

Recommendation

35. Parole legislation should provide for the following parole release criteria. The parole authority shall not grant parole:

- a) unless the inmate has served one-third of his term of imprisonment or seven years whichever is the lesser, or, ten years in the case of persons serving sentences of life imprisonment as a minimum punishment, subject to the exception set out in Recommendation 34.
- b) unless the inmate has undertaken to carry out a correctional plan.
- c) unless the inmate's release on parole will aid in carrying out the correctional plan.
- d) if the inmate's release on parole constitutes a serious danger or undue risk.

Hearings

Canada's *Parole Act* does not refer specifically to hearings as a part of parole application procedures but only to "personal interviews". Neither is the parole authority obliged to grant an interview to the applicant nor to any person acting on his behalf. Personal interviews are part and parcel of many other parole systems, e.g., British Columbia, Ontario and several U.S. jurisdictions. The written briefs we received favoured the practice although there were minor criticisms on length of interview, rules of procedure, etc. We have already referred to the experiment under which the nine members of the National Parole Board travelled across Canada to meet inmates on their own ground. The practice was discontinued but we trust that with the increase in the number of Board members, it will be resumed and that a procedure to meet standards of fairness is established more formally. We believe that the legislation should provide for the right to a hearing.

Recommendation

36. Parole legislation should provide for the right to a hearing for inmates who have applied for discretionary parole.

Arguments for and against hearings, the right to due process, representation by counsel, and other related protections have been discussed by many others.⁷ The Committee took cognizance of these views and proposes rules governing hearings that meet what it considers to be minimum standards of fairness, as follows:

- written notice of hearing,
- disclosure of relevant information,
- right to be present and to be heard,
- giving reasons for the decision.

1) *Written notice of hearing.* Two parties are interested in the outcome of the hearing: the inmate and the Crown in the person of the Attorney General of the province where the inmate is detained. In our view, there should be a designated official named by the Attorney General to represent the public interest in the outcome of the hearing. It might even be necessary to forward notice of the hearing to the Attorney General of the