

made for those serving life sentences or vice versa. In fact, it is our view that eligibility requirements for both categories should be the same, i.e., once every two years.

Recommendation

31. In all cases where parole has been denied and there remains a period of two years or more before the inmate becomes entitled to minimum parole or if the inmate is serving a life sentence or an indeterminate period in detention, the parole authority should be required to reconsider the case at least once every two years following the date of the previous review.

Eligibility for Parole

MINIMUM TIME TO BE SERVED. The history of eligibility time rules is not a glorious one. During the Remission Service period when the *Ticket of Leave Act* was in force, the rule was: no interference until approximately one-half of the sentence has been served. It was followed to a large extent. There were many other restrictions regarding previous records, use of drugs, and previous clemency, etc.³ The result was a relatively predictable system.

Time requirements under the *Parole Act* have, for the most part, been more generous. The minimum time to be served was one-third of the sentence or four years until recently when the rule was modified to one-third or seven years. Over the years, several changes were made for commuted death sentences. The rule changed as modifications were made to the law regarding the death penalty in recent years. The discretion of the parole authority in these cases has been transferred to the Governor in Council. The National Parole Board, by law, can only recommend parole to the Governor in Council but not before at least ten years have been served. The rules have also recently been changed for those whose paroles have been forfeited. They now must serve one-half of the term of imprisonment, rather than one-third, before again becoming eligible for parole. Time rules are thus becoming more complex. The complexity is compounded by the fact that parole Regulations provide very broad powers for exceptions to be made. The only rules which allow no exceptions are those applying to cases which must be decided by Governor in Council. Time rules make a system predictable but frequent changes and the power to make exceptions tend to do the opposite; they make it unpredictable, arbitrary, erratic and even unfair.

There are two opposing views towards time requirements. Some advocates of time restrictions would make them so rigid and lengthy as to require the serving of one-half to three-quarters of a term of imprisonment before an inmate could be considered eligible for release on parole. There would be no exceptions. Others propose a system without any restrictions. They would allow the parole authority complete discretion to release anyone on parole whenever it considered the time appropriate. The system would be so flexible that there would be no need to provide for exceptions since all cases would be judged on their individual merits. We have chosen a position which accords with our definition of parole and our proposed system of sentencing.