

## Recommendation

### 39. Rules of procedure governing parole proceedings should be published.

REVIEWS. Parole legislation should provide for an internal review process. One of the basic reasons for the structures proposed in Chapter V will be found in the review provisions we here propose. A parole applicant may feel that his case was improperly decided and wish to have another tribunal review it. Similarly, the Attorney General may have reason to believe that a decision was not in the public interest. At present, there is no possibility of having cases re-examined by an independent tribunal since both parties have to make their requests for review to the same parole tribunal which made the original decision. However, if there is a review, fairness requires that both parties should be able to submit their case to another tribunal. We do not propose that the right to a review be unrestricted. In our opinion, either party interested in the decision should be required to obtain leave from the Headquarters Division of a parole authority for review of a decision of a Regional Division. Moreover, the Headquarters Division should have the authority to review any decision on its own initiative or at the request of a representative of the parole or institutional services.

The power of review by the Headquarters Division should extend to dealing with the questions raised by the applicant or any other question related to the case. It should either confirm the original decision or set it aside and substitute its own decision which would be final. Whenever the review of a decision to parole an inmate is requested, the release order would have to be suspended until the review has been completed. Such requests for review should be made within fifteen days from the date on which the original decision of the Regional Division was rendered.

For the internal review system to be workable the rules of procedure cannot be entirely the same as those for the original hearings. The applicant would have a right to a notice and to seek assistance in submitting his application; he would have the same limited right to disclosure, the right to present a written statement and to refute evidence and the right to a written statement of the reasons for the decision. He would not have the same right to be present since the Headquarters Division could decide on the basis of the written record, but it would have the right to call the applicant or any other witness.

A screening procedure to eliminate cases that are frivolous or without merit would be essential.

## Recommendation

### 40. Parole legislation should provide for the review of parole decisions by the Headquarters Division of parole authorities.

## References

<sup>1</sup> *Parole Act*, Section 8 (1) (a).

<sup>2</sup> *Parole Act*, Section 8 (1) (b).

<sup>3</sup> Fauteux Report, pp. 62-65.