

be a lawyer in most cases. Other possibilities would include prison personnel, relatives and friends."⁸ The Canadian Bar Association also expressed reservations about the introduction of a right to counsel in that it "can result in development much against the granting of parole."⁹ The Committee agrees that some inmates need assistance while others can handle their affairs without help. To avoid converting the process into a trial or a re-hearing of the original case, we recommend that inmates should not be assisted by lawyers except with permission of the parole authority. This permission should only be granted if, in the opinion of the authority, it is warranted in a special situation such as relationship or close acquaintance with the parole applicant. Such acquaintance or relationship should flow from other contacts than merely previous legal representation of the inmate.

Except for this restriction, the inmate should be free to choose whomever he wishes — another inmate, an institutional officer, a clergyman, a parole officer, a member of his family, etc. The choice would be his own and it would be his responsibility to arrange for this person to be at the hearing at the time set by the parole authority. Failure to do so would not be grounds for review. The inmate, according to the automatic system proposed, would be advised of the date on which he becomes eligible for release on parole. In the case of long sentences, he would learn of the eligibility date several months prior to the date itself; for short sentences, he may have no more than one week's notice. In either case, the time required to find someone to assist in the preparation for a parole hearing would be sufficient and it should not be grounds to delay the hearing or to request a review. The onus is on the inmate to find someone to help him but whoever is selected should not have the right to dominate the hearing nor to prevent the parole authority from addressing the parole applicant directly. He would attend the hearing to provide moral support rather than as an advocate and the conduct of the hearings should reflect this restricted role.

The use of Canada's two official languages is directly related to the provision of assistance at parole hearings.¹⁰ The responsibility for providing assistance in either or both official language should be with the administration. For the hearing process to be fair, the inmate must be assisted through translation or interpretation wherever services cannot be provided in the other official language. Should the inmate use the interpretation services during the hearing, the costs should be borne by the administration.

Recommendation

38. In special circumstances, a parole authority may authorize support, other than legal assistance, for the applicant at the parole hearing.

To establish rules of procedure does not ensure that a methodical approach in arriving at fair decisions will be followed. All participants must know what the rules are. Parole authorities should publish manuals or guidelines which set out the rights and obligations of the inmate who applies for parole and describe the procedure of the parole authority in carrying out its mandate. These publications should be distributed free to those sentenced to incarceration for more than a few days.