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CANADA'S NATIONAL PAROLE BOARD

(Prepared by the Information Service, National Parole Board, Ottawa.)

The first parole legislation in Canada was the Ticket of Leave Act, passed by Parliament in 1898. It was replaced by the Parole Act in 1959. Initially, parole was handled by the Dominion Parole Officer in the Department of Justice and then by the Remission Service in the same Department.

The National Parole Board was established January 1, 1959, and the Parole Act came into force on February 15 of that year. Until 1967, when it became an agency in the newly-formed Department of the Solicitor General, the Board was an independent agency in the Justice Department.

The National Parole Board grants paroles to inmates serving sentences under federal law in provincial or federal institutions. This parole differs from probation, which is a function of the courts. The Board has the exclusive jurisdiction and absolute discretion to grant, refuse, or revoke parole for any adult inmate.

Parole is a conditional release for the remainder of an inmate's sentence, when he, or she, is eligible and considered ready; from the beginning of parole to the last day of the sentence, the paroled person is under supervision.

Under the Parole Act, the Board may grant parole when it considers that:

- (a) the maximum benefit has been gained from imprisonment;
- (b) the reform and rehabilitation of the inmate will be aided by parole;
- (c) the release would not mean an undue risk to society.

Parole does not mean that sentence is shortened, but it does mean that if an inmate is granted parole he has to accept certain conditions.

Although eligibility for parole is based on the type and length of sentence, the Board is not a reviewing authority and is not concerned with the propriety of the conviction or the length of the

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sentence; this is the function of the courts. In addition, the Board has no jurisdiction over a child under the Juvenile Delinquents Act or over an inmate serving a sentence for a breach of a provincial statute — for example, a liquor-control act.

Other jurisdiction Through the Parole Act, the Board is involved in the pardon-granting process under the Royal Prerogative of Mercy when asked to do so by the Solicitor General of Canada. This concerns free pardons, ordinary pardons and remissions of fines, forfeitures or penalties.

Under the Criminal Records Act, the Board also has specific responsibilities for investigations and recommendations concerning pardons of persons who were convicted and subsequently rehabilitated. Under that Act, a pardon may be granted two years after the end of a sentence for a summary offence or five years after a sentence for an indictable offence.

The Board also has jurisdiction to revoke or suspend any order made under the Criminal Code prohibiting a person from operating a motor vehicle.

Structure No fewer than three, and no more than nine, members are appointed by the Governor-in-Council for a period not longer than ten years. A member may be reappointed. One of the members is designated chairman and another vice-chairman. The chairman is the chief executive officer, who supervises and directs the work and staff of the Board. The chairman may establish divisions of the Board, consisting of two or more members, which may carry out duties and functions of the Board, exercising all the powers conferred on the main body.

Under direction of the chairman, the Board has a staff, known as the parole service, which is divided into divisions under the direction of an executive director. Its headquarters are in Ottawa, and it has 34 district offices across Canada. The parole service is responsible for organization, liaison with community resources and after-care agencies, and with the police and administration of district offices. It also prepares the cases of parole applicants for the Board; this includes investigation and appraisal of applications, entailing community assessment, institutional interviewing, and participation in institutional rehabilitation programs.

Direct or assigned supervision and guidance for persons released on the various forms of parole or on mandatory supervision is the responsibility of this service, which also deals with requests for

suspension-of-driving prohibition. Investigation and analysis of applications and recommendations for pardons are also among its responsibilities.

Policy The National Parole Board believes that an emphasis on reformation and rehabilitation, rather than on punishment, helps the offender become a law-abiding citizen.

Parole has a dual purpose — reformation of the individual and protection of society. Through guidance, it helps those who are prepared to help themselves. Through supervision, it provides protection to the public.

Protection of society is the paramount consideration of the Board. It is guided by the Parole Act — which states that the Board may grant parole if it considers that "the release of the inmate on parole would not constitute an undue risk to society".

Parole is a means to help in the rehabilitation of the offender. When it appears that the offender has benefited from treatment and training programs, and when he definitely indicates his intention and shows an ability to change, the Board may grant him parole.

So far as possible, the Board: (1) considers the offender as well as the offence; (2) deals with an offender as an individual, not a member of a group; (3) bases its consideration of each case on the assumption that what the inmate is likely to do in the future may be more significant than what he has done in the past; (4) provides adequate supervision to ensure protection of the public and assistance for a parolee; (5) considers correction and reformation as purposes of the sentence, rather than vengeance or retribution.

Eligibility for parole Eligibility for parole means that, at a certain time, an inmate may be given full consideration for parole and as a result may be released on parole.

Most inmates are eligible for parole after serving one-third of the sentence or seven years, whichever comes first. However, an offender serving a sentence in a penitentiary must serve a minimum of nine months before he becomes eligible for parole.

There are a number of exceptions to these eligibility dates:

An inmate whose parole was forfeited because he was convicted of an indictable offence must serve half his new term or seven years, whichever is the shorter period. If an offender was sentenced to

life imprisonment for a crime other than murder, he becomes eligible for parole after serving seven years. If an offender was sentenced to life for non-capital murder before January 4, 1968, he, too, must serve seven years before he may become eligible. If an offender was sentenced for non-capital murder after that date, or if he is serving a life sentence because the death sentence was commuted, he must serve ten years before he may become eligible for release. In any case, whether the inmate was sentenced for non-capital murder or capital murder, before or after January 4, 1968, the Board only makes recommendations about his eligibility for parole and about his release on parole. The consent must come from the Governor-in-Council.

A habitual criminal or dangerous sexual offender sentenced to preventive detention will have his case reviewed at least once a year — in accordance with the Criminal Code of Canada — to see if he should be granted parole.

Although the Board normally operates within these limits on parole eligibility, it may, under its regulations, make exceptions in cases other than those of murder, when it believes a case is a deserving one and that the best interests of the community and the inmate can be served by an early release. Such a release may be granted because of death or similar affliction in the family, after special representation by the judiciary or the Crown prosecutor, for seasonable employment, or for schooling, especially examinations.

Day parole Day parole may be granted to an inmate for special rehabilitative purposes. It usually leads to a release on full parole. Indeed, day parole may help the Board determine an inmate's suitability for full parole.

The period of day parole ranges from a minimum of 15 days to a maximum of three months. It is granted to allow an inmate to attend school, to continue a job where it would be beneficial to his career and his dependants, to take a job where the occupation is seasonable, or to take training not available in the institution. The inmate normally leaves the institution in the morning and returns each evening.

Temporary parole This form of release is usually of a short and temporary nature to assist in rehabilitation where day parole or full parole are not

used. Basically, it is granted for a special project, a temporary job, a special education program, or for socializing needs.

It does not usually lead either to day parole or to full parole, and the inmate returns to the institution when the release is ended.

Mandatory supervision An inmate who is not selected for parole and is released 60 days or more before the end of his sentence because of remission will be subject to mandatory supervision for the rest of his sentence as though he were a paroled inmate. This part of the sentence, based on the statutory and earned remission, which is often called "time off for good behaviour", is never served in prison. It only applies to those inmates who were sentenced, transferred, or committed to a federal institution after July 31, 1970. It does not apply to inmates who are transferred from a provincial institution under a federal-provincial agreement.

The purpose of mandatory supervision is to provide help through guidance and supervision for those who do not apply or are not selected for parole, and it lasts as long as the period of remission. The conditions of release are identical to parole, including penalties for violations.

Conditions of parole and mandatory supervision There are certain basic conditions for every parolee. He is still serving his term, living in the community under supervision. And he must go back to that community as soon as he is released.

The district representative of the Board must approve any move or travel out of the area of the community in which the parolee lives. He must approve the parolee's purchase of a motor-vehicle, his borrowing money or his buying anything on the instalment plan. He must approve the assumption of any additional responsibility, such as marriage. He must give his approval of the parolee's owning or carrying firearms. The parolee is also expected to get in touch with his supervisor if he is arrested or questioned by the police concerning any offence.

A parolee must report to the police at least once a month. However, he may be allowed to report less frequently after he has spent some time on parole and shows he intends to stay out of trouble.

There may be special conditions that depend on the particular case. For example, if a parolee found himself in trouble when he drank, one of the conditions will probably be that he stay away from bars and taverns.

Bonding An offender or ex-offender can apply for a bond if he is on probation, parole or mandatory supervision, or if he has a criminal record. Bonding companies are assisted in making decisions by confidential reports supplied by parole officers or social workers familiar with the personal history of the applicants and their capability for being trustworthy employees.

Supervision A parole supervisor is usually a parole officer of the parole service, a member of an after-care agency or a provincial probation officer. In some cases he is a private citizen appointed by the Board. He helps the parolee with everyday problems by counselling, guiding, advising and ensuring that he does not violate any of the conditions of his parole.

If the parolee misbehaves or if it is apparent that he does not intend to reform, he can be returned to prison. A supervisor must promptly report any misbehaviour or any breach of the conditions of parole, so that the Board may deal quickly with any such violations.

Violation of parole When a parolee appears to be headed for trouble or actually gets into trouble, the Board or its representative may suspend parole or revoke it. If a parolee is convicted of an indictable offence, his parole is automatically forfeited.

Suspension If it looks as though a parolee is about to break a condition of parole, his parole may be suspended. If it is, he will be sent back to custody by a magistrate. Within 14 days, the National Parole Board's district representative will either cancel the suspension or refer the case to the Board, which will review the case to see what the problem is. The Board may subsequently either cancel the suspension or revoke the parole.

Revocation If a parole is revoked, the inmate is sent back to the institution to serve the part of his sentence that was remaining on the day he was released on parole.

Forfeiture If a parolee is convicted of an indictable offence, for which the sentence is for a term of two or more years, no matter what sentence he receives he automatically forfeits his parole. Furthermore, he is considered to have forfeited parole the day the offence was committed, and not at the time he is convicted. This means he will serve a new term made up of the part of the sentence that remained the day he was released on parole, in addition to the new sentence.

Pardon Someone who was convicted of a summary offence — which usually means a sentence of six months or less — can apply to the National Parole

Board two years after his sentence or parole has ended. If he was convicted of an indictable offence — which usually means a sentence of more than six months — the waiting period is five years. An inquiry can be made by the Board to see if it recommends to the Governor-in-Council that the inmate be granted a pardon under the Criminal Records Act.

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