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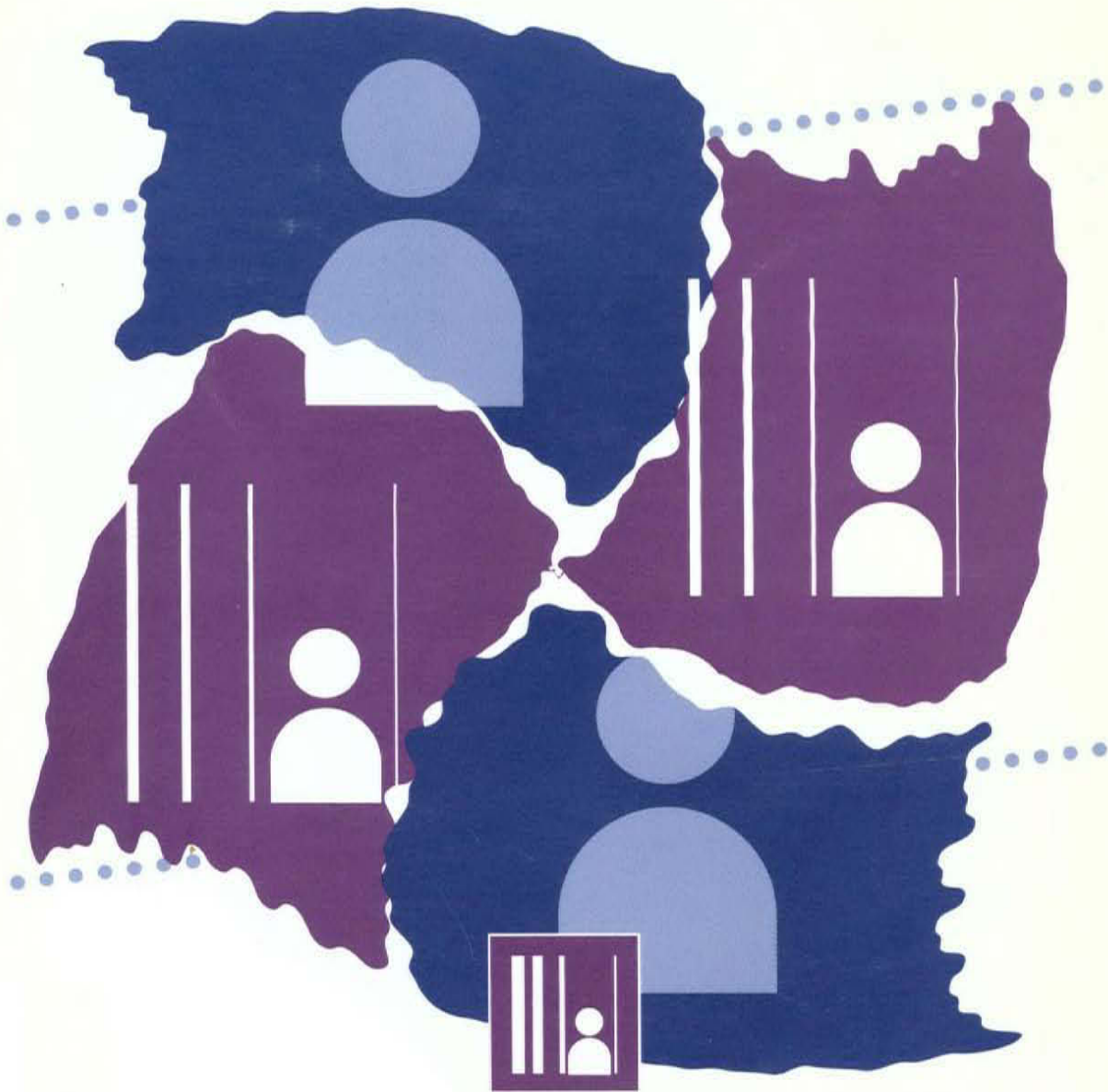


National
Parole Board

Commission nationale des
libérations conditionnelles

Parole:

**Balancing public safety
and personal responsibility**



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A message from the Chairperson of the National Parole Board

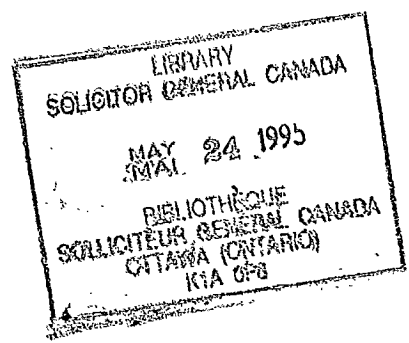
The question people ask most frequently about parole is why — why should Canadians support a system that returns offenders to communities before the end of a court-imposed sentence. The answer is simple: to protect society.

Canada's discretionary conditional release system is based on the principle that a gradual, controlled re-entry to the community better serves the interests of public safety than does direct release. The numbers support this principle. Significantly fewer offenders released with plans, with support, with supervision and control — on parole — commit new crimes than those who are released without this safeguard.

The National Parole Board must act as a balancing agent. The Board must balance public safety against private responsibility. To do this, to make appropriate conditional release decisions that lead to long-term, enduring protection for our communities, the Board assesses risk on each individual case based on all available information.

This booklet explains how the Board makes decisions and can help to clarify misconceptions about conditional release. Please let us know if you find it useful and what other information you may need about the criminal justice system of Canada.

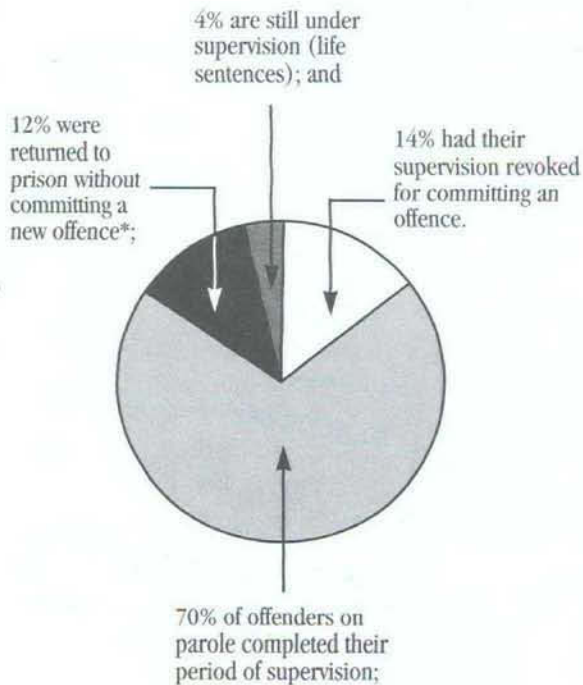
Michel Dagenais



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Parole helps to protect society

The control, supervision, and support of a parole release helps offenders obey the law. The following data relates to offenders released on parole during the period from April 1, 1975 to March 31, 1986 and followed up to March 31, 1993; 86% of the offenders did not commit new crimes. The figures are rounded to the nearest whole number.



* offenders may be returned to prison for a violation of conditions, if there is an increased risk to reoffend for some reason, or even if their release plans cannot be completed.

The National Parole Board is part of Canada's criminal justice system

The National Parole Board contributes to public safety by assessing risk and then deciding whether to grant, deny, terminate, or revoke parole, and deciding whether to deny or revoke statutory release in certain situations. The Board also issues, grants, denies, or revokes pardons for convictions under federal acts or regulations. The Board exists through a law passed by Parliament, the *Corrections and Conditional Release Act*. This law, and other laws of Canada govern the work of the Board.

Questions and answers

1. *What is parole?*

Parole is a carefully-constructed bridge between incarceration and freedom. It is a form of release which allows some offenders to serve part of their sentence in the community, provided they abide by certain conditions. Parole does not mean that offenders are free to do what they want. It does mean that they have an opportunity, under the supervision and assistance of a parole officer, to become contributing members of society.

The National Parole Board does not automatically grant parole to offenders. If the conditions of parole are broken, the Board has the power to revoke the parole and return the inmate to prison.

Parole is the form of conditional release that requires a review of information and an assessment of risk—in short, parole requires discretion. That is, it requires a panel of Board members to review the facts about a case and decide whether an offender is likely to obey the law if permitted to return to society before the end of the sentence.

2. *What is the purpose of parole?*

Canada, like most countries, has made conditional release programs part of its criminal justice system. Canada has had some form of conditional release since 1899. Most offenders in our country are serving definite sentences; that is, generally, a term of imprisonment lasting for a specific number of days, months, or years. They must be released when their term is finished. In some cases, a sentence may be a fine or may include a fine.



The concept of parole is based on the belief that a gradual, controlled, and supported release of offenders helps them change and, in most cases, offers more enduring, longer term safety for society.

3. *What are the principles guiding parole?*

The *Corrections and Conditional Release Act* lists six principles that apply directly to boards of parole:

- protection of society is the paramount consideration in any conditional release decision;
- all available, relevant information must be considered;
- parole boards enhance their effectiveness through the timely exchange of relevant information among criminal justice components and by providing information about policies and programs to offenders, victims, and the general public;

- parole boards will make the least restrictive decision consistent with the protection of society;
- parole boards will adopt and be guided by appropriate policies and board members will be given appropriate training; and
- offenders must be given relevant information, reasons for decisions, and access to the review of decisions to ensure a fair and understandable conditional release process.

4. *What happens in the beginning? For example, after the judge passes sentence, does the court have anything more to do with the person convicted?*

Not in most cases. After conviction, if the court orders a period of incarceration, that is, sends an offender to prison for a certain period of time, either federal or provincial correctional authorities administer the sentence.

4



The court may become reinolved in the cases of offenders serving a life sentence for murder after they have been in prison for 15 years. Offenders convicted of first degree murder are not eligible for parole consideration for 25 years. The judge may set parole eligibility at between 10 and 25 years for offenders convicted of second degree murder. However, after serving 15 years, the law allows offenders to apply to reduce the time they must serve before becoming eligible for parole.

If an offender applies for this judicial review, a jury must agree by a majority of two-thirds to reduce parole eligibility. If the court does permit an offender to become eligible for parole before serving the 25 years, the National Parole Board will treat the case as any other case that becomes eligible for parole. Parole eligibility does not guarantee a grant of parole.

The court, of course, will also become involved if an offender is charged with committing another crime while still under sentence.

5. *Are the police involved with the offender after the trial?*

The police provide information for assessment when the offender is admitted to a penitentiary and are also asked to provide information for assessment when the offender is being considered for conditional release. The police will be notified of any conditional release. In some cases, an offender will have to report to both the parole supervisor and the police regularly. Of course, the police will again become involved if the offender is suspected of any further criminal activity.

6. *After sentencing, who is responsible for the offender?*

If the sentence is imprisonment, there are two possibilities:

- The Correctional Service of Canada is responsible for all offenders sentenced to two years or more. The Service determines whether the offender will be a maximum, medium, or minimum security inmate.
- If the sentence is less than two years, the correctional service of the province or territory where the trial was held determines the institution in which the offender will serve the sentence.

An inmate may be transferred from one institution to another for security or program-related reasons.

The federal and provincial criminal justice systems have exchange of service agreements. These agreements may allow an offender to serve all or part of a sentence in a provincial institution, even when serving more than two years, or in a federal institution if serving less than two years.

7. *What part does the Correctional Service of Canada play?*

The Correctional Service of Canada is responsible for:

- the care and custody of offenders during imprisonment;
- providing programs that contribute to the successful return of offenders to the community as law-abiding citizens;
- preparing inmates for release; and
- supervising offenders on parole and statutory release.



The Service also collects and provides information relevant to release decision-making and to the supervision of offenders. This information goes to the National Parole Board, provincial governments, provincial parole boards, the police, and others authorized by the Service to supervise offenders.

8. *What is the National Parole Board and what is its role in the criminal justice system?*

The Board is an administrative tribunal that has exclusive authority to grant, deny, terminate, or revoke parole, or to detain offenders eligible for statutory release in certain circumstances.

The *Corrections and Conditional Release Act* and its regulations direct the National Parole Board to make conditional release decisions for offenders in federal and territorial institutions. The Board also makes parole decisions in provincial institutions, except in Quebec, Ontario, and British Columbia, which maintain their own provincial parole boards. The Board also makes decisions whether to issue, grant, deny, or revoke a pardon under the *Criminal Records Act* and makes clemency recommendations to Parliament.

The National Parole Board does not have jurisdiction over young offenders (younger than 18 years of age according to the *Young Offenders Act*) unless tried as adults in an adult court, or over offenders serving only intermittent sentences (weekends).

9. *Who are Board members?*

The government appoints men and women from all walks of life and from all regions of Canada as members of the National Parole Board. As a group, the members bring a wide range of professional experience from such fields as business, criminology, psychology, and medicine, as well as social and community work.

10. *The word "parole" is used so much it's confusing. What exactly are the types of conditional release?*

The types of conditional release are: temporary absence (escorted and unescorted), work release, day parole, full parole, and statutory release.

Temporary absence: A temporary absence is usually the first type of release an offender may be granted. With or without

escort, temporary absences may be granted for various reasons, including for work in community service projects, contact with the family, personal development, or medical consultations.

Work release: Heads of federal correctional institutions may release selected offenders on a structured program for a specified period for work or for community service. Offenders are supervised during the work release.

Day parole: Day parole allows offenders to participate in community-based activities to prepare for release on full parole or statutory release. Offenders on day parole must return nightly to an institution or a halfway house unless otherwise authorized by the National Parole Board.

Full parole: Full parole allows the offender to serve the remainder of the sentence under supervision in the community.

Statutory release: By law, most federal inmates must be released with supervision after serving two-thirds of their sentence. Offenders serving life or indeterminate sentences are not eligible for statutory release.

11. *Is statutory release the same as parole?*

No. Most federal inmates are released automatically by law on statutory release after serving two-thirds of their sentence if they have not already been released on parole. Parole, on the other hand, is at the discretion of the National Parole Board. Whether on parole or statutory release, offenders are supervised in the community and will be returned to prison if they are believed to present an undue risk to the public.



12. Does the National Parole Board have authority over statutory release?

Although the National Parole Board does not have the authority to grant statutory release because it is automatic, the Board may add conditions to those imposed on all offenders to protect society and help the offender return successfully to the community. It may also prevent the release of an offender in certain circumstances.

The *Corrections and Conditional Release Act* authorizes the National Parole Board, following a referral by the Correctional Service of Canada, to detain in custody until the end of the sentence or to place under strict residential conditions any offender likely to commit an offence causing death or serious harm to another person or to commit a serious drug offence before the end of the sentence. The law requires the Board to review such decisions annually.

13. What is accelerated review?

The *Corrections and Conditional Release Act* requires some offenders who are serving their first term in a penitentiary to be released on full parole after they have served one-third of their sentence. These offenders must be released on full parole unless the National Parole Board finds reasonable grounds to believe the offender is likely to commit an offence involving violence before the end of the sentence. Accelerated review applies only where:

- the offender is serving the sentence for a nonviolent offence; or

- the offender is serving the sentence for a serious drug offence for which the judge did not set parole eligibility at one-half of the sentence.

A person serving a sentence for murder, an offence involving violence, or a serious drug offence for which the judge set eligibility at one-half of the sentence is not eligible for accelerated review.

14. When is an inmate eligible for parole consideration?

For full parole, an offender must usually serve the first third, or the first seven years, whichever is less, of any sentence of imprisonment before being eligible for parole. Exceptions include offenders serving life or indeterminate sentences, or those who have had a longer eligibility period set by the court when they were sentenced.

Federal offenders generally become eligible for day parole six months before they may be considered for full parole.

The sentencing court may also determine the period that offenders convicted of a serious drug offence or a violent offence must serve before becoming eligible for parole. In these cases the court may specify that the portion of the sentence that must be served before parole eligibility is one-half or ten years, whichever is less.

15. What is the difference between probation and parole?

Probation is a sentence imposed by a judge, usually instead of, but sometimes in addition to, a term of imprisonment. It allows a person to live in the community under the supervision of a probation officer.

Parole, which allows a person to live in the community under supervision, may be granted after the offender has served part of the sentence in an institution. The decision to grant parole is the responsibility of a board of parole.

16. Can an offender serving a life sentence for murder ever be considered for parole?

Yes. A short explanation of the legal meanings of homicide and murder is necessary.

“Homicide” is the general term applied to all situations in which one person causes the death of another. Justifiable or accidental

homicide is not a crime. Culpable homicide is a crime. It can be either first or second degree murder, or manslaughter.

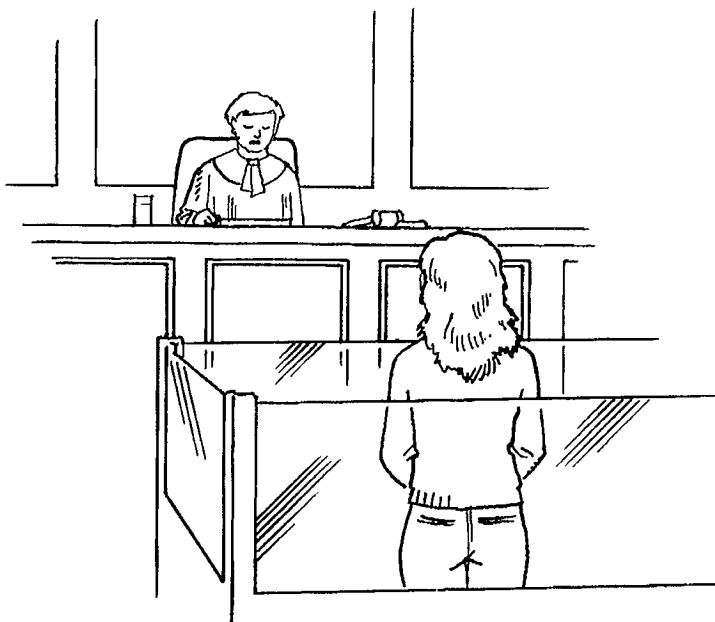
Eligibility dates for offenders sentenced to life imprisonment before July 26, 1976, vary considerably. Since then, when the legislation was amended, the two categories of murder (first and second degree) carry with them specific parole eligibility dates:

First degree murder: First degree murder includes all planned and deliberate murders and certain other murders (for example, murder of a police officer, a prison employee, or any other person authorized to work in a prison, while on duty). Persons convicted of first degree murder are not eligible for full parole for 25 years. They become eligible for unescorted temporary absences and day parole three years before their full parole eligibility date.

Second degree murder: Second degree murder is any murder that is not first degree murder. The sentencing judge determines when people convicted of second degree murder are eligible for consideration for parole, between 10 and 25 years. Inmates incarcerated for second degree murder become eligible for consideration for unescorted temporary absences and day parole three years before their full parole eligibility date.

Manslaughter: Manslaughter is any culpable homicide that is neither first nor second degree murder. The judge may sentence someone convicted of manslaughter to any term deemed appropriate—anywhere from a number of months to life.

Anyone convicted of murder who must serve more than 15 years before full parole eligibility may apply after 15 years for judicial review by a Superior Court judge and a jury who may advance parole eligibility dates.



People who are paroled while serving life sentences remain on parole for life unless parole is revoked. Without a grant of parole, the offender usually remains imprisoned for life.

Young offenders: Offenders under 18 years of age transferred by the youth court to an adult court and sentenced after 15 May 1992 to life imprisonment for murder are eligible to be considered for parole after serving 5 to 10 years of the sentence as determined by the judge of the convicting court. They become eligible for unescorted temporary absences and day parole after serving 80 per cent of the time they must serve before being eligible for full parole.

17. How do parole boards decide if an offender should be granted parole?

The protection of society is of paramount concern to all parole boards. They will grant parole only if in their opinion:

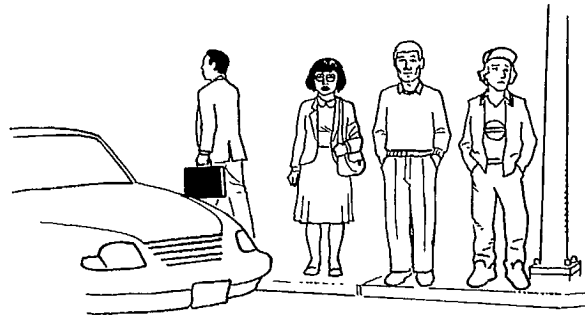
- the offender will not, by committing another offence, present an undue risk to society before the end of the sentence; and
- the release of the offender will contribute to the protection of society by facilitating return to the community as a law-abiding citizen.

Most parole decisions of the National Parole Board are made after a hearing with an offender, which is held in the institution where the offender is incarcerated. However, some decisions are made on the basis of a file review.

The National Parole Board has adopted policies to help Board members make decisions about conditional release.

18. What are the policies that guide National Parole Board members in making decisions about parole?

National Parole Board policies require that Board members systematically review the risk an offender might present to society if released.



Preliminary risk assessment

First, Board members review all available information about the offender to make a preliminary assessment of risk. This will include:

- the offence;
- criminal history;
- social problems, such as alcohol or drug use and family violence;
- mental status, especially if it affects the likelihood of future crime;
- performance on earlier releases, if any;
- information about the offender's relationships and employment.
- psychological or psychiatric reports (The Board must have a report from a psychologist and sometimes a psychiatrist to make a decision about offenders who

have committed serious offences; furthermore, the Board may request such a report for any case);

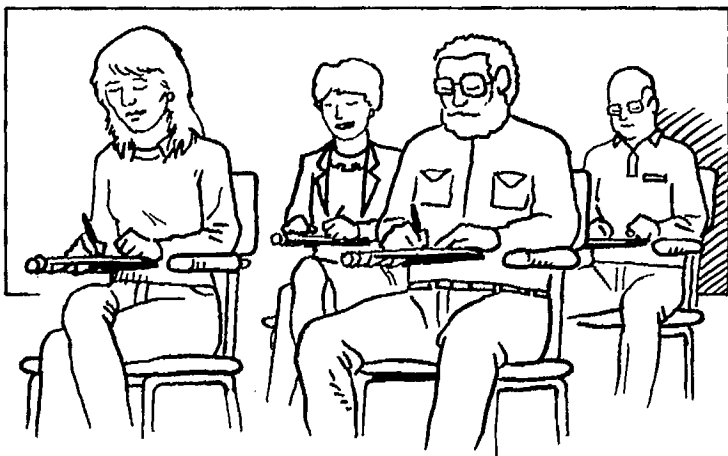
- opinions from professionals and others such as aboriginal elders, judges, police, and other information that indicates whether release would present an undue risk to society; and
- information from victims.

Board members also consider a statistical probability of an offender to reoffend. They look at how often new offences are committed by a group of offenders with characteristics and histories similar to those of the person under review.

Specific factors

After this preliminary assessment, the Board looks at such specific factors as:

- appropriate treatment for any disorder diagnosed by a professional;
- programs that help offenders become law-abiding citizens, such as substance abuse counselling, life skills, native spiritual guidance and elder counselling, literacy



training, employment, social and cultural programs, and programs that help offenders deal with family violence issues;

- the offender's understanding of the offence; and
- the offender's release plan.

After considering all of this information and usually holding a hearing with the offender, Board members make a decision whether to grant parole. If denied, another review date may be set. If release is granted, the Board may add conditions to those already required by law. To impose additional conditions, such as a requirement not to drink alcohol, it must be considered necessary to manage risk and be related to the offender's criminal behaviour.

19. Can a victim's information be considered in conditional release decisions?

The *Corrections and Conditional Release Act* recognizes that victims have certain rights. The Board considers information from victims, especially that which can help to assess whether an offender's release may pose a risk to society. The Board is interested in information that will assist in assessing the offender's understanding of the effect of the offence and whether that person is likely to reoffend. In cases of statutory release, where the Board must decide whether to detain an offender, information about the harm suffered by victims is critical for the Correctional Service of Canada and the National Parole Board.

Information from victims is also important when it is directly relevant to assessing conditions necessary to manage a particular risk that the offender might present, and to the offender's release plans, especially if the offender will be near the victim or is a member of the victim's family.

Victims are encouraged to provide this information as soon as possible after sentencing or before an offender becomes eligible for parole.

20. Will information from victims be kept confidential?

The National Parole Board and the Correctional Service of Canada are required by law to share with the offender any information that will be considered during the decision-making process. Information cannot be used if it is not shared with the offender. Exceptions to this rule are rare; they include extraordinary situations, such as the safety of a person, the security of a correctional institution, or the possible jeopardy of an ongoing investigation.

21. Who is a victim?

The *Corrections and Conditional Release Act* defines a victim as someone to whom harm was done or who suffered physical or emotional damage as the result of a crime. The law considers that relatives are victims when the victim has been killed or is unable to be responsible for some reason such as age or illness.

Victims may authorize someone to act for them should they prefer. The Board will recognize someone as an agent for a victim if the victim makes a written statement designating someone to that effect.

22. How does someone request information about an offender?

Victims may write to request information from either the National Parole Board or the Correctional Service of Canada. If asked, the National Parole Board or the Correctional Service of Canada must release

certain information to victims and may release certain other information.



Because the release of certain information about offenders is limited to victims as defined in the law, the request should clearly identify the offender and the crime committed. If guidance is needed, victims are invited to contact any of the offices of the National Parole Board or the Correctional Service of Canada listed in this booklet.

A victim, or in some cases a victim's family, can request and will receive basic information about an offender, including:

- when the sentence began and the length of the sentence; and
- the eligibility and review dates of the offender for unescorted temporary absences and parole.

More information may be released if the Chairperson of the National Parole Board or the Commissioner of the Correctional Service of Canada determines that the

interest of the victim outweighs any invasion of the offender's privacy that could result from the disclosure.

Such information may include:

- the location of the penitentiary in which the sentence is being served;
- the date, if any, on which the offender is to be released on unescorted or escorted temporary absence, work release, parole, or statutory release;
- the date of any hearing for the purposes of a review for possible detention;
- any of the conditions attached to the offender's unescorted temporary absence, work release, parole, or statutory release;
- the destination of the offender when released on any temporary absence, work release, parole, or statutory release, and whether the offender will be in the vicinity of the victim while travelling to that destination;
- whether the offender is in custody and, if not, why; and
- whether or not the offender has appealed a decision of the Board, and the outcome of that appeal.

In addition, when an offender has been transferred from a penitentiary to a provincial correctional facility, the name of the province in which the provincial facility is located may be disclosed.

23. *Is a victim or the family of a victim informed when a person convicted of a crime is granted conditional release?*

No, not automatically. This information will be given only upon written request. Some

victims prefer to have no further knowledge of the offender. A victim or a victim's family must ask for information.

24. *Can victims receive ongoing information?*

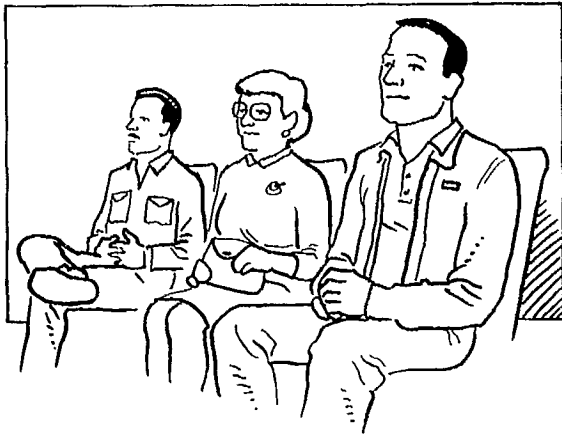
Yes. Victims must make the request in writing and ensure that the National Parole Board or the Correctional Service of Canada has their current address and telephone number. They may then be informed of changes such as a move from one institution to another or the grant of a conditional release.

25. *Can information be given to anyone other than victims?*

The same information that can be released to victims can also be given to certain other people. However, they must satisfy the Chairperson of the National Parole Board or the Commissioner of the Correctional Service of Canada that they suffered harm or physical or emotional damage because of an offender's act, whether or not the offender was prosecuted or convicted for that act. If they have made a complaint to the police or the Crown attorney, or an information was laid under the Criminal Code, then the person will be formally recognized as a victim and given the same information that would be given had the offender been convicted of the offence.

26. *Can anyone attend a Board hearing?*

Yes, usually. Most people who have applied in writing to attend a conditional release hearing will be allowed to attend the hearing, but only as observers. Generally, no one under 18 years of age will be



allowed to observe a hearing; however, exceptions are possible. No observer can participate in the hearing in any way or be present while the Board members discuss their decision. Victims who wish to give information for the Board to consider when making a release decision may write to the Board before the review.

Although the Board welcomes observers, sometimes it will not be able to grant a request to attend a hearing. The Board must deny a request if an observer:

- is likely to disrupt the hearing;
- is likely to hinder the Board's ability to assess the case;
- might adversely affect someone who has given information to the Board, including victims or members of the victim's or offender's families;
- is likely to upset the balance between the observer's or the public's interest and the public's need for the offender to return successfully to society; and
- may endanger the security and good order of the institution.

The Board is required to consider the views of the offender when deciding whether or not to let someone observe the hearing. The

Board's decision is final; however, it is possible to apply to attend other National Parole Board hearings.

Conditions may be imposed on observers to ensure the integrity of the hearing process. The Board members may ask an observer to leave at any time.

Anyone who wishes to observe should apply as early as possible, at least 60 days before the hearing, to permit the security check that is required by law before a visitor can be admitted to an institution.

27. Can someone get a copy of a National Parole Board decision?

The National Parole Board records its decisions, including reasons for the decisions, in a data bank called the decision registry. These decisions concern conditional release, return to prison, detention, and the decisions and reasons made by the Appeal Division of the Board. Decisions made by heads of federal correctional institutions concerning temporary absences and work releases are not included in the decision registry.

Anyone interested in a specific case may write to the National Parole Board for a copy of a conditional release decision (made after 1 November 1992). For the Board to be able to release information about offenders, anyone requesting information must give the reason for the request. The Board must withhold information that might jeopardize the safety of someone, reveal a confidential source of information, or adversely affect the return of an offender to society as a law-abiding citizen.

28. Is an offender allowed to have an assistant at a hearing?

An offender may choose to have someone present as an assistant. This person may advise the offender and make a presentation on behalf of the offender. The assistant could be, for example, a friend, relative, lawyer, a member of the clergy, an elder, a prospective employer, or a member of the penitentiary staff.

29. If conditional release is denied, can the offender appeal?

Yes. Any offender, or someone acting for the offender, may ask the Appeal Division of the National Parole Board for a re-examination of a conditional release decision.

30. Who supervises offenders once they are out on conditional release?

As explained earlier, the Correctional Service of Canada is responsible for supervising

most offenders on conditional release from a penitentiary. Provincial correctional services in Quebec, Ontario, and British Columbia are responsible for supervision of offenders released from provincial institutions in those provinces.

Supervision is also provided by contract with provincial governments and nongovernment agencies such as the Salvation Army, John Howard Society, Elizabeth Fry Society, St. Leonard's Society, and some native organizations.

31. What is community supervision?

Community supervision involves monitoring and helping the offender to obey the law. The parole supervisor reviews the offender's file and sets a schedule to meet with the offender, gives instructions, may contact community resources and the police, and may visit the offender's family, friends, employer, or others.

If offenders do not abide by the conditions, they may be returned to prison. Approximately half of all offenders returned to prison while on conditional release are returned solely for a violation of a condition of release, not because of a new crime.

32. What are the conditions of release?

Any offender released on parole or statutory release must abide by the following conditions:

- on release, travel directly to the offender's place of residence, as set out in the release certificate, and report to the parole supervisor immediately and thereafter as instructed by the parole supervisor;



- remain at all times in Canada, within territorial boundaries prescribed by the parole supervisor;
- obey the law and keep the peace;
- inform the parole supervisor immediately if arrested or questioned by the police;
- always carry the release certificate and the identity card provided by the releasing authority and produce them on request for identification to any peace or parole officer;
- report to the police if and as instructed by the parole supervisor;
- advise the parole supervisor of the offender's address of residence on release and thereafter report immediately
 - any change in address of residence,
 - any change in occupation, including employment, vocational or educational training, and volunteer work,
 - any change in the family, domestic, or financial situation, and
 - any change that may reasonably be expected to affect the offender's ability to comply with the conditions of parole or statutory release;
- not own, possess, or have the control of any weapon, as defined in the *Criminal Code*, except as authorized by the parole supervisor; and
- for an offender released on day parole, return to the penitentiary at the date and time on the release certificate.

Those released on a temporary absence must also:

- return to the penitentiary from which the offender was released at the date and time provided for in the absence permit.

33. Can additional conditions be applied to the regular release conditions?

The Correctional Service of Canada can recommend and the Board may impose other conditions, such as prohibiting the offender from contacting the victim or victim's family. The National Parole Board will consider requests from victims to impose conditions.

34. If a person threatens someone while on parole or statutory release, or commits a crime, can anything be done?

Yes. Call the police immediately. The police will need details about the time, place, and nature of the threat.

35. What is a pardon under the Criminal Records Act?

Parliament passed the *Criminal Records Act* to help people who were once convicted of a criminal offence, completed their sentence, and have shown that they are responsible citizens. The act permits the National Parole Board to issue, grant, deny, or revoke a pardon for convictions under federal acts or regulations.

If a pardon is in force, any federal agency or department that has records of convictions must keep those records separate. They may not disclose the information in the record without permission from the Solicitor General of Canada.

A pardon automatically ceases to have effect if an offender is later convicted of an indictable offence. The Board may revoke a pardon for summary convictions, poor behaviour, or if it finds that a deceptive statement was made or relevant information was concealed at the time of the application.

In addition to a pardon under the Criminal Records Act, clemency through the royal prerogative of mercy is sometimes available in exceptional circumstances. The Board investigates requests for clemency and makes recommendations to Parliament who has the authority to grant such requests.

National Parole Board

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