

**From Confinement to Community: The National Parole Board and Aboriginal Offenders**

“Justice for First Nations has traditionally been the daily, shared experiences of citizens of the community, part of general teachings, values and traditions that sustain the people as a people. In short, it has been part of the overall fabric of First Nation lives and part of the sense of responsibility felt by every community member for the other and for the creatures and forces that sustain all human life.”


Aboriginal peoples view justice and the process for achieving justice as the restoration of harmony, peace and balance. The National Parole Board (NPB) supports this philosophy between persons who have been convicted of a criminal offence and the community. The NPB, as part of the criminal justice system, contributes to the protection of society by facilitating the reintegration of offenders, as appropriate, into the community as law-abiding individuals. The Board makes independent, quality conditional release and pardon decisions and clemency recommendations.

When courts convict a person of a criminal offence, they may impose a definite sentence in prison for a specific number of days, months or years. The offender must be released when the sentence is finished. This type of release can be abrupt with little or no support to help ease the transition from confinement to the community. All offenders, including those serving a life or indeterminate sentence, become eligible for conditional release at some point in their sentence.

Conditional release is a program designed to help the offender leave the confinement of prison and return to the community as a law-abiding person. Conditions are applied to the release, which support and allow the offender to adjust to community living, before the end of the term of confinement, under a gradual and controlled release.

Parole conditions contribute to the safety of the community while also providing support to the offender so that his/her return is peaceful, more balanced and in harmony with the community. Many long-term studies show that the gradual, controlled, and supported release of offenders eases their return to the community, and helps make the community safer.

Parole boards are responsible for conditional release decision-making. These boards make independent, quality decisions on when and how offenders may get conditional release. The NPB makes parole decisions for all federal offenders and for provincial offenders in provinces that do not have their own parole boards. Federal offenders are those who are sentenced to two years or more while provincial offenders are sentenced to less than two years. Québec and Ontario maintain their own parole boards.

This booklet describes how the conditional release program of the NPB builds bridges to help the offender move from confinement to community as a law-abiding person. It also illustrates how the Board's pardons program helps to support long-term reintegration in the community.

**National Parole Board**

The NPB is part of the criminal justice system in Canada. The NPB’s National Office is based in Ottawa and there are regional offices in the Pacific, Prairies, Ontario, Québec and the Atlantic. The Board works with its key partners to develop and support an effective criminal justice system that is focused on a common objective of protecting the community and promoting respect for the law.
With the help of its partners, the Board strives to make quality decisions on conditional release and the safe return of offenders to their communities.

NPB partners include:

• police, who enforce laws, investigate crime and provide information about offenders when they enter a penitentiary, when they are being considered for conditional release, and when they are on conditional release;

• courts, which set the term of sentence;

• provincial or territorial correctional services, which administer sentences less than two years;

• the Correctional Service of Canada (CSC), which is responsible for the custody, programming, and case management of offenders serving two years or more and for their supervision in the community on conditional release, and for case preparation and parole supervision in provinces/territories without their own parole boards;

• community groups, which assist in supervising offenders on conditional release and in providing information that may assist the Board in making effective release decisions;

• non-government agencies, which provide supervision by contract through CSC such as the Salvation Army, John Howard Society, Elizabeth Fry Society, St. Leonard’s Society, and Aboriginal organizations, such as the Native Clan Organization and the Native Counselling Services of Alberta.

**Selection of Board Members**

Parole Board members are qualified men and women from across Canada. Each member is appointed to the Board by the federal government, based on his/her qualifications. Parole Board members are appointed as either full-time or part-time members.

The communities served by the National Parole Board are made up of many groups with many unique concerns, including women, Aboriginal peoples, and ethnic and cultural minorities. To ensure that the Board is effective in serving these communities, the NPB promotes the recruitment, selection and appointment of qualified members and staff from these communities.

Selection criteria include a secondary school diploma and/or university degree, experience in a decision-making environment, knowledge of and sensitivity to the issues affecting women, Aboriginal peoples and ethnic and cultural minorities. Effective Board members are knowledgeable about their communities. They know how the criminal justice system works, and they are skilled in sharing their knowledge and experience with other Board members and with their communities.

The Board members offer a wide range of professional experiences including such fields as corrections, policing, psychology, and law as well as business, social and community work.

Notices to recruit new Board members to fill vacancies describe the qualifications needed. These notices are advertised in the *Canada Gazette*, the official journal of the Government of Canada, and in various newspapers. Notices are also sent to numerous Aboriginal and ethnocultural organizations and communities.
Board Member Training
Continuous learning is used to maintain excellence on the Board. Board members are given training in cultural awareness and sensitivity. This training helps them to study files better, and to select the information they need to assess an offender's readiness for release. There is much diversity among Aboriginal people, so Board training focuses on the cultures and traditions of the regional First Nations, Métis, and Inuit population.

Elders are key contributors to the training for Board members. In addition, Elders receive training on parole hearing procedures so they can be effective participants.

Conditional Release
Conditional release is a program that allows some offenders to serve part of their sentence in the community. Offenders on conditional release are not completely free and without supervision in the community. They have the opportunity, under the supervision and assistance of a parole officer, to become contributing members of the community. They must live by the conditions of the release, which ensure safety and foster harmony between the offender and the community. If the conditions are not met, the Board has the authority to end the release and send the offender back to the institution.

There are different types of conditional release.

- **Temporary absence** is usually the first type of release an offender will be granted. A temporary absence is for a very short period of time and may be granted for various reasons, with or without an escort for the offender. Reasons for a temporary absence include work in community service projects, contact with the family, personal development, or medical reasons.

- **Day Parole** allows offenders to participate in community-based activities to prepare for release on full parole or statutory release. An offender on day parole must return nightly to an institution or a halfway house, unless otherwise authorized by the NPB. Day parole may be granted for up to six months.

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

- **Statutory release** is not a decision made by the NPB. The law requires that offenders be released with supervision after serving two-thirds of their sentence. An offender on statutory release will be returned to custody if the release poses an undue risk to the community. Statutory release does not apply to offenders serving a life or indeterminate sentence.

- **Detention** allows the NPB to detain offenders at their statutory release date upon referral from CSC if it is believed that the offender is likely to commit an offence causing serious harm or death prior to the expiry of his/her sentence.

Offenders receive a Notification of Parole Eligibility Dates within six months of admission to a penitentiary. Usually the offender must serve the first third, or the first seven years, whichever is less, of any sentence of imprisonment before being eligible for full parole. Different rules apply for offenders serving life sentences or indeterminate sentences. Federal offenders generally become eligible for day parole six months before their full parole eligibility date. For federal offenders serving life sentences, they become eligible for day parole three years before their full parole eligibility date.
Conditions of Release
When released, an offender must abide by certain conditions. Every offender on conditional release must:

• live only in a community approved by the parole supervisor;

• report to the parole supervisor as instructed;

• obey the law and keep the peace;

• always carry the release certificate and the identity card and produce them on request to any peace or parole officer;

• not own, possess or control a weapon, as defined in the Criminal Code, except as authorized by the parole supervisor;

• inform the parole supervisor of any change that may affect the offender’s ability to respect the conditions of release.

If considered necessary the Board members may impose additional conditions to assist the offender and further reduce risk.

Assessing Risk
The Board believes that most offenders can and do change and have the potential to live in harmony with the community. At the same time, the Board recognizes that some offenders may present a risk to the community. To make sure that community well-being is protected, the offender is carefully assessed for his/her readiness to reintegrate as a law-abiding community member. The risk an offender poses is a first consideration in seeking harmony, peace, and balance in the successful integration of offenders from confinement to the community.

Principles for Decision-Making
Six principles guide Board members. The principles help to ensure that the hearing and conditional release process is fair and understandable to everyone concerned. The six principles are:

• community protection is the most important consideration in every conditional release decision;

• all relevant information must be considered in decision-making;

• parole boards are more effective when they exchange information among their criminal justice system partners and provide information about policies and programs to offenders, victims, and the general public;

• release conditions should be reasonable and geared to community protection using the least restrictive measures necessary;
• parole board actions must be guided by appropriate policies, and Board members must have access to appropriate training;

• offenders must receive the information that the Board will use to make a release decision, the reasons for the decision, and the opportunity to appeal a decision.

Hearings
Parole hearings usually have two Board members on the panel. Board members examine relevant information about the offender. They ask questions to gain more information and to clarify certain areas. When they have all of the information they need, the Board members discuss the case privately and decide whether or not to release the offender. If release is granted they also set the conditions. The hearings usually take place at the penitentiary, and the offender is always provided with the reasons for the decision taken by the Board. All hearings are recorded.

Information that is considered in a hearing includes:

• the offence;

• criminal history;

• social problems, such as alcohol or drug use and family violence;

• psychological or psychiatric reports, especially if there is a risk of future violent criminal activity;

• performance on earlier releases, if any;

• relationships and employment;

• opinions from Elders, judges, police and other professionals;

• information from victims;

• other information that indicates whether release would present an undue risk to the community.

Board members also examine positive changes that help the offender move from confinement to the community, including:

• behaviour while in the institution;

• benefit from programs such as substance abuse counselling, life skills, spiritual guidance and Elder counselling, literacy programs, and programs that help offenders deal with family violence;
• the offender’s personal plan for community living after release.

All information, which assists the Board members in making a decision, must be made available to the offender prior to the hearing.

Offenders may choose to have an assistant help them at the hearing. The assistant may be a friend, relative, lawyer, member of the clergy, Elder, prospective employer or other person. The assistant may advise the offender and may make a presentation on his/her behalf.

Assisted Hearings
The Board is committed to contributing to the safe return of offenders to the community through controlled release. It recognizes that communities and peoples are diverse and decisions about release also need to consider this diversity. In performing their duties, and in making their decisions, Board members are respectful of the gender, ethnic and linguistic differences of all offenders. They are open to the distinctive needs and characteristics presented by Aboriginal peoples.

First Nations, Inuit and Métis offenders have access to Elder and Community-Assisted Hearings. These hearings are designed to provide a culturally sensitive process for Aboriginal offenders. Elder and Community-Assisted Hearings promote better understanding of Aboriginal communities and their citizens.

Elder-Assisted Hearings are held at the request of the offender, and may incorporate such traditions as: a cleansing smudge, opening the room to a circle, conducting traditional teachings in preparation for a hearing, or adopting traditional protocol for maintaining speaking order. Elders provide Board members with information concerning Aboriginal cultures, experiences and traditions. To gain more insight, Elders may use an Aboriginal language with the offender, and summarize the conversation for the Board members.

The Elder contributes to the Board members’ awareness of the offender’s understanding of traditions and spirituality and his/her progress toward healing and rehabilitation. The Elder may be an advisor to the Board during the deliberation stage of the hearing and may provide insight and comment on cultural and spiritual issues.

Community-Assisted Hearings are another format of NPB hearings. These hearings are held in the offender’s community, rather than in the penitentiary. Community-Assisted Hearings bring the offender together with the justice system and the community, to achieve the most effective and just decision.

The Elder brings knowledge and expertise that can foster the healing process between the community and the offender. Such guidance is needed to reach culturally appropriate ways of restoring a just relationship between the offender and the community where harmony, peace, and balance can be restored.

By bringing the offender and community together in hearings, there is better understanding of how the offender can return to the daily, shared experiences of the members of the community. Community-Assisted Hearings respect and contribute to the traditional sense of responsibility felt by every community member for each other and for the creatures and forces that sustain all human life.

Observers and Victims at Hearings
Anyone who wishes to know how the Board makes its decisions can apply to observe a conditional release hearing. Observers are not participants in the hearing. Applications must be made in writing, and sent to the appropriate Regional Office, at least 60 days before the scheduled hearing. Prior to the hearing, a security check is conducted by the institution before approval can be given to any observer including victims. The offender’s victim(s) may choose to attend a hearing as an observer.
or as a participant.

Victims who choose to be participants at the hearing may present information that can help the Board members assess the risk of an offender’s release to the community. The Board will permit victims to read a prepared statement at the hearing, or to present the statement in any other manner that the Board considers appropriate (for example: video/audio tape), that describes the impact of the offence on them since the offender’s conviction and any safety concerns they may have. If a victim is deceased, ill or is unable to be present the person's spouse, any relative or dependent of the person, or legal guardian may present a statement at the hearing. Victims interested in doing so must submit a written request to the appropriate Regional Office. The Board will consider all relevant information before making a decision. Like all information to be reviewed by the Board members, the prepared statements must also be shared with the offender prior to the hearing.

Financial assistance is available to registered victims who attend hearings of an offender who harmed them to allow victims to participate more fully in the criminal justice system. The Victims Fund is administered by the Department of Justice Policy Centre for Victim Issues (PCVI). Victims may apply to the Department of Justice for travel funding to attend, either as an observer or to present a victim impact statement, the hearing of an offender who harmed them. Victims must be registered with NPB and/or CSC and must be approved by the NPB to attend the hearing.

The Board also receives information from its partners in the criminal justice system and any other person or group having relevant information. Information from partners, victims and others helps Board members assess the risk of an offender’s release to the community.

All observers and participants are asked to leave the room while Board members discuss the facts presented to reach a decision. Observers, victims and others do not participate in the decision-making. Once Board members have reached their decision participants return to the hearing room to hear the Board’s decision and their reasons.

**Appeals**

The offender may appeal the Board’s decision if conditional release is denied. The offender may also make an appeal if the release is revoked or there is a problem with the conditions. The appeal is made to the Appeal Division located at the National Office of the NPB.

The Appeal Division reviews the decision-making process to ensure that the laws and NPB policies were respected and that the process was fair. They examine the grounds for the appeal, review the file material, and listen to the hearing recordings before rendering their decision. The Appeal Division may affirm a decision, order a new review, impose or modify the conditions of the release, or order a conditional release.

**Receiving Information About a Case**

Open decision-making helps strengthen the contribution of the NPB to keeping communities safe. Information on decisions, such as on an offender’s conditional release, return to the institution, or detention is recorded in a decision registry.

The Board makes information about a release decision available to victims and others who make a written request providing the reason for their interest in the offender. The basic information that is shared may include the date a sentence began, length of sentence, date when the offender may be considered for conditional release, or dates when the case will be reviewed.

Sometimes victims are interested in learning more about a particular offender and may ask for additional information. Their request must be made in writing and must identify the offender and the offence committed. Additional information victims could receive includes: the location of the penitentiary where the sentence is being served; hearing dates; the date of release and conditions; where an offender on conditional release will be going; any appeal of the Board’s decision; and the
results of the appeal.

Victims do not automatically receive information about the offender. Some victims prefer to have no information. The NPB respects this preference and does not attempt to contact those victims.

**Pardons**

The NPB acknowledges that individuals with past convictions may demonstrate, through law-abiding behaviour in the community, that they have successfully integrated into the community and are living in harmony, peace, and balance. Former offenders who were convicted of a criminal offence, who have completed their sentence, and who have shown that they are responsible citizens can apply for a pardon after a waiting period starting from the date the offender completed the entire sentence including statutory release. The waiting period varies from three to five years based on the conviction.

When a pardon is granted, all federal government agencies that have records of convictions must keep those records separate and apart from other criminal records. The agency must not disclose the information in the record without prior approval from the Minister of Public Safety. The *Canadian Human Rights Act* forbids discrimination based on a pardoned conviction.

The NPB can issue, deny or revoke a pardon. By law, a pardon is revoked automatically upon conviction for an indictable offence. The Board may revoke a pardon as a result of a summary conviction, for bad conduct or for lying about or concealing information when the pardon was applied for.

Not all privileges are restored through pardons. A former offender who was prohibited from driving a vehicle or possessing a firearm for a specific period of time will not have those privileges restored with a pardon. Pardons do not guarantee entry or visa privileges to another country. Courts and police agencies under provincial and municipal legislation are not required to keep records of convictions separate for former federal offenders who have been pardoned. If a person was pardoned for certain sexual offences, he or she may be asked to let employers view their record if they intend to work with children or other vulnerable groups.

Pardon application forms are available through the NPB’s National and Regional Offices, as well as on the NPB web site at [www.npb-enlc.gc.ca](http://www.npb-enlc.gc.ca).