

The power to make exceptions should be used sparingly and certainly not on the basis of the "Guidelines" quoted in Chapter I. It was represented to us that releases sometimes have to be arranged to meet school entrance dates, seasonal employment, and other similar deadlines. We recognize that these may have to be met but we believe that temporary parole (see Chapter VII) provides the flexibility to meet such time limits. The broad discretion needed to make exceptions to eligibility time requirements is not necessary for most cases. The only instance where it might properly be exercised would be on the special representations of a court to a parole authority at the time of sentencing. While the authority should not be bound by such recommendation, it should have the power to act.

Recommendation

34. Where, at the time of sentencing, a sentencing court or, subsequently, a court of appeal makes a recommendation, the parole authority may make an exception to parole eligibility time requirements.

OTHER RELEASE CRITERIA. The powers of the National Parole Board to grant parole are limited by three criteria set out in Section 10 (1) (a) of the *Parole Act*. These are stated in terms which are vague and, in our opinion, of little use in determining when and if parole may be granted. The Board must consider whether "the inmate has derived the maximum benefit from imprisonment", whether his reform and rehabilitation will be "aided by the grant of parole", and that his release "would not constitute an undue risk to society". It is difficult enough to determine what constitutes "an undue risk" without having to establish what is meant by "maximum benefit from imprisonment" or "reform and rehabilitation. . . will be aided. . ." The instruments measuring human behaviour are still so imprecise that the three criteria do not really restrict the power of the National Parole Board nor do they provide very much assistance in making decisions. What are the benefits of extended confinement in relative isolation? Would release on parole aid such a "program of rehabilitation"? How risky would it be? In our view, legal criteria to determine whether to grant or refuse parole should be more easily measurable. Subjective judgments should be reduced to a minimum.

One measurable criterion which we approve is the minimum time limit of one-third of the sentence or seven years whichever is the lesser. The other criteria should be based on the principle of protection of society and on the concept of parole as one step in the correctional process. For protection of society, the law must require that the parole authority shall not grant parole if the release of the inmate constitutes a serious danger or undue risk. This is admittedly the uncertain aspect of parole decision-making which is unavoidable — the one point where reasonable guidelines are lacking. In relation to the correctional plan concept, the requirement should be that the parole authority shall not grant parole unless the inmate has undertaken to carry out a correctional plan and release on parole will aid in carrying out that plan.

The correctional plan has been called many things: prescription programming,⁴ contract programming, a step in the correctional process, a treatment program, etc. These terms have been used to designate the processing of the inmate in a methodical manner according to a plan developed jointly by him and the institutional and parole staff, from