcation and overlapping jurisdiction between temporary absences for rehabilitative purposes and day parole is, in our view, undesirable.

The decision to release an inmate without escort, even for a temporary period, requires the weighing of a number of factors such as risk, community reaction, rehabilitative implications, notions of justice, institutional discipline and inmate morale, as well as other humanitarian and economic considerations. These factors are identical whether such release be called "temporary absence", "day parole" or "full parole". From the point of view of the released inmate, it is likely to make little difference whether temporary and provisional liberty is obtained as a result of an administrative decision reached by the custodial authorities, or a quasi-judicial decision reached by the parole board.

Overlapping jurisdiction and divided authority are bound to give rise to conflicting decisions. Indeed, we have seen instances where the parole board has refused parole, even day parole, to an inmate only to have him released on temporary absence by the penitentiary authorities. Similarly, there have been instances where day parole has been granted in which the custodial authorities would not have granted temporary absence. There is even a tendency observable on the part of the parole board to encourage the use of temporary absence as a form of trial, prior to the granting of full parole. While we strongly encourage and endorse the concept of gradual release for increasing periods of time, with decreasing degrees of supervision, we feel that the parole board should take this responsibility as it is designed specifically to weigh the various conflicting considerations and to coordinate such decisions with the ultimate full parole decision.

One further point should be made in this connection. It is, in our opinion, essential that every parole release should be made only after a thorough investigation and inquiry into the community situation to which the inmate is going and should be accompanied by an initial high degree of supervision and control. The National Parole Service was designed and is better equipped to perform these functions than the Canadian Penitentiary Service.<sup>1</sup> While the temporary absence program has now been set up so as to make use of the community investigation facilities offered by the National Parole Service, there is still no organized or formal requirement for the use of the supervision facilities where necessary, and indeed the great majority of temporary absences without escort are wholly unsupervised. In our view, this is deplorable as there are many temporary absences which require both the assistance and supervision of a full parole.

Under the present system the temporary absence decision rests solely within the responsibility of the institutional authorities. The only advantages which we can see to this system are as follows:-

1. The decision may be made speedily and with a minimum of formality.
2. The granting or withholding of temporary absence privileges can be an important tool for prison management.

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<sup>1</sup>See Chapter X.

Quite apart from the confusion with day parole, the system has a number of striking disadvantages:-

1. There is no organized machinery for supervision of the inmate while on temporary absence.
2. Institutional personnel are bound to base their decision to a large extent on institutional conduct, which is a poor guide as to the conduct the inmate is likely to show outside the institution.
3. Institutional personnel may be subjected to undue pressures from within the institution itself. Institutional staff are, and should be, in constant interaction with the inmate on a human level and are bound to develop feelings of sympathy and mutual obligation.
4. If temporary absences are seen primarily as a rehabilitative tool, they should not be unduly influenced by management considerations.
5. The present system is marked by a failure to meet even the most minimum requirements of natural justice.
6. If there is a community inquiry, it is often not given the same priority and thoroughness as the community assessment for parole. In the interest of expediency, such as to ensure an inmate a job outside, when it is available, some temporary absences are given without much previous research. While such temporary absences should be encouraged, we see a need to find a flexible scheme with some safeguards built into it for the protection of the public.

We can see no valid reason for the continuation of temporary absence for rehabilitative purposes as an institution independent from parole or day parole. There is not in our view any difference in kind between temporary absence and day parole so great as to justify the existing confusion. We regard the present use of temporary absences, especially in cases where parole or day parole have been specifically refused by the parole board, as being a perversion of the purpose of Section 26 of the Penitentiary Act.

We recommend the total abolition of temporary absence for rehabilitative reasons and its replacement by temporary parole. Such temporary parole should be granted by the parole authority having jurisdiction in respect of the inmate concerned, with the detailed administration (i.e. as to specific hours and dates of absence from the institution) being carried out by the penitentiary staff under the direction of the parole authority.

There is, of course, in any penitentiary system a place for a provision allowing the authorities to permit inmates to be away from the institution for short periods of time for medical or humanitarian reasons. Such absences should always be with escort, however, unless temporary parole has been approved for that inmate by the appropriate parole authority. The escort should normally be a living unit or security officer. In the case of medical reasons, we would recommend that consideration of temporary parole might be given in absentia so that in the event of a favourable decision the escort can be withdrawn.

There will be many circumstances where the decision to grant day parole to an inmate will be contingent upon his being transferred from the institution in which he is presently held to another institution. This will especially be the case where the inmate's work or educational plans call for him to be present on a daily basis at some place which is far removed from the institution where he is currently held. Under the present system a decision to transfer an inmate from, for example, Joyceville to the Community Correctional Centre at Montgomery Centre, results almost automatically in the inmate being granted temporary absences to work in the community. Similarly, a decision to transfer an inmate from a minimum security institution to a maximum might negate any day parole granted prior to such transfer.

At present the jurisdiction for transferring inmates from one penitentiary institution to another rests exclusively with the penitentiary service. To continue this system would be anomalous under our proposed parole structure. There is need to coordinate the decision to transfer from one level of security to another with the temporary and full parole decisions. In addition, the Regional and Local Boards are better equipped than institutional personnel alone to appreciate the questions of public protection and inmate's rights involved in the transfer decision.

It is recognized that there will always be some circumstances, as for example when an inmate creates disciplinary problems within his institution, where the penitentiary authorities will require the ability to take immediate steps to have an inmate transferred. Accordingly, we recommend that the power to order transfer to a higher degree of security should continue to be exercised by the institutional director, but that such transfer always be automatically reviewed at the next meeting of the Local or Regional Board having jurisdiction at the institution from which the transfer was made. There should be very few cases indeed where the board will decide to overrule the decision of the penitentiary authorities, but we feel that this provision is essential to safeguard the rights of inmates. After the initial classification decision, subsequent transfers should only be made by the parole board having jurisdiction. In the case of the initial security classification, an inmate who is dissatisfied should have the right to apply to the Regional Board for a review of such decision.

We recommend that provincial authorities establish controls along similar lines over transfers between provincial institutions.

To summarize our recommendations under this heading:-

1. Section 26 of the Penitentiary Act should be amended to remove the reference to temporary absences for rehabilitative reasons, and to remove from the penitentiary authorities the option of giving temporary absences for medical or humanitarian reasons, without escort. It might be appropriate to include a provision to the effect that persons absent under escort are deemed to be in custody.
2. Section 36 of the Prisons and Reformatories Act should be amended along the same lines.
3. Day Parole should henceforth be designated as "Temporary Parole".
4. The granting of temporary parole should, subject to our comments elsewhere with regard to eligibility dates, be made by the same authorities having jurisdiction to grant full parole. However, there should be power to delegate the implementation of the temporary parole from Regional Boards to Local Boards, and (subject to the establishment of suitable controls) from Local Boards to correctional authorities, in any case where the decision has been made by the parole board having jurisdiction that the inmate in question is one who is suitable "in principle" to receive temporary parole.
5. Transfers of inmates from one institution to another within the penitentiary service should be subject to the parole board having jurisdiction in respect of the inmate proposed to be transferred.



## CHAPTER V

### REMISSION OF SENTENCE AND MANDATORY SUPERVISION

#### Remission

The original purpose of remission, both statutory and earned, was to give the penitentiary authorities a control and motivating technique over their inmates. In a primitive prison system, the number and nature of available sanctions was necessarily limited and, short of corporal punishment, it was necessary to have some lesser penalty.

While there is not complete unanimity on the point, most penitentiary authorities today feel that the present system of remission, both statutory and earned, has become of little or no control value. At present, an inmate is credited with the whole of his statutory remission upon his reception into the penitentiary. While, in theory, his earned remission only accumulates to his credit on a monthly basis, the practice is that penitentiary authorities will, from the time of a man's entry, calculate his release date upon the assumption that he will earn all available remission. In theory, statutory remission can be lost for disciplinary infractions. Earned remission can never be lost once it has been earned but the penitentiary authorities may refuse to grant it for failure to perform in accordance with expectations.<sup>1</sup> Although we did not do a complete survey of either provincial or federal institutions, we came across no example where earned remission was, in fact, awarded each month. Consequently, it appears to have become virtually automatic.

While we see merit in the theory of earned remission as an institutional management tool, it appears to be too complicated for the theory to become reality. There is a tendency for similar provisions to become automatic in other jurisdictions.<sup>2</sup>

Whatever its original merits as a control device, remission has now lost much of its value. If time is the currency of prisons, then parole is a more valuable coin than remission as it may affect not days or weeks, but months and years of prison time and does so earlier in the sentence.

Also, remission once forfeited can be, and frequently is, remitted again to the inmate. This possibility is announced to inmates when remission is forfeited. Both the fact and the knowledge tend to remove some of the sting from any forfeiture of remission which may be imposed in the early part of the sentence.

In a modern penitentiary system the means of control both by positive motivation and negative sanction are more diversified and offer a wider scope to the penitentiary authorities than was the case in the past. For minor offences such as swearing at a correctional officer or minor contraband, there are many privileges which can be withdrawn from an inmate ranging all the way from the right to watch television in the evening to the right to earn a full day's salary for his work. An inmate can be moved from one grade of payment to another. His activities in clubs, discussion groups and sporting activities can be limited or taken away altogether.

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<sup>1</sup> See Chapter I.

<sup>2</sup> See, for instance, Paul W. Tappan; *Crime, Justice and Corrections*, Toronto; McGraw-Hill 1960, pages 716-717.

For more serious offences such as important contraband, refusal to obey orders and minor skirmishes among inmates, there are more serious actions that can be taken against the inmate such as disassociation or transfer to an institution with a higher security rating and therefore more restrictions.

Any inmate who commits, within the penitentiary, an offence against the Criminal Code such as an assault on a guard can and should be prosecuted in the ordinary way before the courts.

For all the foregoing reasons, we recommend that remission, both statutory and earned, be abolished. However, the last one-third of any sentence would be subject to parole provisions as detailed below.

### **Mandatory Supervision**

For all sentences to penitentiary after August 1, 1970, a man not released on parole is required to serve his statutory and earned remission time under mandatory supervision. If he commits a new offence the man is ordered to the penitentiary with his new sentence plus the statutory remission time awarded to him on his previous admission.<sup>3</sup> If his mandatory supervision is revoked, he is returned to serve his statutory remission time.<sup>4</sup>

It is desirable to have some assistance for those released from prison and, under certain circumstances, some form of supervision. The ideals of the present system of mandatory supervision are in themselves worthwhile. However, mandatory supervision does not need to depend on remission. As an alternative, the last one-third of every sentence could obligatorily be served on parole. This would be subject to provision for discharge from parole as set out in Chapter VI. Time served on parole, whether such parole is ordinary, temporary or mandatory supervision, should always count as time served against the sentence of the court.<sup>5</sup>

Even so we recognize that there are some inconsistencies in saying a man cannot be released under parole only to release him under mandatory supervision on the grounds that he needs it and so presumably would respond to it. The evidence suggests that men with previous records such as the majority of those sent to the penitentiary are not in the end deterred from new offences by the threat of time. They are only marginally sanctioned to conform to parole conditions by the threat of revocation, though they generally conform to the obviously visible conditions of reporting to the parole supervisor and to the police.<sup>6</sup> Thus, the main protection provided to society is the protection while the man is re-imprisoned.

Provided that the period of mandatory supervision is kept reasonably short, that credit is given for time served in the community and that there are procedural safeguards surrounding revocation,<sup>7</sup> we feel that the cost to the inmate can be kept sufficiently low to warrant the continuation of such protection to society as is afforded by mandatory supervision.

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<sup>3</sup>Parole Act — Section 21; Penitentiary Act, Section 24 (2)

<sup>4</sup>Parole Act — Section 20; Penitentiary Act, Section 24 (2)

<sup>5</sup>See Chapter VII

<sup>6</sup>Irvin Waller, *Men Released from Prison: A means Towards Understanding the Correctional Effectiveness of Parole*, Toronto, University of Toronto, 1971.

<sup>7</sup>See Chapter VIII.

## CHAPTER VI

### THE RELATIONSHIP BETWEEN PAROLE AND SENTENCING

Under the existing system parole bears a necessary although not always a logical relationship to the sentence of the court since parole eligibility, except in the case of very long sentences, is presently calculated as a proportion of the court's sentence. We deal elsewhere with the question of parole eligibility.<sup>1</sup> Our recommendations in this regard are designed to introduce a greater element of flexibility; parole eligibility should, however, continue to be related directly to the court's sentence, so long as such sentence remains a definite term determined by the courts.

Our terms of reference limit us to the structures and procedures relating to the release of prisoners and the question of sentencing is accordingly only collateral to our study. However, since our inquiry has led us all to an identical conclusion with regard to the type of sentencing structures which we would like to see adopted in Canada, we think it is appropriate to outline our views. We have done so in Appendix "A" to this Report. Briefly, the system we envisage is one of statutorily fixed maxima for all sentences over two years for which the Regional and Local Boards would be the sole arbiters of the time to be served in the institution and the time to be served on parole.

#### **Normal Parole Period and Discharge from Parole**

We have elsewhere suggested as a part of our recommendation that remission be abolished, that the last one-third of every prison sentence shall obligatorily be served on parole.<sup>2</sup> We also have recommended that time served either on parole or on mandatory supervision should count as time credited against the sentence.<sup>3</sup> An important corollary to these recommendations is that there should be some provision to ensure that time on parole or on mandatory supervision is not unduly long. There are two important reasons for such a requirement. In the first place, parole periods which are longer than necessary simply add to the already overburdened case-load of parole supervisors. Secondly, even with procedural safeguards, there is a danger that prosecuting authorities, knowing a man is on parole and facing a long remanet, will prefer to take revocation proceedings rather than go through the difficulties and uncertainties of prosecution in the courts in the normal way.

It is impossible to lay down any hard and fast rule as to the optimum period of parole supervision. It appears as if the majority who will recidivate do so within the first year or soon after.<sup>4</sup> While assistance is necessary during the initial transition from prison to parole, if supervision is to protect society or have any rehabilitative effect, its impact is likely to occur within this time period.

<sup>1</sup> See Chapter VII.

<sup>2</sup> See Chapter V

<sup>3</sup> See Chapter VIII

<sup>4</sup> Canada. Department of the Solicitor General, *Parole Recidivism Study*, as of June 1972.

Robert Langlois, *Analyse de la récidive sur une période d'épreuve de 10 ans*. École de Criminologie, Université de Montréal, Août 1972.

Irvin Waller, Research Report, *Men Released from Prison*, Volume I Centre of Criminology, University of Toronto, September 1971.

Accordingly it is our recommendation that in the case of every parolee whose parole or mandatory supervision has not sooner expired or been revoked or forfeited, the Regional Board should undertake a review 18 months after the date of commencement of parole or mandatory supervision. The purpose of such a review would be to discharge the person from parole or mandatory supervision unless its continuation can be positively justified. Where discharge is not granted, the Regional Board should continue to hold annual reviews thereafter until such time as the parole or mandatory supervision expires or is discharged.

In order to reduce the workload and to avoid unnecessary hearings, we would suggest that reviews of the type suggested above should be undertaken in the first instance by a member of the Regional Board<sup>5</sup> without the necessity of hearing for the parolee. Only in those cases where such a member decides that there may be cause not to order discharge should the parolee be given notice of a hearing which would take place before a panel of three members of the Regional Board.

#### Recent Legislation

There are two other areas in the sentencing process, as it presently exists, which bear directly upon the question of parole:

- (a) Since 1969, Section 663 of the Criminal Code has permitted a sentencing court to impose a term of probation in addition to and following a prison sentence of two years or less.<sup>6</sup> This is the only instance in which the court determines the proportions of the sentence which should be served respectively in custody and under supervision. The Regional Boards, both by composition and by virtue of hindsight, are better placed to take such decisions. There is additionally an administrative problem with such "custody followed by probation" sentences in that the inmate may be released on parole during the custody portion of the sentence. The parole supervision would be followed by probation. This can and does result in a discontinuity in responsibility for supervision. There may be cases which in the opinion of the judge justify a sentence of the "short-sharp-shock" variety followed by a fairly lengthy period of supervision and assistance in the community. We recommend, however, that the custodial portion of such sentence should never exceed three months and that the Code should be amended accordingly.
- (b) Recent amendments to the Criminal Code<sup>7</sup> allow sentencing courts to impose intermittent custodial sentences of up to ninety days with probation in the intervals. There are many similarities and overlaps between such a sentence and the system of temporary parole which we recommend. We can see difficulties and conflicts arising from this situation to which we wish to draw attention. As yet, however, we feel it is too early to make any firm recommendation as to how to resolve them.

<sup>5</sup> This board is the preferred choice because of its greater geographic span and because of the nature of the decision.

<sup>6</sup> Section 663 (1) (b) added by 17 — 18 Elizabeth II Chapter 38 Section 75; "... The court may ... in addition to fining the accused or sentencing him to imprisonment ... for a term not exceeding two years, direct that the accused comply with the conditions prescribed in a probation order."

<sup>7</sup> Criminal Law Amendment Act, 1972, 21 Elizabeth II, Chapter 13, Section 58, amending code Section 663(1) in force July 15, 1972.

## CHAPTER VII

### THE PROCESS OF PAROLE SELECTION

Under the existing system, parole selection is a wholly administrative process. The parole decision itself is primarily a decision as to whom to release rather than one as to when to release. The two controlling elements in the parole decision are respectively the manner in which the eligibility date is determined and the procedural machinery whereby an inmate applies and is selected for parole. By eligibility date is meant the date at which an inmate can, in the normal course of events, be considered for parole. We have previously outlined the rules which govern eligibility for full parole.<sup>1</sup> Eligibility for temporary absence is usually acquired six months from admission.<sup>2</sup> In the case of parole, the National Parole Board has the power to make exceptions to the general rules regarding eligibility dates for most inmates. In the case of temporary absence, since the limitations on eligibility take the form of administrative directions, they can be administratively altered. We have elsewhere<sup>3</sup> described the procedure which is presently followed leading to the granting of temporary absence or parole.

#### Eligibility Date

The present eligibility date of six months from admission for temporary absence in the penitentiaries appears to us to strike the proper balance between the various and conflicting considerations that go into any parole decision.<sup>4</sup> However, we believe that an inmate who is in custody in a provincial jail while his appeal is pending should not be unduly penalised by having his eligibility calculated only from his date of admission to penitentiary. Accordingly, we recommend that the eligibility date for temporary parole in penitentiary cases be set at six months from commencement of sentence. No application for temporary parole should be necessary and all eligible candidates should be seen by the appropriate parole board at, or as close as possible to, the six month date. At that time, one of three possible decisions may be made:—

- (a) The grant of temporary parole to take effect either immediately or at some determinate future date.
- (b) The deferral of the decision to grant temporary parole to some determined future date.
- (c) The refusal of temporary parole.

In the case of a refusal of temporary parole, the inmate would, in any event, be seen again on his date of eligibility for full parole.

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<sup>1</sup>See Chapter 1, Page 4.

<sup>2</sup>Canadian Penitentiary Service, Divisional Instruction No. 330.01, June 9, 1972, section 4(a). Under the terms of this instruction (section 7), "special cases" (defined in the instruction as being those serving life sentences, habitual criminals, dangerous sexual offenders and persons identified by police reports as being "affiliated with organized crime") have their eligibility for temporary absence set at three years.

<sup>3</sup>See Chapters I and IV

<sup>4</sup>See Chapter II, Pages 9-10.

Where the decision is made to grant temporary parole, the Regional Board should also have the authority to set a date for review for the purposes of considering a grant of full parole even though such date may be prior to the regular eligibility date for full parole as set out below.

For provincial prison cases there should be no minimum eligibility requirement for temporary parole but the inmate should, as at present, be required to make application therefor. If no application is made there should be, in any event, an automatic review at six months from commencement of sentence.

Subject to the foregoing, we recommend that the regular eligibility date for full parole continue to be as at present, namely, one-third of the sentence or four years whichever is less. Persons serving ordinary life terms should be subject to the general rule as to eligibility mentioned above. However, the decision to grant parole to such inmates should be made only upon a majority vote of eight members of a Regional Board.

For cases of preventive detention, we recommend that the eligibility date also be set at four years. In practice it appears few such cases are released before that time and the annual review called for by Section 694 of the Criminal Code sets up unrealistic expectations for parole that are too often cruel and may negate any possible rehabilitation.

We feel unable to make a realistic recommendation on the eligibility date for persons serving a commuted death sentence or life as a minimum sentence. This must be established by Parliament at the same time as a decision is taken on the question of capital punishment. Whatever eligibility date is set, a Regional Board by unanimous vote of eight members<sup>5</sup> should have the power to parole such persons and to do so in special circumstances prior to that eligibility date. The same provision should apply to dangerous sex offenders.

We also recommend a continuation and expansion of the existing rules whereby a Regional or Local Board may, in special circumstances, release an inmate prior to his eligibility date. We would include among such "special circumstances" the fact that the prisoner in question has demonstrated by his performance while on temporary parole that he can with safety be allowed at large in the community. At termination of temporary parole, the inmate should be able to request a hearing by the board with a view to obtaining further temporary or even full parole.

The arguments in favour of the retention of the present eligibility date for full parole are:

- a) Pressure is placed on the parole board to release an inmate at the arrival of the eligibility date.
- b) There is an expectation from the public as to how much prison time is going to be served, and that such time should bear a relationship to the sentence of the court. There may be a negative feature to this point, in that releases before the eligibility date may give rise to public anger. However, where there is an exception to the basic eligibility date, the policeman and the judge on the Regional Board might be expected to give sufficient emphasis to the deterrent and retributive arguments.
- c) Because there is no change from the present eligibility date, we would expect that it would be unlikely to affect present sentencing practice adversely.
- d) The Regional Board would be more likely to grant release prior to eligibility where there has been a trial period of temporary parole which has been successfully completed.

#### **Criteria for Parole**

At present, the criteria on which the National Parole Board bases its decision to grant or refuse parole are unclear. Neither inmates nor members of the Board are able to articulate with any certainty or precision what positive and negative factors enter into the parole decision. The Parole Act<sup>6</sup> sets forth in Section 10

<sup>5</sup> See Chapter II, P. 14.

<sup>6</sup> R.S.C. 1970, Chapter P-2.

(1) (a) only three general considerations: that the inmate has derived "the maximum benefit" from imprisonment, that his "reform and rehabilitation. .will be aided" by parole, and that his release would not constitute "an undue risk".

While a certain degree of vagueness is perhaps inevitable in setting out criteria for parole, which requires such a high degree of individual judgment, we believe that it is possible to formulate standards with greater precision than at present. One resolution of this problem is contained in the Model Penal Code<sup>7</sup> which sets forth what is, in our opinion, the best statement of principles presently available. The following text is largely based upon these provisions and we recommend its adoption:—

- (1) Whenever the board considers the release of an inmate who is eligible for parole, it shall be the policy of the board to order his release, unless the board is of the opinion that his release should be deferred because:—
  - (a) There is substantial risk that he will not conform to the conditions of parole; and that as a result, there is a risk of serious harm to society; or—
  - (b) his release at that time would depreciate the seriousness of his crime or promote disrespect for law; or—
  - (c) his release would have a substantially adverse effect on institutional discipline; or—
  - (d) his continued correctional treatment, medical care or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life when released at a later date and no equivalent treatment or training is available in the community.
- (2) In making its determination regarding an inmate's release on parole, it shall be the policy of the Board to take into account factors such as the following:—
  - (a) the inmate's personality, including his maturity, stability, sense of responsibility and any apparent development in his personality which may promote or hinder his conformity to law;
  - (b) the inmate's parole plan;
  - (c) the availability of special facilities in the community, whose existence would justify or facilitate the inmate's release;
  - (d) the inmate's ability and readiness to assume obligations and undertake responsibilities;
  - (e) the inmate's intelligence and training;
  - (f) the inmate's family status and whether he has relatives who display an interest in him, or whether he has other close and constructive associations in the community;
  - (g) the inmate's employment history, his occupational skills, and the stability of his past employment;
  - (h) the type of residence, neighbourhood or community in which the inmate plans to live;
  - (i) the inmate's past use of narcotics, or past habitual and excessive use of alcohol;
  - (j) the inmate's mental or physical makeup, including any disability or handicap which may affect his conformity to law;
  - (k) the inmate's prior criminal record including the nature and circumstances, recency and frequency of previous offences;
  - (l) the inmate's attitude toward law and authority;
  - (m) the inmate's conduct in the institution;
  - (n) the inmate's conduct and attitude during any previous experience of probation or parole and the recency of such experience;

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<sup>7</sup>American Law Institute Model Penal Code (P.O.D.) 1962, Section 305.9.

- (o) the need to provide social justice by taking greater risks for persons who are and have been in disadvantaged positions such as Indians or unemployed;
- (p) the inmate's propensity for violence.

### **Hearings**

The notion that an inmate who is eligible for parole should be granted a hearing is one which we strongly endorse as being an essential component of any efficient, just and credible parole system. The establishment by the National Parole Board of the policy of granting hearings to all federal penitentiary inmates is to be commended. One of the principal benefits of granting a hearing is that it permits communication and dialogue between the inmate and the decision makers and contributes to greater understanding on both sides. Whether the decision be to grant or to refuse parole, a hearing should provide the opportunity to the decision makers to communicate their reasons to the inmate and, to the extent possible, obtain his acceptance of it.

Every parole decision, at whatever level, should be preceded by a hearing at which the inmate is present. There are only two minor exceptions to this rule.<sup>8</sup> In all other cases, the decision should be given to the inmate by the decision makers at the conclusion of the initial or, if necessary, a subsequent hearing. All the decision makers should accordingly be present at the hearing. There is a great dissatisfaction with the present system whereby a large number of cases are reserved, either because they fall into a category which cannot be dealt with by the present two-member panel, or because there is some information lacking in the file.

A further aspect of the present system which gives rise to justifiable complaint is that reasons frequently are not given, and where given, are not always understood. Furthermore, there is no organized system for the keeping of a proper record of such reasons. Where, as under the present system, it is likely that an inmate whose parole is denied or deferred will not be seen by the same parole board members at his next hearing, it seems to us to be essential that the reasons for such denial or deferral should be accurately recorded for the guidance of the next panel to hear the case. Where there is the possibility of more than one hearing, the file should indicate clearly what the thinking of the board on any previous hearing has been. Since one of the great advantages in granting a hearing to the inmate is that it allows the board to explain to him as clearly as possible the reasons for its decisions, such reasons should be set down in writing as fully as possible for the file and a copy given to the prisoner himself.

A further advantage to requiring the board to give reasons for their decisions is that this is likely to lead to a greater clarification and articulation of the criteria for parole and a better understanding of such criteria by the inmate population.

While hearings of the board will not normally be public, the chairman should have the power to admit interested persons where their presence will not interfere with the operations of the board or the inmate's rights. We see this as an important part of public relations and training of personnel for the criminal justice system.

### **Right to Representation**

Not all inmates are capable, by reason of education, background, language or temperament, of expressing themselves fully and clearly. Furthermore, a parole hearing before a board may be anxiety provoking, given the amount of prison time at stake. While the parole decision is not and should not be an adversarial process, there are, undoubtedly, some inmates who would feel happier and more at ease for the support, if only psychological, afforded by having someone with them at the hearing. Such person need not and probably should not be a lawyer in most cases. Other possibilities would include prison personnel,

<sup>8</sup> See Chapter IV, Page 24 (the decision to grant temporary parole in absentia) and Chapter VI, Page 30 (the decision to discharge from parole).



relatives and friends. While care should be taken to ensure that the presence of a representative at the hearing does not prevent the board from entering into a direct dialogue with the inmate himself, we see real benefits accruing to both the system and the inmate from permitting such representation. We so recommend.

#### **Access to Material**

It is our distinct impression that most of the material contained in parole board files, upon which the parole decision is based, could, with safety, be shown to the inmate concerned. There are, however, certain categories of material and information which arguably should not be made available to the inmate. These would include:—

- a) certain psychiatric assessments;
- b) police reports having a security classification;
- c) information obtained on a confidential basis from or concerning third persons.

The danger is that in some cases such information may cause harm to the inmate and further increase his sense of isolation or rejection. There is also the possibility that third persons who have given information in confidence may be subject to reprisals or may be unwilling to make statements which might be seen by the inmate.

The danger in not allowing the inmate access to all material which may be used in reaching the parole decision is that such material may contain information which is false.

We recommend that, in principle, all material which is made available to the parole board for the purposes of their decision should be made available to the inmate prior to his hearing. Exceptionally, where material falling into any of the classes enumerated above is contained in the file, the matter should be referred to the chairman of the Regional Board for decision. The latter should have jurisdiction to determine in the first instance whether such material is to be made available to the inmate in whole or whether he should only be provided with an abstract or summary thereof. In the latter case, time permitting, the chairman of the Regional Board should invite the person who supplied the original material to prepare such abstract or summary, failing which, board personnel should do so. In each case the chairman should give written reasons to each of the board members at the hearing who may reverse the latter's decision by a majority vote.

We believe that a provision such as the one suggested will strike the balance between the right of the inmate to be informed and to have the opportunity to correct erroneous information and the need of the board to base its decision upon the best and most uninhibited sources of information. We would add that we would expect that the number of cases where the chairman would feel impelled to restrict the inmate's access to information should be very limited. Reports on parole files tend to be very similar in nature to pre-sentence reports prepared by probation officers. Such pre-sentence reports are now, by law,<sup>9</sup> made available to the accused and we are not aware of any evidence that this provision has in any way restricted the utility of such reports.

#### **Quasi-Judicial Nature of Parole Boards**

From all that has preceded, it will be seen that we believe that the time has come to cease regarding the parole decision as being purely administrative in nature. Parole is no longer properly viewed as an exercise of clemency or mercy. It is an essential part of the correctional process based upon the exercise of judgment. It should be regarded as the norm rather than the exception for the release of inmates. While it is true that no inmate has a "right" to parole, we think it is equally true that every inmate should have the right to an open and informed parole hearing where he is given the fullest possible opportunity to participate in a decision which directly effects his personal liberty.

<sup>9</sup> Criminal Code Section 662(2).

It is accordingly our recommendation that parole boards be viewed and recognized by the legislation as quasi-judicial bodies. This is not to say that they should be subject to the traditional legal rules of evidence and procedure, but simply that they should operate within the minimum framework of the rules of natural justice as these have been developed for such bodies by the courts over the years.

#### **Use of Official Languages**

As federally created, quasi-judicial bodies, the Regional and Local Board should be subject to the provisions of the Official Languages Act.<sup>10</sup> This would mean that anyone testifying before such Boards would be entitled to do so in either of the official languages of Canada,<sup>11</sup> no matter where the hearing was held, and also that in federal bilingual districts services would have to be available in both official languages.<sup>12</sup> If parole boards were courts of record, there would also be a requirement to provide simultaneous translation services at the request of any party when hearings were being held in a federal bilingual district.<sup>13</sup>

Finally, the parole board would have the obligation under Section 9 (2) of the Act to provide bilingual services wherever it was "feasible" and there was a "significant demand therefor".

We have some doubts as to whether the provisions of the Official Languages Act are sufficient to meet the specific requirements of Regional and Local Boards. Many penitentiaries may be located in areas which will not be designated as bilingual districts, but which nevertheless contain a significant number of persons speaking an official language other than that of the majority of the inmates. Indeed, in our view, the presence of one French-speaking inmate at Millhaven Institution or one English-speaking prisoner at Archambault Institution would be enough to create a "significant demand" for parole services in French or English, as the case may be, at that institution. The process of parole selection touches the liberty of the subject as closely as does the process of the criminal law, and we would view the provision of services in the official language of choice and the availability of simultaneous translation facilities upon request at parole board hearings as being an essential requirement. Accordingly we recommend that, for the purpose of Section 11 of the Official Languages Act, every Regional or Local Board shall be deemed to be a court of record and every Canadian penitentiary shall be deemed to be a federal bilingual district.

#### **Cabinet Cases**

If the process of granting parole is quasi-judicial in its nature, the parole authorities created by Parliament should have the exclusive jurisdiction to grant or deny parole to all inmates. This is not to say that we recommend the abolition of the royal prerogative of mercy in those rare cases where the executive feels that its exercise is in the public interest. We do, however, feel that the present system is anomalous insofar as it reserves certain parole decisions, notably those relating to persons serving sentences of life imprisonment, to the Cabinet. The effect is inevitably to politicise the parole decision to the disadvantage of all concerned. While several of the considerations<sup>14</sup> in the parole decision demand special care in such cases, the requirement for a unanimous vote of eight members of a Regional Board is an extremely strong safeguard, given the composition of such a board. Furthermore, this should overcome the disadvantage of incurring unpredictable and sometimes lengthy delays which often break up feasible parole plans as well as leaving the prisoner powerless and alienated at the crucial time for release.

Accordingly, we recommend that the exclusive jurisdiction for granting or denying parole to all prisoners should be granted to the Regional and Local Boards created in accordance with the present report, and that there be no exceptions to this rule.

<sup>10</sup> R.S.C. 1970, Chapter 0-2.

<sup>11</sup> Section 11 (1)

<sup>12</sup> Section 9 (1)

<sup>13</sup> Section 11 (1)

<sup>14</sup> Chapter II, Pages 9-10.

## CHAPTER VIII

### PAROLE VIOLATIONS

#### Conditions of Parole

The Parole Act states that “The Board may grant parole to an inmate, subject to any terms or conditions it considers desirable”.<sup>1</sup> In practice, all persons granted parole are subject to the following conditions:—<sup>2</sup>

- “1. To remain until expiry of sentence under the authority of the designated Representative of the National Parole Board.
2. To proceed forthwith directly to the area as designated in the instructions, and immediately upon arrival report to the Parole Supervisor and after to the Police as instructed by the Supervisor.
3. To remain in the immediate designated area and not to leave this area without obtaining permission beforehand from the Representative of the National Parole Board through the Parole Supervisor.
4. To endeavour to maintain steady employment and to report at once to the Parole Supervisor any changes or termination of employment or any other change of circumstances such as accident or illness.
5. To obtain approval from the Representative of the National Parole Board through the Parole Supervisor before:—
  - (a) purchasing of motor vehicle;
  - (b) incurring debts by borrowing money or instalment buying;
  - (c) assuming additional responsibilities, such as marrying;
  - (d) owning or carrying fire-arms or other weapons.
6. To communicate forthwith with the Parole Supervisor or the Representative of the National Parole Board if arrested or questioned by Police regarding any offence.
7. To obey the law and fulfill all legal and social responsibilities”.

In theory, parole conditions provide guidance to both the parolee and the parole supervisor. They are instructions to the parolee as to the behaviour he must avoid, as well as the actions he must complete, in order to maintain his freedom. To the parole supervisor, they prescribe the minimum behavioural requirements that the board expects him to enforce.

A number of the standard conditions of parole applied by the National Parole Board are too vague and general in application. Steady employment is required of every parolee without regard to the specific needs of the case. Many parolees are attending school, while others are too old or ill to obtain employment. Similarly, permission is required to purchase motor vehicles, to incur debts, to assume “additional responsibilities”, or to possess a weapon. Any of these standard conditions may be completely unrelated to the criminal behaviour of the offender. Finally, the requirement to “fulfill all social responsibilities” is so vague that it could form the basis for revocation of virtually any parole.

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<sup>1</sup> Parole Act Section 10 (1).

<sup>2</sup> National Parole Board, Parole Certificate, Form NPB-1 (8-71)

The objectives of the conditions, insofar as possible, should be to assist the offender to become reintegrated into the community as a law-abiding citizen and to assure the protection of society. To be effective and just, the conditions should be clear, specific and directly relevant to these objectives. In addition, to the fullest possible extent, they should be realistic, enforceable and individualised.

The Criminal Code provides a selection of standard conditions of probation, while permitting the courts to add "such other reasonable conditions as the court considers desirable for securing the good conduct of the accused and for preventing a repetition by him of the same offence or the commission of other offences."<sup>3</sup> Similarly, the Model Penal Code suggests conditions of parole and allows the board to impose "other conditions specially related to the cause of his offence and not unduly restrictive of his liberty or incompatible with his freedom of conscience".<sup>4</sup>

We recommend the following text:-

- (1) When an inmate is released on parole, the Board shall require as a condition of his parole that he refrain from engaging in criminal conduct. The Board may also require that he conform to such of the following conditions as would aid in preventing a repetition by him of the same offence or the commission of other offences:-
  - (a) meet his specified family responsibilities;
  - (b) devote himself to an approved employment, occupation or education program;
  - (c) remain within specified geographic limits unless granted written permission to leave such limits;
  - (d) report in person to his parole officer at such regular intervals as may be required;
  - (e) reside at a specified place and notify his parole officer of any change in his address or employment;
  - (f) have in his possession no fire-arm or other dangerous weapon;
  - (g) submit himself to available medical or psychiatric treatment as specified;
  - (h) refrain from associating with persons known to him to be engaged in criminal activities or, without permission of his parole officer, with persons known to him to have been convicted of a crime;
  - (i) obtain written permission from his parole officer before assuming a financial obligation payable at a future date;

<sup>3</sup> Criminal Code, Section 663 (2) (h)

<sup>4</sup> American Law Institute Model Penal Code Section 305.13 "Conditions of Parole". (POD) 1962.

- "(1) When a prisoner is released on parole, the Board of Parole shall require as a condition of his parole that he refrain from engaging in criminal conduct. The Board of Parole may also require, either at the time of his release on parole or at any time and from time to time while he remains under parole, that he conform to any of the following conditions of parole:-
- a) meet his specified family responsibilities;
  - b) devote himself to an approved employment or occupation;
  - c) remain within the geographic limits fixed in his Certificate of Parole, unless granted written permission to leave such limits;
  - d) report, as directed, in person and within thirty-six hours of his release, to his parole officer;
  - e) report in person to his parole officer at such regular intervals as may be required;
  - f) reside at the place fixed in his Certificate of Parole and notify his parole office of any change in his address or employment;
  - g) have in his possession no fire-arm or other dangerous weapon unless granted written permission;
  - h) submit himself to available medical or psychiatric treatment, if the Board shall so require;
  - i) refrain from the associating with persons known to him to be engaged in criminal activities or, without permission of his parole officer, with persons known to him to have been convicted of a crime;
  - j) satisfy any other conditions specially related to the cause of his offence and not unduly restrictive of his liberty or incompatible with his freedom of conscience".

- (j) obtain written permission from his parole officer before purchasing or operating a motor vehicle;
  - (k) provide accurate details of income and expenditures to his parole officer at reasonable intervals;
  - (l) avoid excessive use of intoxicants;
  - (m) satisfy any other reasonable conditions designed to prevent a repetition by him of the same offence or the commission of other offences.
- (2) The board may add to, delete or amend the conditions of a parolee's parole by notice to him in writing.
- (3) A parolee may at any time apply to the Board for amendment or deletion of any of the conditions of his parole.

It should be noted that this text allows, probably in exceptional cases, parole with no conditions other than the requirement to obey the law. It therefore allows parole without supervision.

#### **Parole Revocation**

Under the federal parole system in Canada, the parole supervisor has the basic responsibility for the enforcement of the conditions of parole. However, he does not possess the authority to issue the warrant to arrest the parole violator. Whether he is an employee of the National Parole Service<sup>5</sup> or another person providing supervision, he may only recommend to the National Parole Board or to one of those persons to whom authority has been delegated by the board<sup>6</sup> that a warrant of arrest upon suspension of parole be issued.

Once the warrant of committal has been issued, the parolee is arrested by the police and is remanded in custody by a magistrate. He is interviewed as soon as possible by a parole service officer, who completes a post-suspension report. Within fourteen days of the arrest, the District Representative or other delegated authority may cancel the suspension of the parole. Based on the report and on the other documents on file, but without a hearing, the board decides whether to cancel the suspension or revoke the parole. If the decision is to revoke the parole, the law provides that the parolee be "recommitted to the place of confinement from which he was allowed to go and remain at large at the time parole was granted".<sup>7</sup>

Where he is "apprehended at a place not within the territorial division in which the place of confinement from which he was allowed to go and remain at large at the time parole was granted to him is situated, he shall be committed to the corresponding place of confinement for the territorial division within which he was apprehended".<sup>8</sup> A parolee, who is returned to a federal institution, may request and receive a hearing before the next panel of the board to visit the institution. It appears, however, that few request post-revocation hearings and indeed many parolees are unaware of this opportunity. We understand that extremely few parolees have been successful in obtaining their immediate release as a result of this procedure.

Under current procedures, suspended parolees may and frequently do remain on remand in local jails or penitentiaries for periods of more than three months with no information on the status of their cases. During this time they are unlikely to participate in institutional programs. The procedure of the National Parole Board at this time, with respect to parole violation decisions, permits the board to review the alleged violation principally from the viewpoint of the parole supervisor or parole officer. Except for his interview

<sup>5</sup> Although the Parole Act does not specifically create a National Parole Service, this is the usual title applied to the staff of the board.

<sup>6</sup> Parole Act, Section 16(1)

<sup>7</sup> Parole Act, Section 20(1)

<sup>8</sup> Parole Act, Section 20(2)

with the parole service office or the possibility of a letter to the board, the parolee does not have an opportunity to present information contrary to the allegation or to explain the reasons for violation of the conditions of parole.

In accordance with the recommendation in the Fauteux Report,<sup>9</sup> the Parole Act specifically exempts the board from the requirement to hold parole revocation hearings.<sup>10</sup> This recommendation against hearings was based on the expense of travel which would be required. However, this problem could be reduced through Regional Boards. Moreover under the current system we agree that, from the viewpoint of the inmate, the body making the decision to parole or to revoke is "far away and invisible. Further, the lack of a specific time known to him when his case will be reviewed and a decision made creates a state of uncertainty and strain".<sup>11</sup>

Research results<sup>12</sup> indicate the potential for wide discrepancies in the recommendations of individual field officers when presented with identical cases of parole violators. The right of the parolee to appear before the decision making board would alleviate most of these criticisms and might assist in insuring fairness and reasonable consistency with respect to parole revocation decision.

We do not accept the view that because an inmate is continuing to serve his sentence while on parole, he is not entitled to procedural protections in the process of parole revocation. The parole revocation decision involves the loss of liberty to the parolee, and the fact that such liberty may have been conditional does not make the deprivation of it a less serious matter.<sup>13</sup> Furthermore, while the parole granting decision is necessarily based on a number of intangible factors,<sup>14</sup> such as personality, character, risk to society and justice, the parole revocation decision is based on a contestable issue of fact, namely whether or not the parolee has violated the conditions of his parole.

We do not suggest that a parole revocation hearing should become a formal trial. It should rather be an administrative hearing in which the traditional rules of natural justice are adhered to but in which there is no requirement to follow the formal legal rules of evidence or other formalities usually attendant upon court proceedings. The burden upon the person bringing the charge should be no more than to establish on the balance of probabilities that a parole violation has occurred. As in any other administrative hearing, the alleged violator should have the right, if he so wishes, to be represented by an attorney or any other person.

Accordingly, we recommend that the process of parole revocation should include the following:—

- (1) Notification in writing of the alleged violation of the conditions of parole and of the right to appear before a panel of the Regional Board. If parole is suspended, the inmate should receive his notification within one week following his committal to prison.

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<sup>9</sup> Report of a Committee appointed to inquire into the Principles and Procedures followed in the Remission Service of the Department of Justice of Canada, Chairman: Gerald Fauteux: 1956, page 82:

"The Board should not be required to grant to inmates an opportunity for a personal interview with Board Members. . . . we are satisfied that interviews between Board Members and Inmates do not serve a sufficiently useful function in the parole process to justify the expenditure of time and money that would be necessary to enable, in a country as large as Canada, Members of the Board to travel to all institutions for parole interviews with inmates."

<sup>10</sup> Parole Act, Section II

<sup>11</sup> Report of the Canadian Committee on Corrections, Chairman: Roger Ouimet, 1969, page 341.

<sup>12</sup> Robison, J. and Takagi, P., *Case Decisions in a State Parole System*, Report No. 31, Research Division Department of Correction, State of California, November 1968.

<sup>13</sup> For an examination of the concept of procedural protection in the parole decisions, see:

Fred Cohen, *The Legal Challenge to Corrections*, Chapter 3, reprinted in Hearings before Subcommittee No. 3 of the Committee on the Judiciary, House of Representatives, Ninety-second Congress, Second Session on H.R. 13118, Corrections, Part VII-B, Serial No. 15, Appendix 8, pages 1030-1067.

*Morrissey vs. Brewer*, 92 S.Ct. 2593 (1972) also reprinted in Hearings before Subcommittee No. 3 of the Committee on Judiciary, House of Representatives, Ninety-second Congress, Second Session on H.R. 13118, Corrections, Part VII-B, Serial No. 15, Appendix 33, pages 1648-1680.

<sup>14</sup> See Chapter II

- (2) The right of the parolee to appear before a panel of three members of the Regional Board within three weeks of the date of notification of the violation. This interview should be as informal as possible, but a complete record of the meeting should be made.<sup>15</sup>
- (3) Both the police or parole supervisor, and the alleged violator should be permitted to present arguments and evidence, including witnesses.
- (4) The alleged parole violator should have the right to have a person of his choice present to speak on his behalf.

Except to determine that the process as outlined above was followed the decisions of the board should not be subject to judicial review.<sup>16</sup>

In addition to establishing that a violation of the parole conditions had in fact occurred, the panel must decide what action it should take regarding the violation. To return a parole violator to imprisonment for violation of a condition of parole, when less severe action would be equally or more effective to obtain the law-abiding behaviour of the parolee, would be contrary to the objectives of parole.

We recommend that alternatives to revocation similar to those contained in the Model Penal Code<sup>17</sup> be used wherever possible. The following are some examples:—

1. The Board may issue a reprimand or warning.
2. The Board may order that an alternative type of parole supervision be employed.
3. The Board may impose or alter conditions of parole.
4. The Board may require the parolee to live in a specified residential facility, e.g., Community Correction Centre (Canadian Penitentiary Service), half-way house, or a treatment facility for alcoholism or drug abuse.

In those cases where the Board must resort to revocation of the parole, it should be required to establish a new parole review date.

Until such time as a parolee violates the conditions of his parole, he is and should be considered to be serving his sentence so that the time served in the community in a law-abiding manner should not be served again inside an institution as a result of revocation of parole. We recommend that the remanet be calculated from the date that the warrant of committal upon suspension was issued to the expiry of the sentence. The inmate would commence serving the remanet upon execution of the warrant of arrest. It may be noted, under this system, that during the suspension, time would continue to be credited. Also the inmate would be eligible again for parole after one-third of the remanet was served and for mandatory supervision after two-thirds. Where the remanet was six months or less, questions of re-parole could be decided at the revocation hearing.

Some provision must be made for violations which occur towards the end of the parole period. A return to prison to serve a remanet of only a few days, or even weeks, can have little value. Accordingly, we recommend that where revocation occurs in the last six months of parole, the Board should have the power to order a return to custody for any period which it may determine up to six months even though this may result in an extension of the sentence of the court. Only one such extension should be permitted, however, and any re-parole during this period should only be subject to the remanet of the six months in the event of a further violation.

It appears from our interviews that most parole supervisors interviewed see the assistance of parolees to become re-established in the community as their primary role. Although they recognize that surveillance

<sup>15</sup>—Tape recordings would be adequate for this purpose, for instance as is presently done in the Public Service of Canada on hearing appeals.

<sup>16</sup>See Chapter IX

<sup>17</sup>American Law Institute, Model Penal Code (POD) 1962 Section 305.16.

and control of the parolee is an essential part of the parole process, few of their activities are directed toward this objective. This may reflect a fundamental role conflict within the supervisor, who is expected to provide both assistance and control. The protection of society against illegal behaviour by parolees may be improved by strengthening the surveillance and control aspects of the parole process. Since the police are generally responsible in Canada for obtaining evidence against offenders, they are in a position through training, experience and daily activity to assist the parole authorities to maintain control over persons released on parole. However, the police find that the present procedures of the National Parole Service are frustrating, particularly in metropolitan areas. When police officers observe a parolee violating what are believed to be the conditions of parole, they are expected to advise the parole supervisor or District Representative of the National Parole Board. Frequently the police officers have been unable to see any satisfactory action when they have followed this procedure. In addition, some information is confidential and the police will not share it with a parole supervisor, particularly one who is a member of an inmate self-help group. As a result, the police may have become reluctant to report violations.

To facilitate the involvement of the police in the surveillance of parolees, we recommend that the police should be requested to report behaviour of parolees that is contrary to the conditions of parole directly to the Regional Board who would advise the parole supervisor. The same procedure should apply to behaviour, which even though not prohibited by the parole certificate, may lead to new offences. In this latter case, the chairman would call an appropriate three member panel to decide whether any special parole conditions should be added. In the case of violations any member could, if considered necessary, order a warrant of arrest upon suspension of parole. Following execution of the warrant the chairman would call a parole revocation hearing.

It is anticipated that this procedure would improve the protection of society by eliminating the filtering effect that occurs when such reports are passed through the district office to the National Parole Board at the discretion of the parole supervisor or district representative. However, this procedure should not be permitted to reduce the importance of efforts by the parole board members, parole service officers and police officers to establish and maintain effective liaison.

It is important that the Local Board which authorized the decision to release should be informed of violations and changes in conditions. Such feedback is essential to any effective improvement in the quality of decision making.

### **Temporary Parole**

The procedure outlined above is designed primarily to be applied to inmates on full parole, where the parolee is a resident in the community. While the same procedure might be made applicable to cases of temporary parole, it is possible that some other consideration also apply. Since the parolee would be required to return to the institution at night or from time to time in accordance with the conditions of his temporary parole, the implementation of all temporary paroles, including those that are granted by the Regional Board, would be the responsibility of the Local Board. Temporary parole may be considered as an experimental measure to test an inmate's ability to function outside the institution and, as such, requires immediacy in the decision making process. To encourage the Local Boards to grant and implement temporary paroles, it is desirable to allow the board a high degree of discretion as to when such parole may be revoked or suspended. Procedural protection is less important in the process of revocation of temporary parole than in full-parole as the inmate has less liberty to lose as a result of revocation.

To provide for the possibility of cases requiring urgent action, any member of the Local Board should have the power to suspend a temporary parole. However, where temporary paroles are suspended before termination, the inmate should have a right to a revocation hearing before the Local Board. Many temporary paroles will be terminated as a result of the completion of school terms or the end of employment projects. There is no concept of alleged "fault" in this situation. We recommend that at termination of temporary parole the inmate have the right to request a personal hearing by the appropriate board to consider his case with a view to further temporary or full parole.



**Forfeiture**

We recommend that, as in parole revocation, the parolee should receive credit for the time served in the community in a law-abiding manner prior to the date that he committed the new offence.

**Mandatory Supervision**

The recommendations in this chapter apply equally to mandatory supervision.

## CHAPTER IX

### THE DESIRABILITY OF APPELLATE OR REVIEW STRUCTURES

Under the existing system there is no method of appeal within the structures of the National Parole Board itself from any decisions rendered by the various panels of the board. The nearest thing to an internal system of reviews is to be found in Rule 9 of the National Parole Board Rules,<sup>1</sup> which provides that, where a panel of two members is unable to reach agreement, the case may be referred to a panel of three members or more. Further, where the latter panel is unable to reach agreement, the case may be referred to the whole board.

Nor do the existing structures provide any machinery or means for appeal or review of the board's decisions by any other body. Section 23 of the Parole Act specifically excludes "appeal or review to or by any court or other authority". There is judicial authority for the proposition that the parole decision "is altogether a decision within the discretion of the Parole Board as an administrative matter and is not in any way a judicial determination".<sup>2</sup> Since this judgment the Federal Court Act<sup>3</sup> has come into effect providing for very broad review powers over federal administrative and quasi-judicial bodies.<sup>4</sup> These powers have not, to our knowledge, been tested as far as parole is concerned.

The notion of parole as an administrative rather than a quasi-judicial decision almost certainly arises from the origins of parole itself as an act of executive clemency; the courts had no authority to interfere with the exercise of this prerogative.<sup>5</sup>

Having in mind the cardinal importance to the inmate of any decision, either to grant or to revoke parole, we have given the most careful consideration to the desirability of providing some system of appeals from the parole decision within the parole structures. We have, however, concluded that it would not be appropriate to provide for any sort of appeal in the traditional sense of a right by an aggrieved party to obtain a further review of the decision before a higher body.<sup>6</sup> Our principal reason for doing so is the difficulty, if not the impossibility, of providing any useful disincentive against frivolous or dilatory appeals. In the absence of such disincentive, many cases in which the inmate was denied parole would give rise to an appeal. The effect would be to create an intolerable case load for the appellate body and to downgrade the importance of the body making the decisions in the first instance.

A secondary reason is the difficulty of identifying the person or persons who would be the "opposite party" in the appellate process. If inmates were permitted to appeal decisions refusing them parole, it would seem only reasonable to allow others the right to oppose such appeals or to launch appeals against decisions granting parole. But who should this be? Arguments can be made in favour of the custodial

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<sup>1</sup> SOR/71-151

<sup>2</sup> In re: McCaud (1964) 43 C.R. 252 and 256 Per Spence J., at page 254

<sup>3</sup> R.S.C. 1970 (Second Supplement) Chapter 10

<sup>4</sup> Sections 18 and 28

<sup>5</sup> Brouillette vs. Fatt (1926) 64 Quebec C.S. 222

<sup>6</sup> See however page 46.

authorities, the parole services, the police and the provincial Attorneys General, each of whom may be said to represent a part of the totality of the "public interest". The very concept of appeal in the traditional sense is one which involves a notion of the adversary process. While we are strong supporters of the need for procedural safeguards in the parole granting structures, we do not believe that these necessarily or even desirably should lead to such an adversarial concept.

While for the reasons stated, we do not favour the institution of appellate structures, we do, however, see an important place for a review function in the parole process. The distinction between appeal and review is that the former is initiated at the will of a "party" who is dissatisfied with the decision in the first instance, while the latter is initiated by the reviewing body for reasons which may be entirely outside the knowledge of the parties to the original decision. Thus we recommend that the Regional Boards should have the right on their own initiative to review and revise any parole decisions reached by the Local Boards within their regions and that the full Regional Board should have the right to review and revise any decisions refusing parole reached by that board or by a panel or quorum of its members. The decision as to whether or not to undertake such review should lie entirely within the discretion of the reviewing body. We have elsewhere dealt with the functions of our proposed National Parole Institute and we would see an important stimulus to review arising from its operations by, for instance, pointing up disparities in decision making.

There may also be other stimuli to review such as, for example, a change in policy or the acquisition of new information with regard to a case. We would not exclude the possibility of a Regional Board agreeing to review a decision on the basis of representations made to it by the inmate concerned or by some other person. We would emphasize that in either of these cases there would be no formal right of appeal, but simply a right to attempt to persuade the Regional Board that the matter should be reopened. In the case of Local Board decisions, such review would normally be undertaken by the Local Board.

Turning now from internal to external reviews, it is our opinion that the traditional concept of parole as an act of mercy emanating from the executive, and not subject to review by the judiciary, is outdated. Parole has now become a common means of releasing prisoners from prison. In agreement with the Supreme Court of the United States, we reject the notion that the distinction between a "right" and a "privilege" is useful for the purpose of determining desirable legal safeguards.<sup>7</sup> In our opinion, parole authorities are dealing with important questions concerning the liberty of the subject, and it is for that reason desirable that their operations should be subject to the scrutiny of the courts to ensure that the rules of natural justice and fair play are being followed. As we stated at the outset, the traditional judicial attitude towards parole has been one of non-interference. It is perhaps arguable that the extremely broad language of Section 28 of the Federal Court Act<sup>8</sup> is sufficient to cover the operations of a parole board. Rather than wait for the matter to be judicially determined, however, we think the question should be resolved immediately in favour of a right of review. Accordingly, we recommend that the Parole Act should specifically state that Section 28 of the Federal Court Act applies to Regional and Local Boards. Provincial parole boards, created under our recommendations, as quasi-judicial bodies should be made subject to the superintending power of provincial Superior Courts.

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<sup>7</sup>Sherbert vs. Verner, 83 S. Ct. 1790 at 1794

<sup>8</sup>R.S.C. 1970 (Second Supplement) Chapter 10.

## CHAPTER X

### THE LIAISON BETWEEN PAROLE SERVICES AND PENITENTIARY SERVICES

That the decision of the parole authority should be independent of influence by political or other extraneous considerations has been established in three previous studies of the correctional system in Canada: The Archambault Report,<sup>1</sup> the Fauteux Report<sup>2</sup> and the Ouimet Report<sup>3</sup> The President's Commission on Law Enforcement and Administration of Justice similarly tends to support the concept of "an independent decision making group within a parent agency".<sup>4</sup>

The Canadian Committee on Corrections concluded that the administration of parole services should be transferred from the chairman of the National Parole Board to be integrated into the Department of the Solicitor General in order to assure the freedom of the chairman from ministerial direction and control in all aspects relating to his duties under the Parole Act.<sup>5</sup>

Earlier in this report, we have recommended the establishment of Local and Regional Boards, which are intended to be quasi-judicial in their structures, procedures and functions. We believe that it is undesirable for such quasi-judicial bodies to have administrative and executive responsibility for parole officers, who are members of the Public Service of Canada and for whom line authority and ultimate responsibility must rest in a Minister of the Crown. Judges are generally not the administrative superiors of probation officers and we think that the relationship between the parole board and the parole officers should be the same.

It is also our view that, in addition to increasing the independence of the parole authority, the separation of parole services from the parole authority within the Department of the Solicitor General will lead to improvements in efficiency and effectiveness within the department.

In recent years the Canadian Penitentiary Service has greatly increased the amount of community involvement in its program. Community Correctional Centres have been established in a number of cities, permitting inmates to work, attend school, visit their families and participate in the normal life of the community, while returning to custody each night.

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<sup>1</sup> Royal Commission to Investigate the Penal System of Canada; Hon. Mr. Justice Joseph Archambault, Chairman, 1938, page 243: "It is essential, moreover, that in order that the (Ticket of Leave) Act may be properly administered it should be removed from any suggestion of political influence."

<sup>2</sup> Report of a Committee Appointed to Inquire into the Principles and Procedures followed in the Remission Service of the Department of Justice of Canada; Gerald Fauteux, Chairman, 1956, page 80: "We do believe that it is in the best interests of Canada that the parole authority should, at all times, be in a position to say that its judgments can only be based on the merits of the particular case and that it is not open, in any way, to influence by extraneous consideration".

<sup>3</sup> Report of the Canadian Committee on Corrections; Roger Ouimet, Chairman, 1969, page 339: "The independence of the National Parole Board be formally acknowledged by legislation freeing it from the possibility of ministerial direction in any aspect of the function of the Board or any member of the board."

<sup>4</sup> Task Force Report: Corrections, U.S.A., 1967, page 66

<sup>5</sup> Report of the Canadian Committee on Corrections, Roger Ouimet, Chairman, 1969, page 339

In the calendar year 1971, the number of temporary absences granted to inmates almost doubled to a total of 30,299.<sup>6</sup> One result of these community-oriented programs has been a reduction in the difference between the role of the treatment personnel of the Canadian Penitentiary Service and that of the parole service officers. The traditional work of the parole service officers includes counselling parolees in the free community, assisting them to find employment or to enter educational programs and helping to locate suitable accommodation. The treatment staff in a number of penitentiaries and community correctional centres are performing almost the same duties.

Additional changes in recent years have further eroded the differentiation between penitentiary and parole staff. A substantial portion of the cumulative summary, the documentation used by the National Parole Board members to examine applicants for parole, is now prepared by the classification staff of the Canadian Penitentiary Service. On the other hand, the community assessments, used by the Director and Commissioner of penitentiaries to consider applications for temporary absence, are generally prepared by representatives of the National Parole Board. Also, in Alberta, offenders sentenced to two years or more are held in local jails until they are interviewed by parole service officers who classify the inmate and decide to which institution<sup>7</sup> he should be sent to serve his sentence.

We are in general agreement with the recommendation of the report by P. S. Ross and Partners (1967) stating that the National Parole Service should be integrated into the Department of the Solicitor General as a community programs division. However, we believe that the recommended community program division should be expanded to include all penitentiary social workers including classification officers, psychologists, psychiatrists and other social scientists. The unit could then be termed the "community programs and assistance division" of the Solicitor General's Department. It is further recommended that the offices of this division be established in the community as the district offices of the National Parole Service are today. Board rooms and interviewing rooms should be provided inside the institutions under the institutional program division of the Solicitor General's Department for the use of the community programs and assistance staff.

The combination of professional and community programs personnel located in community based quarters has a number of advantages:—

1. The inefficient duplication of operations of the Canadian Penitentiary Service and the National Parole Service in the community would be eliminated. It is not desirable to have two organizations operating similar programs in the same department competing against each other for funds.
2. The opportunity for the staff to work both inside institutions and in the communities would result in improved communications, cooperation and a more realistic and comprehensive approach to corrections within the Department of the Solicitor General.
3. Parolees, many of whom have personality disorders, would have ready access to psychologists and psychiatrists within the department, where such facilities do not exist in the community.
4. The supervision of inmates on temporary parole should be facilitated.
5. The quality of staff working in institutions and educated in the social sciences would be greater under this arrangement. The National Parole Board has been more successful than the Canadian Penitentiary Service in obtaining and retaining staff of higher education and potential. This success has been at least partly based on superior material facilities in the district offices of the National Parole Service as well as on the reluctance of some personnel to work in prisons. In addition, interaction with social science personnel in other agencies and the opportunities to maintain one's professional standing through participation in relevant conferences, seminars and university courses, all of which contribute greatly to job satisfaction, have been more frequent in the district offices of the National Parole Board than in the institutions of the Canadian Penitentiary Service (e.g.

<sup>6</sup> Senate of Canada, Standing Committee on Legal and Constitutional Affairs, March 8, 1972, Appendix B.

<sup>7</sup> Drumheller (medium security) or Saskatchewan Penitentiary (maximum security).

Drumheller Institution, Warkworth Institution and others are far from universities and professional organizations which could help social scientists become aware of new developments in their particular specialty). Also, career opportunities would be greater within the enlarged division, forming the basis to attract and retain highly competent staff.

6. The integration of the National Parole Service and the treatment staff of the Canadian Penitentiary Service would increase the geographical coverage and availability of centres aimed at providing community-oriented services to inmates under the authority of the government of Canada by maintaining offices both in major cities and near institutions. That is, offices located to serve such isolated institutions as Drumheller Institution, Warkworth Institution and Beaver Creek Correctional Camp, which are distant from district offices of the National Parole Board, would provide parole supervision to the parolees in the surrounding area.

## CHAPTER XI

### SUMMARY OF RECOMMENDATIONS

1. The parole authority should be decentralized throughout Canada and based upon the five regions of the country.
2. In each region, there should be a Regional Board consisting of a chairman and seven members who are respectively:—
  - an independent citizen not directly involved in the correctional process,
  - a judge,
  - a senior police officer,
  - a psychiatrist or psychologist,
  - a criminologist or sociologist,
  - a person with responsibility for program in correctional institutions, and
  - a person with responsibility for the supervision of offenders in the community.
3. Members of Regional Boards should be appointed on a part-time basis or, where the workload so dictates, on a full-time basis but for short terms not in any case to exceed three years. The Regional Chairman should be appointed for five years.
4. Local Boards should be established for institutions or groups of institutions within each region.
5. Local Boards should consist of senior institutional personnel, senior parole personnel and an independent citizen from the communities to which prisoners may be paroled.
6. Members of Local Boards should serve on a part-time basis only.
7. Subject to review by Regional Boards, Local Boards should have jurisdiction to decide all parole cases involving inmates serving terms of less than five years who have no history of crimes of violence and do not fall into any other category specified by the Regional Board.
8. Regional Boards should have jurisdiction to decide all other parole cases.
9. The quorum for Regional Boards should normally be five members. Dangerous sex offenders and persons serving life sentences as a minimum or as a commuted death sentence could only be released by a unanimous vote of eight members. Other life sentences would require a majority vote of eight members.
10. Regional Boards should have jurisdiction to oversee and revise decisions by Local Boards within their regions.
11. There should be a National Commissioner for Parole in Ottawa whose duties would include the overseeing and coordination of the work of Regional Boards, the making of recommendations for appointments to Regional and Local Boards, and liaison with the Parole Institute.

12. The National Commissioner for Parole should be ex officio a member of all Regional and Local Boards.

13. There should be a central organization, called the National Parole Institute, for the collection and publication of all data relating to parole.

14. The National Parole Institute should be a cooperative venture of the Solicitor General's Department and Statistics Canada.

15. The system of Regional and Local Boards would be applicable to provincial institutions. However, those provinces who wish to do so should be permitted to establish their own parole systems for prisoners held in provincial institutions.

16. For those provinces which decide to establish their own parole systems, federal legislation should lay down minimum standards covering, in particular:—

- (a) the criteria for granting parole;
- (b) the conditions of parole;
- (c) minimum procedural safeguards, and
- (d) the obligation to cooperate with the National Parole Institute in data collection and dissemination.

17. Provinces should be encouraged to use the same parole system for offenders against provincial statutes as against federal statutes.

18. Existing temporary absence legislation should be amended to restrict temporary absences to those with escort for medical and humanitarian reasons.

19. All other temporary absences should be designated as temporary paroles and fall under the jurisdiction of the appropriate Regional or Local Boards.

20. Regional and Local Boards should have the power to delegate the implementation of temporary paroles with regard to any inmate once the decision to grant temporary parole to such inmate has been approved in principle.

21. Within the federal penitentiary system, transfers of inmates should be subject to the jurisdiction of the appropriate Regional or Local Boards.

22. Statutory and earned remission should be abolished in both provincial and federal institutions.

23. The law should provide that any inmate, if not sooner paroled, shall serve the last one-third of his sentence on mandatory supervision.

24. The normal period for parole or mandatory supervision should be eighteen months. Any decision to continue supervision for a longer period can only be made after a hearing by a panel of three members of the Regional Board.

25. Periods of parole and mandatory supervision extending beyond eighteen months should be subject to annual review by the Regional Board.

26. Section 663(1) (b) of the Criminal Code should be amended to reduce to three months the maximum period of incarceration which may be followed by a probation order.

27. Eligibility for temporary parole from federal institutions should be set at six months from commencement of sentence.

28. There should be no minimum eligibility requirement for temporary parole for inmates of provincial institutions.



29. Eligibility for full parole should, with the exception of mandatory life or commuted death sentences, be set at one-third of the sentence or four years, whichever is the lesser.
30. Regional Boards should have the authority, in special circumstances, to grant full parole prior to normal eligibility. Success on temporary parole should be specified as being one of such special circumstances.
31. Explicit criteria for parole should be established by legislation.
32. Every parole decision should be made at the end of a hearing before the quorum of the board having jurisdiction.
33. The reasons for every parole decision should be given at the hearing, recorded and as soon as possible communicated to the inmate in writing.
34. At every hearing, the inmate should have the right to be represented or assisted by a person of his choice.
35. The material used by parole boards to reach decisions should be made available to the inmate concerned. Exceptionally, the chairman may order that certain material only be made available in an abstract or summary form. This decision should be subject to review by the board hearing the case.
36. Regional and Local Boards should be recognized as quasi-judicial bodies.
37. For the purposes of section 11 of the Official Languages Act, every Regional or Local Board should be deemed to be a court of record and every Canadian penitentiary should be deemed to be a federal bilingual district.
38. No parole decisions should be reserved for the consideration of the Governor in Council.
39. Conditions of parole should be specific and limited to those which are designed to prevent the parolee from repeating his offence or committing a new offence.
40. Examples of such conditions should be specified in the legislation.
41. The board having jurisdiction to parole an inmate should have jurisdiction to alter his conditions of parole at any time by notice in writing.
42. An inmate may apply at any time to the board having jurisdiction to amend or delete any of the conditions of his parole.
43. Whether or not preceded by suspension, parole revocation proceedings should commence by a notice in writing to the parolee, alleging specific violations of the conditions of parole.
44. A revocation hearing should be held within three weeks of such notification before three members of the Regional Board.
45. A complete record of every revocation hearing should be made.
46. The burden of proof at revocation hearings shall be upon the person seeking revocation, but the standard of proof required shall be no greater than the balance of probabilities.
47. There should be the right to call witnesses and to be represented by lawyers or others at revocation hearings.
48. In the event of a proven parole violation, the board should be encouraged to consider alternatives to full revocation.
49. Where revocation takes place, time spent on parole or mandatory supervision prior to the issuance of the warrant of suspension should be credited as time against the sentence of the court. The

same should be true with regard to forfeiture except that time should be calculated only to the date of the proven new offence.

50. Where revocation occurs in the last six months of parole or mandatory supervision, the board may order re-incarceration for a period of up to six months notwithstanding that this results in an extension of the sentence of the court. No more than one extension of the sentence should be permitted; any re-parole following revocation should be subject only to the remanet than outstanding in the event of a further violation.

51. The right to order warrants of suspension of full parole should be vested only in the members of the Regional Board.

52. Peace officers as well as parole supervisors should have the right to request the issuance of warrants of suspension and to request the initiation of other proceedings for the revocation or alteration of conditions of parole.

53. Suspension of temporary parole may be ordered by members of Local Boards, subject to the inmate's right to a hearing before the board at its next meeting.

54. At the expiry of any temporary parole, the inmate should have the right to request a hearing before the appropriate board with a view to obtaining further temporary or full parole.

55. All the members of a Regional Board, by majority vote, may review and revise decisions reached by any panel or quorum of such Regional Board.

56. Section 28 of the Federal Court Act should apply to Regional and Local Boards.

57. Provincial parole boards, where established, should be made subject to the superintending powers of provincial Superior Courts.

58. The present staff of the National Parole Service should be integrated with the professional staff of the Canadian Penitentiary Service into one unit to be called the "Community Programs and Assistance Division" within the Department of the Solicitor General.

## CHAPTER XII

### CONCLUSION

We have recommended the creation of a decentralized but coordinated system closely linked to the public, police and other parts of the criminal justice process, as well as a monitoring system and a number of procedural safeguards for the rights of inmates. These four features, coordinated decentralization, integration with the criminal justice continuum, an interlinked information system, and "due process", are, as has been emphasized throughout the report, of fundamental importance. With our differing backgrounds and disciplines, the fact that we have reached agreement on these basic questions is indicative of the strength of the arguments which support them.

In a change from previous conceptualisations, we have recognized parole as involving a number of considerations. Overriding these is the view that parole is a means whereby each imprisoned person should spend as little time as possible in prison consistent with preventing further crime being committed, particularly crime involving serious damage to the person. Moreover, the exercise of discretion to parole must be carried out within a framework of public acceptance as well as economic and humanitarian constraints. We have also emphasized the need for consistency within each region and the application of common principles across Canada.

The structures which we propose have at first sight a number of disadvantages. We think it appropriate to mention them here and to indicate the reasons why we have rejected them or the manner in which we see them being alleviated.

Some will point out that our proposed parole system would be considerably more expensive than the present one. There are nine full-time board members on the current National Parole Board. Under our proposal there would be the equivalent of 40 full-time members at the regional level plus a considerable number of part-time members of the Local Boards. We have not attempted to estimate the cost of salaries and administrative support services for the Regional and Local Boards, but they will clearly be in excess of the present cost of the National Parole Board and its related secretariat. Our recommendation would not, however, affect the cost of the National Parole Service itself beyond the demands on the time of representatives for the Local Boards. This extra cost would only be marginal and would possibly be compensated by savings in institutional staff time taken away from the temporary absence decision. While our proposals will greatly increase the proportionate price paid by the Canadian people for the parole decision, in absolute terms this cost will still be minimal when compared to the overall cost of the criminal justice system. It is also possible that the increase in the number of persons released on parole that we see resulting from our recommendations, combined with our other modifications to the process of parole violation, may lead to savings in institutional costs and the intangible cost of new offences. If additionally our recommendations in appendix "A" are adopted, the resulting increase in cost over the system proposed in the body of the report would only be marginal.

The benefits in the quality of the decision have been elaborated at length in the body of the report. Furthermore, with parole as the farthest stage in the criminal justice process which an offender can reach, it

would provide some coordination between the various other components of that process. If the parole decision will cost more under the new system, it is because it has cost too little under the old.

Others will suggest that the new system is potentially more time consuming. We have provided for hearings at every stage of the parole process as well as in the transfer decision with the penitentiary system itself. Hearings, even administrative hearings of the type we envisage, cannot be hurried. We foresee with time that counsel will come to be admitted to such hearings as a general rule and legal aid extended to indigent inmates. This may further prolong the hearings.

Parole in Canada has now developed to the point where it is becoming the norm rather than the exception for the release of inmates from prison. It is no longer appropriate to talk about parole as being an exercise of grace, as being a privilege rather than a right or as being a "contract" entered into by the inmate to obtain his freedom. We believe parole to be a valuable part of the criminal justice process and we wish to see it grow. It is our steadfast belief in the strength and validity of the principle of parole that convinces us that it will and should continue to develop and prosper if brought out into the open and made to conform to the norms of natural justice. The danger does not lie in excessive proceduralism and publicity but the other way; where parole decision making is secret and subject to few visible controls, its mistakes are likely to give rise to sensationalism and a high degree of public criticism.

In our opinion it is essential to basic justice and to the acceptance and credibility of the system by inmates who are subject to it as well as by the general public, that there be a high degree of visibility and accountability in parole decision making. The guilt/innocence determination in criminal law has for centuries followed this doctrine. Publicity and openness, apart from their inherent values, will also do much to stimulate dialogue which will lead to modifications and improvements in the system itself.

Initially, the proposed system may be seen as cumbersome. We think this criticism goes more to the appearance than to the reality. It is true that an organizational chart of our proposals with Regional Boards, Local Boards and Provincial Boards all operating in the same field may appear more complex than the present system. However, our proposed system is simple when looked at from the one point of view which is important—namely, that of the inmate. For him, in every case, the parole authority having jurisdiction over him will be public, identifiable, reachable and visible. Its make-up will be stable from hearing to hearing, as a rule, and its decisions will always be given in writing. In comparison with the present system our model would eliminate and coordinate the conflicting jurisdictions between the National Parole Board and provincial boards, temporary absence and institutional transfers.

Some will interpret our recommendations as leading to the wholesale release of inmates. Others will see them as restricting paroles. In some sense both are right. We see some persons being held in prison who might in the past have been released; however, we see more persons who do not constitute a danger to society being tested in the community. But what is more important, our recommendations regarding revocation procedures would increase the protection to which society is entitled.

Parole is clearly a decision involving a number of conflicting elements. To look at parole as simply the assessment of risk or a means to protect society by rehabilitating the inmate is as naive as to look at sentencing only as an exercise in retribution. Undoubtedly, some persons released on parole will still commit new offences, and other decisions will still create public anxiety. Our system is designed to be responsive not only to the important considerations in parole, but also to changes in public attitudes and the community situation. It will be capable of identifying and reacting to its own mistakes before crises have forced it to precipitate change.

It must be emphasized that our recommended system applies to the situation that is expected to pertain for the near future in Canadian prisons and for parole supervision. As progress is made through research, evaluation and experimentation, however, the system would also stimulate and facilitate the development of more successful rehabilitative programs and be capable of adapting itself to them.

Prison is an undesirable method of ensuring that society is protected against its own failures. On empirical, as well as on humane and economic grounds, it is far from the ideal solution and the search for more acceptable and more efficient means must go on. Unless and until such means are discovered, however, prisons will remain with us as a necessary evil. Parole is therefore an essential adjunct to imprisonment whose objective is to ensure that the social and human costs do not outweigh the expected benefits.

## APPENDIX A

### A PROPOSAL FOR STATUTORILY FIXED SENTENCES

Some of the recommendations which follow would require further study which we recommend should be undertaken without delay. We also recognize that our proposals in this regard may give rise to strong feelings both for and against, and that prior to their adoption there should be an opportunity for these feelings to be ventilated by informed public debate. Our recommendations in the Report do not in any way depend upon the acceptance of our recommendations in the present appendix and could be adopted immediately. If these recommendations with regard to sentencing meet with approval, we are of the opinion that the parole structures in the body of the Report could be adapted with relatively minor modifications to the new system of sentencing.

In this appendix, we recommend abolition of fixed term sentencing to the penitentiary by the court and adoption of a form of statutorily fixed maximum with no discretion in the court to fix a minimum.

The court, after a defendant has been found guilty, would have the discretion to determine one of three types of sentences:

- (a) Non-custodial, including the possibility of semi-custodial sentence such as probation with the requirement to live in a half-way house.
- (b) Short term determinate custodial sentences of up to two years fixed by the court.
- (c) Sentences to the penitentiary the length of which would be determined by statute.

In the case envisaged in (c) above, the Criminal Code would provide four categories of offence, carrying maximum terms of three, five and ten years and life.

It is essential to the whole purpose of the system that the maxima be not set too high and that no minima be established by law. The danger that one or two highly publicised but isolated incidents may precipitate moves in either or both these directions is one that must be guarded against. The existence of this danger might be the principal reason for rejection of the system.

Once the court has decided upon a penitentiary sentence, there would be little discretion as to the term of such sentence, although the law should provide that the court may, in special circumstances, reduce the maximum term. In principle, however, the court is obliged to impose the statutory term. At this point the prisoner is turned over to the federal institutional authorities where, in the light of a diagnosis of his program, educational and other needs, as well as his degree of custodial risk, recommendations would be made as to the length and place of his incarceration. He would then be seen by the Regional Board, or in the appropriate cases, the Local Board. This board would have before it the pre-sentence report, if any, a report from the trial court, the post-sentence report prepared by the parole service, and the reports prepared in the institutional reception centre. On the basis of these reports and their interview of the man, the board would fix a minimum term which would be the inmate's proposed release date and order his transfer to the appropriate institution.

This determination should take place within a month after the inmate enters the institution, and we suggest that the legislation provide an outside maximum of three months. There should also be provision for extending this period for exceptional reasons, such as where the man required a period of psychiatric observation. It should be noted that, if it were decided to accept any sort of contract parole system, it would be at this stage that the prisoner would enter into the initial contract.

Once the minimum term has been established, the inmate would be sent to the institution where, subject to transfer decisions, he would serve his minimum term.

It is important to ensure that each case is reviewed regularly, both to encourage the institutions to set up programs for all prisoners, including those serving long terms, and to be certain that the original program is being implemented appropriately. Accordingly, we recommend that the board be obliged to see each inmate at least once every 12 months until such time as he is released.<sup>1</sup> On each of these occasions, the inmate would be given an interview, and the board would be given the authority to reduce the minimum term. Exceptionally, the board should also have the authority to increase the minimum term, but the criteria for the circumstances in which this can be done, should be unambiguously specified in the legislation. We suggest only the following:-

- (a) that there is a substantial risk that if released at expiry of the minimum term he would not conform to the conditions of parole and as a result would be likely to commit offences involving serious harm to society;
- (b) that he has been involved in infractions of institutional rules and so his release at the expiry of the minimum term would have a substantially adverse effect on institutional discipline.

Upon release at the expiry of the minimum term the inmate would be placed on parole, normally under supervision and with assistance. It is very important that his parole term should not necessarily be equivalent to the balance of the maximum which he has to serve. Long parole terms do not appear to serve much useful purpose. Further, a man on parole with a long maximum hanging over his head is very likely to have the maximum used against him by police and other authorities as an easier method to reincarcerate him than to prosecute for new offences. It is probably not advisable to have the legislation set any specific maximum term of supervision on parole, although we would recommend that the legislation stipulate eighteen months of supervision as the norm and require that any shorter or longer term require a special decision on the part of the board. In each case written reason should be given to the inmate and in the case of extension of the term there should be a right to a hearing.<sup>2</sup> Discharge from supervision at the expiry of the parole term should be followed automatically by discharge from parole, either immediately or at the expiry of some determinate period, such as one year.

The most important advantages that we see flowing from this model are the following:-

1. Disparity in sentencing would be markedly reduced. Instead of sentences being imposed by many hundreds of judges and magistrates across Canada who have little means available to them for coordinating policy, sentencing in each region would be carried out by one body. The Regional Board would be able through its information system to establish consistent norms for itself and enforce such consistency for Local Boards through its review power.
2. Among other things, the present sentencing decision is an exercise in prognosis and informed guess-work, which is not subject to any kind of subsequent review or rethinking by those taking the decision. Even where there is an appeal from sentence, it is, as a rule, judged on the record as it existed at the time of the original sentence. Furthermore, parole decisions modify the effects of the sentence in spite of the fact that the National Parole Board is a body entirely separate from the

<sup>1</sup> There is a small number of cases where efforts of the inmate are unlikely to result in revisions of his minimum term. The board needs to pay particular attention to these cases and to make every effort not to allow the annual hearings to become traumatic or cruel.

<sup>2</sup> See Chapter VII

sentencing courts. Under our proposed model the body which fixes the minimum is the same body which constantly holds that minimum under review in the light of any changes in the inmate's situation or in the community.

3. Statutory sentencing would facilitate any "treatment program" such as might be developed from theories of behaviour modification.
4. Our model allows more flexibility in the testing of the inmate by way of gradual release, thereby providing a greater degree of protection to the public.

There are a number of arguments against the proposed sentence model which can be met as follows:-

1. While in theory the sentence is being imposed by the court and the board is only determining the date of release, in fact the actual time served is, in almost every case, being determined by the board. At the time of sentence there are considerable safeguards for the rights of the convicted offender which are fundamental to our system of justice. Therefore, we would consider it necessary in establishing such a system to go further than we have in recommending procedural safeguards for the rights of the accused.<sup>3</sup>
2. There is a fear that the actual time spent in prison may on the average increase under the proposed sentence system. We expect that some persons would spend a longer time in prison than they do under the present system. However, some others would spend less time. There seems to be no evidence that intrinsic to an indeterminate sentencing system there is a tendency for the average time served to increase, nor for mean terms to be longer than in fixed term sentencing.<sup>4</sup>
3. The logistics of a statutory sentence model show that more work will be required of the parole Board. In our view both the needs of society and the rights of the inmate justify this additional workload.

If it was decided to adopt the statutory sentencing model for all sentences over two years and to retain court determined sentencing for sentences under two years, it would be necessary to make some provisions for consecutive determinate sentences, each of which is less than two years in length, but the total of which exceeds two years. Probably the simplest way to deal with this problem would be to provide that consecutive determinate sentences can in no case be given where the total of the sentences which the accused may be serving, would exceed two years. For instance, an accused is convicted of a number of offences for which he is liable to be sentenced for a number of determinate terms each under two years; together with any other sentence he may be serving, these form a total of two years or more. In such a case the sentencing court must either:-

- (a) impose determinate terms which, together with any other sentence than being served, total less than two years, or
- (b) impose a statutory term of three years.

A further problem is created for the case where an accused is convicted of a number of offences, any one of which renders him liable to a penitentiary sentence defined in length by the relevant statutes. Three of the possible solutions are:-

- (a) The sentences should be deemed to be concurrent so that the accused will, in fact, only serve the highest sentence attached to the gravest of the crimes of which he is guilty. While this solution has some attractions, it also has a number of disadvantages as follows:-
  - (i) It may offend one's sense of justice that separate crimes, which may in fact be quite unrelated, should go unpunished by reasons of the penalty therefore being absorbed by the penalty of a higher crime;

<sup>3</sup>See Chapter VII. It is strongly arguable, for example, that sentence setting hearings should be open to the public without restriction.

<sup>4</sup>See Hawkins, K.O. Parole Section: *The American Experience*, unpublished Ph.D. Thesis, University of Cambridge, 1971, pages 63-66. U.S. Department of Justice Bureau of Prisons, *State prisoners; admissions and releases, 1964*, Washington, D.C. 1967.



- (ii) a series of relatively minor offences each carrying one of the lower maxima might, in fact, be indicative of criminal conduct which should, for the protection of the public, require a longer period of incarceration and separation from society than would be afforded by the sentences defined by statute.
- (b) The law could provide that the maxima laid down for each of the offences should be served consecutively. This would answer most of the questions raised in paragraph (a) above. The disadvantage of this solution is that it would allow persons to be incarcerated for theoretical maximum terms which would be astronomical. While the board would retain the power to release such people at any time, it would still appear that we would want to avoid any system in which the maxima were ridiculous.
- (c) The sentencing court could retain discretion much as under the present system in order that sentences for separate crimes should be either concurrent or consecutive but there should be upper limits on consecutive sentences. This is the solution we recommend. We suggest that no aggregate of consecutive sentences, the longest of which is three years, should be allowed to exceed ten years and no other consecutive sentences should exceed an aggregate of fifteen years.

Under statutory sentencing, existing preventive detention legislation should be abolished and replaced by a form of extended sentencing which would be subject to similar maxima.

APPENDIX B

STATISTICAL TRENDS IN  
APPLICATIONS, GRANTING AND TERMINATION (FOR VIOLATION)  
OF NATIONAL PAROLE IN CANADA SINCE ITS INCEPTION 1959-1971  
(O Ordinary Parole)

Number on Parole December 31st, 1971															5,374
Year	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971		
FEDERAL															
Percentage Eligible Applying	-	35%	64%	64%	57%	56%	61%	62%	66%	71%	75%	83%	89%		
Number Granted During Year	994	1192	1005	885	663	751	1127	1114	1328	1331	2030	2852	2785		
Granted as Percentage of Applicants	44%	34%	35%	32%	26%	29%	37%	41%	47%	42%	62%	64%	61%		
PROVINCIAL															
Number Granted During Year	1044	1333	1292	987	1126	1101	1170	1382	1760	2187	3062	3071	3493		
Granted as Percentage of Applicants	41%	51%	32%	30%	31%	29%	31%	39%	46%	54%	70%	74%	71%		
TOTAL															
Granted During Year	2038	2525	2297	1872	1789	1852	2297	2496	3088	3518	5092	5923	6278		
Granted as Percentage of Applicants	42%	41%	33%	31%	29%	29%	34%	40%	46%	49%	66%	69%	66%		
Revocation During Year	60	97	115	97	122	111	107	127	141	176	212	365	367		
Forfeiture During Year	58	94	141	114	114	95	85	116	151	206	339	639	1142		
Total During Year	118	191	256	211	236	206	192	243	292	382	551	1004	1509		

**APPENDIX C**  
**PERSONS AND GROUPS INTERVIEWED**

**PROVINCE OF ALBERTA**

**DRUMHELLER**

ALBERTA NATIVE BROTHERHOOD of Indians and Metis, Drumheller Institution: Don Yellowfly, R. Royer, and colleagues.  
INMATE COMMITTEE, Drumheller Institution: Arthur Saunders, President, and colleagues.  
INMATE TRAINING BOARD, Drumheller Institution.  
JUTRAS, Mr. P.M.S., Director, Drumheller Institution, and staff.  
SCRUTTON, Mr. S., Assistant Director, Drumheller Institution

**EDMONTON**

CUNNINGHAM, Mr. C., Executive Director, Native Counselling Services.  
GILLIES, Mr. R., District Representative, National Parole Service, and staff.  
LEES, Mr. J.D., Director of Social Services, Province of Alberta.  
LEITCH, Hon. C.M., Q.C., Attorney General, Province of Alberta.  
RYAN, Mr. J.C., Acting Director, Grierson Centre.  
SHANKS, Mr. H., Deputy Executive Director, Native Counselling Services.

**PROVINCE OF BRITISH COLUMBIA**

**ABBOTSFORD**

ANDRES, Miss A., MSA Community Services.  
BENDER, Mr. A., Supervisor of Training, Matsqui Institution.  
CURRY, Miss J., Community Placement Worker, Matsqui Institution.  
HARDY, Mr. C., Assistant Supervisor, Vocational Training, Matsqui Institution.  
INMATE COMMITTEE, Matsqui Institution: Mr. J. Smith, President, and colleagues.  
INMATE TRAINING BOARD, Matsqui Institution.  
JACKSON, Mr. J., Shop Steward, Matsqui Institution.  
LEACH, Mr. F., Acting Deputy Director of Custody, Matsqui Institution.  
McGREGOR, Mr. D., Acting Director, Matsqui Institution.  
ROY, Dr. C., Director, Regional Medical Centre, Canadian Penitentiary Service.  
TSCHERSCHWITZ, Mr. S., Classification Officer, Matsqui Institution.

**VANCOUVER**

BEWLEY, Judge L., Provincial Court.  
FONSECA, Mr. O., District Representative, National Parole Service, and staff.  
HALLIAM, Inspector V., Police Department, City of Vancouver.

MOLINO, Inspector V., Police Department, City of Vancouver.  
 McBRAYNE, Chief Constable, City of West Vancouver; President, Canadian Chiefs of Police Association; and Deputy.  
 ROBERTSON, Inspector S., Police Department, City of Vancouver.  
 ROCKSBOROUGH SMITH, Mr. F.S., Director of Corrections, Chief Probation Officer, Province of British Columbia.  
 UNIVERSITY OF BRITISH COLUMBIA, School of Social Work:  
 Special research project on parole (sponsored by the Canadian Penitentiary Service):  
 VETS, Miss S., Supervisor  
 BALFOUR, Miss S.  
 CURRY, Miss J.  
 DUNBAR, Mr. R.,  
 GRANT, Mr. L.  
 KAUFMANN, Mr. L.  
 MACDONALD, Mr. J.  
 MACDONALD, Miss J.  
 MACKIE, Mr. C.  
 McKAY, Mr. I.

#### VICTORIA

GAW, Mr. M., District Representative, National Parole Service.  
 KENNEDY, Dr. Gilbert, Deputy Attorney General, Province of British Columbia.

#### PROVINCE OF MANITOBA

##### WINNIPEG

BELL, Mr. S., Acting Director, Community Correctional Centre, Canadian Penitentiary Service.  
 DUBIENSKY, Judge I., past president, Manitoba Society of Criminology and Correction.  
 GYLES, Chief Magistrate H., Province of Manitoba.  
 REMPEL, Mr. D., District Representative, National Parole Service, and staff.  
 SLOUGH, Mr. R., Director of Corrections, Province of Manitoba.  
 TABERNER, Dr. J., Assistant Deputy Minister, Department of Health and Social Development, Province of Manitoba.  
 TOUPIN, Hon. R., Minister, Department of Health and Social Development, Province of Manitoba.

#### PROVINCE OF NEWFOUNDLAND

##### ST. JOHN'S

EVANS, Mr. R., District Representative, National Parole Service, and staff.  
 HICKEY, Hon. T., Minister of Social Services and Rehabilitation, Province of Newfoundland and Labrador.  
 McCAULAY, Mr. V., Assistant Deputy Minister, Department of Justice, Province of Newfoundland and Labrador.  
 SIMS, Mr. F., Director, Rehabilitation Division, Department of Social Services and Rehabilitation, Province of Newfoundland and Labrador.  
 SQUIRES, Assistant Superintendent, Her Majesty's Penitentiary.

#### PROVINCE OF NEW BRUNSWICK

##### FREDERICTON

BAXTER, Hon. J.B.M., Minister of Justice, Province of New Brunswick.

GREGORY, Mr. G., Department of Justice, Province of New Brunswick.  
KING, Mr. R., Deputy Minister, Department of Justice, Province of New Brunswick.  
MONCTON  
SULLIVAN, Mr. Justin, District Representative, National Parole Service.  
SAINT JOHN  
SULLIVAN, Mr. J.L., District Representative, National Parole Service.

#### PROVINCE OF NOVA SCOTIA

##### HALIFAX

CAMPBELL, Mr. A., Former Director of Corrections, Department of the Attorney General,  
Province of Nova Scotia.  
McKENZIE, Mr. W., Department of the Attorney General, Province of Nova Scotia.  
PACE, Hon. L., Q.C., Attorney General, Province of Nova Scotia.  
UNROE, Mr. J., National Parole Service, and staff.

#### PROVINCE OF ONTARIO

##### KINGSTON

BELL, Mr. H., Deputy Director, Millhaven Institution.  
CHINNERY, Mr. D., Deputy Director of Services, Kingston Institution.  
CHITTY, Mr. W., Director, Joyceville Institution.  
EDWARDS, Mr. C.A.M., District Representative, National Parole Service, and staff.  
FARRELL, Mr. S., Assistant Regional Director of Classification, Canadian Penitentiary Service.  
NOEL, Mr. E., Director, Collins Bay Institution.  
TRONO, Mr. A., Regional Director (Programs), Canadian Penitentiary Service.

##### TORONTO

ADAMSON, Chief H., Metropolitan Toronto Police.  
AKROYD, Deputy Chief, Metropolitan Toronto Police.  
APPS, Hon. C.J.S., Minister of Correctional Services, Province of Ontario.  
BEAMES, Mr. R., District Representative, National Parole Service, and staff.  
BINNIE, Mrs. S., Centre of Criminology, University of Toronto.  
COLLIS, Inspector, Metropolitan Toronto Police.  
COOPER, Mr., Regional Administrator, Ministry of Correctional Services.  
COUSE, Mr. K., Executive Director, John Howard Society of Ontario.  
EPP, Mr. E., Regional Administrator, Adult Institutions, Ministry of Social Services, Province of Ontario.  
FARQUAHAR, Mr. J., Assistant Superintendent, Metropolitan Toronto Jail.  
FOX, Mr. R., Co-ordinator, Volunteer Programs, Ministry of Correctional Services, Province of Ontario.  
GIBSON, Inspector, Metropolitan Toronto Police.  
HACKL, Mr. L., Special Advisor, Ministry of Correctional Services, Province of Ontario.  
HOGARTH, Dr. J., Osgoode Hall, York University.  
JAMES, Mrs. L., Centre of Criminology, University of Toronto.  
KIRKPATRICK, Mr. A.M., Executive Director, John Howard Society of Canada.  
LABOUCANE, Mr. E., Director, Community Parole.  
MASON, Mr. D., After-care Adult Services, Ministry of Correctional Services, Province of Ontario.  
MOHR, Dr. H., Osgoode Hall, York University.  
McNAUGHTON-SMITH, Mr. P., Centre of Criminology, University of Toronto.

POTTS, Mr. F., Chairman, Board of Parole, Province of Ontario.  
SINCLAIR, Mr. D., Deputy-Minister, Ministry of Correctional Services, Province of Ontario.  
THOMPSON, Mr. G., Assistant Deputy-Minister, Ministry of Correctional Services, Province of Ontario.

#### OTTAWA

BOUCHARD, Mr. C., Member, National Parole Board.  
BRAITHWAITE, Mr. J., Deputy Commissioner of Penitentiaries, Department of the Solicitor General.  
COTE, Mr. E.-A., Deputy Solicitor General.  
EDWARDS, Mr. E., Management Data Centre, Department of the Solicitor General  
FAGUY, Mr. P.A., Commissioner of Penitentiaries, Department of the Solicitor General.  
FRITH, Mr. R., Legal Counsel, Commissioner of Official Languages.  
GILBERT, Mr. J.-P., Member, National Parole Board  
GOYER, Hon. J.-P., Solicitor General  
GRYGIER, Dr. T., Director, Centre of Criminology, University of Ottawa.  
HIGGITT, W.L., Commissioner, Royal Canadian Mounted Police, Department of the Solicitor General.  
HOFLEY, Mr. B.C., Assistant Deputy Solicitor General.  
HOLT, Mr. K., Acting Director, Judicial Division, Statistics Canada.  
JONES, Dr. V.L., Chairman, and members, Task Force on Dangerous Sex Offenders, Canadian Penitentiary Service, Department of the Solicitor General.  
JUBINVILLE, Mr. R., Executive Director, Committee on Legal and Constitutional Affairs, Senate of Canada.  
LYNCH, Miss M.L., Member, National Parole Board.  
MACCAGNO, Mr. M., Member, National Parole Board.  
MILLER, Mr. F., Executive Director, National Parole Board, Department of the Solicitor General.  
McCOMB, Mr. R.D., Consultation Centre, Department of the Solicitor General.  
McGRATH, Mr. W., Executive Director, Canadian Criminology Association.  
McWILLIAMS, Mr. R., Member, National Parole Board.  
OUTERBRIDGE, Professor W.R., Chairman, and members, Task Force on Community-Based Residential Centres, Department of the Solicitor General.  
PROWSE, Hon. Senator H., Chairman, Committee on Legal and Constitutional Affairs, Senate of Canada.  
SHUSTER, Mr. S., Research Division, Department of the Solicitor General.  
STEVENSON, Mr. K., Member, National Parole Board.  
STREET, Mr. T.G., Chairman, National Parole Board.  
TASSÉ, Mr. Roger, Deputy Solicitor General.  
THERRIEN, Mr. A., Vice-Chairman, National Parole Board.  
THIBAUT, Mr. J.-M., Management Services, Department of the Solicitor General.  
TOWNSEND, Mr. J.F., Chief, Statistical Information Centre, Department of the Solicitor General.  
TREMBLAY, Mr. G., Member, National Parole Board.  
WILLIS, Mr. E.W., Assistant Commissioner, Royal Canadian Mounted Police, Department of the Solicitor General.

#### PROVINCE OF PRINCE EDWARD ISLAND

##### CHARLOTTETOWN

BENNETT, Hon. G., Minister of Justice, Province of Prince Edward Island.  
McKAY, Mr. W., Assistant Deputy Attorney General, Province of Prince Edward Island.

## **PROVINCE OF QUEBEC**

### **COWANSVILLE**

ABGRALL, Mr. J.M., Assistant Deputy Director, Cowansville Institution.

LAURIN, Mr. D., Deputy Director, Cowansville Institution.

MARINEAU, Mr. G., Director, Cowansville Institution, and staff.

### **LAVAL**

DESGROSEILLERS, Mr. J.P., Director, Leclerc Institute.

JOURDAIN, Mr. L.J.R.J., Regional Coordinator of Program, Canadian Penitentiary Service.

LAFERRIERE, Mr. J.C.A., Regional Director, Canadian Penitentiary Service.

ST. PIERRE, Mr. L.H., Director, Federal Training Centre.

### **MONTREAL**

GENEST, Mr. L., Regional Director, National Parole Service, and staff.

GIROUX, Mr. G., Chief, Chicoutimi Municipal Police; President, Association of Police and Fire Chiefs of the Province of Quebec.

GOULET, Mr. D., Executive Secretary, Association of Police and Fire Chiefs of the Province of Quebec.

LANDREVILLE, Professor P., Department of Criminology, University of Montreal.

NORMANDEAU, Professor A., Department of Criminology, University of Montreal.

### **QUEBEC**

CHOQUETTE, Hon. J., Minister of Justice, Province of Quebec.

LABELLE, Mr. R., Director of Detention, Division of Probation and Detention Centres, Department of Justice, Province of Quebec.

LAVOIE, Mr. J.M., National Parole Service, and staff of District Office.

OUELLET, Mr. R., Director, Probation Service, Division of Probation and Detention Centres, Department of Justice, Province of Quebec

## **PROVINCE OF SASKATCHEWAN**

### **REGINA**

GERRINGER, Mr. L., Department of Social Services, Province of Saskatchewan.

HUNTER, Mr. S., Executive Director, John Howard Society & Elizabeth Fry Society, Province of Saskatchewan.

TAYLOR, Hon. A., Minister Social Services, Province of Saskatchewan.

THOMPSON, Mr. H., Acting Director of Corrections, Department of Social Services, Province of Saskatchewan.

WRIGHT, Mr. K., District Representative, National Parole Service, and staff.

## **ENGLAND**

### **CAMBRIDGE**

HAWKINS, Dr. K.O., Institute of Criminology, University of Cambridge.

WEST, Dr. D., Psychiatrist, former member of the Parole Board, Institute of Criminology, University of Cambridge.

### **LONDON**

ARVOLD, Sir C., Recorder of London.

COX, Mr. W.R., Director, Prison Service, Home Office.

DUMONT, Mr. A.A., Solicitor, ex-member of Parole Board.  
 FORBES, Mrs. H.E., Principal, P3 Division, Prison Department, Home Office.  
 FOWLES, Mr. A., Researcher, Research Unit, Home Office.  
 GLANVILLE, Mr. A.W., Assistant Secretary of State, H2 Division, Home Office.  
 GONSALVES, Mr. H., Secretary, English Parole Board.  
 HUNT, Lord, Chairman, Parole Board, and the following members:  
     BRADLEY, Mr. J.  
     CALDERWOOD, Mr. R.  
     ESHELBY, Mr. S.R.  
     HARRIS, Mr. R.  
     JONES, Mr. G.  
     LANE, Hon. Mr. Justice G.  
     ROLLIN, Dr. H.R.  
     ROSE, Dr. G.  
     SHAW, Hon. Mr. Justice S.  
     WILCOX, Mr. A.F.  
 LOCAL REVIEW COMMITTEE, Wormwood Scrubs Prison.  
 MARK, Mr. R., Commissioner of Metropolitan Police, New Scotland Yard.  
 MAYHEW, Miss P., Research Officer, Parole Research Section, Home Office Research Unit.  
 REID, Mr. J., Assistant Governor, Wormwood Scrubs Prison, and staff.  
 SIMON, Mrs. F., Researcher, Home Office Research Unit.  
 THOMPSON, Mr. J., Principal, H2 Division, Home Office.  
 WALKER, Mr. J.H., Secretary of State, C4 Division, Home Office.  
 WALLER, Hon. Mr. Justice G., Former Vice-Chairman, Parole Board.

## **UNITED STATES OF AMERICA**

### **STATE OF NEW YORK**

#### **ALBANY**

BAKER, Mr. W., Deputy Commissioner, Department of Corrections, State of New York.  
 DUNBAR, Mr. W., Deputy Executive Commissioner, Department of Correctional Services, State of New York.  
 NEWMAN, Professor D., School of Criminal Justice, State University of New York.  
 O'LEARY, Professor V., School of Criminal Justice, State University of New York.  
 REAGAN, Commissioner P.G., Chairman, Parole Board, State of New York.  
 WILKINS, Professor L., School of Criminal Justice, State University of New York.

### **STATE OF WASHINGTON**

#### **OLYMPIA**

JOHNSON, Mr. B., Chairman, Board of Prison Terms and Paroles, State of Washington.  
 JOHNSON, Mr. G., Member Board of Prison Terms and Paroles, State of Washington.

### **WASHINGTON, D.C.**

EGLIT, Mr. H.C., Corrections Counsel, Subcommittee No. 3 To Improve and Revise the Procedures and Structure of the Federal and State Parole Systems, Committee on the Judiciary, House of Representatives.  
 HOFFMAN, Mr. P., Research Unit, U.S. Parole Service.  
 KASTENMEIER, Hon. R.W., Chairman, and members, Subcommittee No. 3 to Improve and Revise the Procedures and Structure of the Federal and State Parole Systems, Committee on the Judiciary, House of Representatives.  
 SIEGLER, Mr. M.H., Chairman, U.S. Parole Board.



## APPENDIX D

### BIBLIOGRAPHY

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