Reframing Parole

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I am grateful to address delegates representing pretty well the whole spectrum of criminal justice in Canada. I am also pleased that the subject of parole has such a prominent place at this conference. I don't know if it is because it is unpopular, controversial, very important or all of the above. My guess, it is all of the above. It is also on your agenda I know, because this year marks the 100th anniversary of parole and conditional release in Canada.

It was 100 years ago last month that the federal government proclaimed into law *An Act to Provide for the Conditional Liberation of Convicts*—more commonly referred to as the *Ticket of Leave Act*. In view of the fact that a book on the history of parole in Canada will be launched this fall, I will not go into details but just a few highlights.

It was tabled in the House of Commons by none other than the Prime Minister himself, Sir Wilfrid Laurier. The first ticket of leave was granted to an inmate at St. Vincent de Paul penitentiary, Henri Clermont. He was released in November of 1899.

Tickets of leave, in those early days, were not the result of a decision by an independent tribunal, only the Governor General could approve them on the recommendation of the Minister of Justice. They tended to be granted only to young, first-time offenders who had been convicted of property offences. Initially there was no community supervision. There were no parole officers. Offenders were only required to report to the police.

In practice, parole worked even better than even its strongest advocates believed it would. There were 145 licenses granted in the first year, five were forfeited. Although this was an excellent start and similar trends continued throughout the decades, conditional release was criticized in

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much the same way as today, except in those years there was a lot more political influence and outright interference, which is not the case in our times.

Even the then Prime Minister himself, R.B. Bennett, got personally involved in influencing the release of notorious gangster, Norman "Red" Ryan, in the mid 30's. It took 20 years, however, and the Second World War during that period, before the government appointed the Fauteux Commission to review the system, which eventually led to the proclamation of the *Parole Act* of 1959. This established the National Parole Board as an independent tribunal.

This year then marks the 40th anniversary of the National Parole Board. But it has not been 40 years without further controversy, without further criticism, without continuous change.

In the last four decades the Parole Board has changed immensely from how it was originally established; both in response to pressures from within as well as from outside. It has grown from five members located only in Ottawa, to nearly 100 members located in all five regions of the country. This allowed the Board to move from file reviews to face-to-face hearings. It went from closed hearings to hearings open to the public. More than 4,000 people, including victims and journalists, have attended parole hearings in the past five years.

With the *Corrections and Conditional Release Act* in 1992, victims have been given a greater role in parole decision-making and are entitled to more information about offenders. Since 1992, there have been more than 30,000 contacts with victims. Parole decisions are today better documented and are available to the public.

With all these changes, it should be noted that the principle on which parole was based 100 years has remained constant. This principle being, that offenders who do not pose a risk should be reintegrated into the community through a gradual and supervised release while still serving their sentence.

While significant improvement has been made in implementing that principle, the system is not perfect and much more can be done. That is what this conference is all about. It is most appropriate that parole, and all segments of the justice system for that matter, be the subject of close scrutiny and active debate as we enter the new millennium. In my view, Canada has a good justice system—one of the best in the world, in fact.

We are here to continue the process of building a better justice system for the 21st century—one that treats all Canadians with respect, and addresses the needs and concerns of an increasingly diverse population and diverse communities.

One thing that hasn't changed is that parole remains today one of the least popular and most controversial components of criminal justice. It is certainly one of the least understood. It is frequently a lightning rod for criticism and suffers from a chronic lack of public confidence and support. Only about 5% of the public have indicated that they have confidence in the parole board as a public institution when compared to other agencies of criminal justice such as police, judges, crown attorneys and other components. That may be because criticism of the Parole Board is unavoidable. We may be criticized by the offender's family, or his counsel if we do not grant release; from the victim and police if we grant it; from the public and the media if a tragic incident occurs in the community. We may be criticized by politicians because we are too lenient, or by advocacy groups that we are too rigid in our decisions.

We know however from recent public opinion surveys that most Canadians when given some explanation favour a gradual release on parole (75%) versus no parole (25%). In other words, the concept of parole "makes sense" to most people. Parole is also frequently characterized as being soft on crime and criminals; as undermining the sentence of the court, and as putting safety of the community at risk. Not everyone understands or accepts the fact that offenders on parole are still under sentence.

I can also assure you it is not soft on criminals. If there is ever a place where an offender is confronted with his past, aside from the police and courts, it is when he is before the Parole Board.

After 33 years in the business of corrections and conditional release, I can tell you that it is a lot harder for the average offender to serve the portion of the sentence outside as a law-abiding, responsible citizen, holding a job, paying taxes, etc., than serving time in prison.

In the broadest sense, parole is a 100-year testament to Canadian values of tolerance, compassion, and a belief that people—offenders—can and do change. Parole is a visible contradiction to Robert Martinson's theory of the 1970's that "nothing works."

We have sound data to show that parole makes a compelling case for contributing to public safety. In my view, it is a source of optimism and a powerful statement in support of effective corrections. The data is clear that a gradual, controlled and supervised release into society is the most effective way of reintegration. The rates differ drastically from public perception. While most people over-estimate the recidivism rate of parolees, our results show quite a different picture. Quite a difference! Clearly, the gap in reality and perception is a key issue in considering the future of parole. Not only have recidivism rates for parole been low, but they have also been declining in recent years, especially with respect to violent recidivism. These declines have taken place as grant rates for parole have increased and more offenders have been reintegrated in the community.

This trend leads me to say a few words about quality parole decision-making. The overall success of parole suggests that the Board makes good decisions about release. But it seems to have become popular lately for some people to question the value of discretion in parole decision-making. These individuals suggest that there is no value—added through case specific risk assessment—that statistical tools and programs of presumptive release would yield the same results in terms of public safety. I disagree, and I think that there is convincing information to support my position.

A few years ago, for example, the Department of the Solicitor General examined risk prediction for high-risk violent offenders. This research found that the combined approach of Board member discretion and the use of a risk prediction instrument yielded better results than only application of the risk assessment instrument. That is, Board members with the instrument as a tool produced better assessments of violent recidivism.

We find the same type of results for non-violent offenders. As you know, there are a number of types of conditional release in Canada. Some forms of release are presumptive, while others are based on case specific risk assessment and discretionary decision-making.

Accelerated parole review (APR) is a form of presumptive release in which the Board must direct the release of an offender on parole unless there is information that he/she is likely to commit a violent offence before warrant expiry. Even if the Board believes that the offender is likely to commit a property or drug offence we must direct release. In comparison, regular parole involves an assessment of general risk of re-offending.

How do these two types of release on parole convert to results in the

community? Well, APR cases in which we have limited discretion in assessing risk are 30% more likely to re-offend on day parole, and 50% more likely to re-offend on full parole. Research by the Correctional Services of Canada (CSC) also indicated that the Board was able to identify those APR offenders likely to re-offend and to re-offend violently on release. CSC concluded that "these results indicate that the National Parole Board is making appropriate decisions in not directing release".

Those are the reasons why we advised the justice committee a few months ago to review closely the APR section of the *Corrections and Conditional Release Act* (CCRA). At the end of the day, however, despite having the best legislation, policies, risk assessment tools, etc. available, if you don't have the right people to make the quality decisions that we talked about, it will not work. In other words, "if you don't have the right horses, you will not win the races"!

That is why we at National Parole Board, put so much emphasis on selecting competent Board Members to do the job and have been doing so for the last five years. I will not go into any of the details about that process at this time, suffice it to say that among all initiatives of renewal at National Parole Board in that same period, this was by far the most important one!

In closing, although we have come a long way, there is still much improvements ahead and challenges to meet. For example, when I think of restorative approaches, including more inclusive approaches for victims in parole, decision processes must also be addressed. In a broad sense parole could be considered a restorative process, seeking to re-establish balance among offenders, victims, their respective families, and the community. This characterization of parole would have major implications for law, policy, training, and operations.

These are just some of the key challenges that the Board must face in considering improvements in parole in the 21st century. These challenges and others have been addressed in more detail in the Board's "Vision for the Year 2000 and Beyond".