

# The (Re)Purposing of Parole

An Examination of the Trajectory of Parole in Canada

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## Current Context Surrounding Parole in Canada

- Living death penalty (decreasing/removing parole eligibility)
- Restricted eligibility for statutory release
- Abolishment of accelerated parole review
- “Zombie Parole: The Withering of Conditional Release in Canada” (Doob, Webster & Manson, 2014)

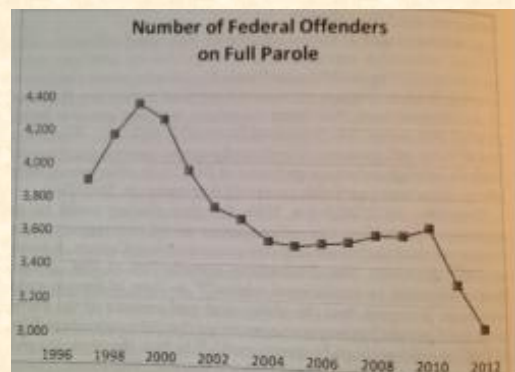


Figure 1, Extracted from Doob, Webster & Manson, 2014, p. 310, data from CCRSO, 2012, at p. 36 and CCRSO, 2003, p. 36)

## Some Contributing Factors?

- Lack of evidence (Tonry, 2014)?
  - Is early release no longer associated with rehabilitation, reintegration and reduced recidivism?
- Inconsistent technologies (Campbell, 1999, Cole & Manson, 1990)?
  - Has the design/structure of our system been altered in ways that make early release problematic?
- Punitive rationalities (Garland, 2001; Tonry, 2004)?
  - Has there been an emergence/emphasis of sensibilities (i.e., goals) and mentalities (i.e., values) that fail to support early release?
    - Increasing risk management (Feeley and Simon, 1992, Robert, 2001) and risk-averse institutional culture (Doob, Webster & Manson, 2014)

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## Policy Papers on Parole

- Commissions of Inquiry, independent panel reviews & policy revisions
- Trends
  - Structure, technologies, practices
  - Values, principles, assumptions
  - Concerns, issues, solutions
  - View/role of society, prisoners
- Period:
  - 1938-2014

Year	Title	Chair
1938	Report of the Royal Commission to Investigate the Penal System of Canada	Joseph Archambault
1956	Report of a Committee Appointed to Inquire into the Principles and Procedure Followed in the Remission Service of the Department of Justice of Canada	Gerald Fauteux
1969	Report of the Canadian Committee on Corrections : towards unity: criminal justice and corrections	Roger Ouimet
1971	Report of the Commission of Inquiry into Certain Disturbances at Kingston Penitentiary during April, 1971	J. W. Swackhamer
1973	Report of the Task Force on Release of Inmates	James K. Hugessen
1974	Parole in Canada: report of the Standing Committee on Legal and Constitutional Affairs	Carl H. Goldenberg
1977	Report to Parliament	Mark MacGuigan
1978	Final Report of the Steering Committee on Split in Jurisdiction in Corrections	A.T. Wakabayashi
1982	The Criminal Law in Canadian Society	Jean Chrétien
1986	A Study Team Report to the Task Force on Program Review	Erik Nielsen
1987	Sentencing Reform : A Canadian Approach	J.R. Omer Archambault
1988	Taking Responsibility : Report of the Standing Committee on Justice and Solicitor General on its Review of Sentencing, Conditional Release and Related Aspects of Corrections	David Daubney
1990	Directions for Reform: Framework, Sentencing, and Corrections and Conditional Release	Pierre Cadieux & Kim Campbell
1998	CCRA Review and Updates	
2007	A Roadmap to Strengthening Public Safety	Rob Sampson

## Technologies of Parole – Then and Now

1938	2015
<ul style="list-style-type: none"> <li>• Remission Service</li> <li>• Prerogative of mercy (or clemency)               <ul style="list-style-type: none"> <li>• Recommendation of leave</li> </ul> </li> <li>• Statutory remission (2/3, unconditional)               <ul style="list-style-type: none"> <li>• Earned time for conduct – compliance with rules and industry (6-10days/mth)</li> </ul> </li> <li>• Ticket of leave system (1/2, conditional)</li> <li>• Decisions based on clemency</li> </ul>	<ul style="list-style-type: none"> <li>• Parole Board Canada (PBC)</li> <li>• Discretionary release (conditional)               <ul style="list-style-type: none"> <li>• Temporary Absences</li> <li>• Full parole (1/3)</li> <li>• Day parole (6mths bf 1/3)</li> </ul> </li> <li>• Statutory release (2/3, conditional)</li> <li>• Detention order</li> <li>• Decisions based on risk</li> </ul>

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## Rationalities of Parole – Then and Now

1938 – Royal Commission to Investigate the Penal System in Canada (Archambault)	2007 –CSC Review Panel: A Roadmap to Strengthening Public Safety (Sampson)
<ul style="list-style-type: none"> <li>• Punishment, transformation and/or temporary incapacitation, yet punishment inhibits positive reformation (p. 10)</li> <li>• Prison - a place of “<i>degradation</i>” containing “<i>demoralizing influences</i>” (p. 225)</li> <li>• Prison ‘turns’ ‘accidental/occasional’ prisoners into habitual (p. 9) &amp; inhibits habitual prisoners from desisting (p. 222)</li> <li>• “<i>an offender’s punishment begins, not when he goes into prison, but when he comes out of it</i>” (p. 9)</li> <li>• Parole -rehabilitation outside of prison, placing more ownership on the community to support the ex-prisoner</li> <li>• “<i>responsibility for recidivism rests as much on the shoulder of the public as on the penal system</i>”(p. 10)</li> </ul>	<ul style="list-style-type: none"> <li>• Need to protect the public and to facilitate offender rehabilitation (p. 5)</li> <li>• Rehabilitative programs in prison reduce recidivism, but only when the offender is motivated to participate in programming (p. 10), so transformation requires “<i>dual responsibility</i>” and “<i>accountability</i>”(p. 5)</li> <li>• Basic rights (e.g., shelter, food, etc.) vs. enhanced rights (e.g., visitation, recreation, etc.) (p. 17) to distinguish between “<i>motivated</i>” and “<i>non-motivated</i>” offenders (p. 40)</li> <li>• “<i>presumptive [statutory] release is a key disincentive to offender accountability</i>” (p. 114)</li> <li>• Parole – privilege/incentive to motivate offenders to rehabilitate within prison – ‘earn their own way home’ (p. 109)</li> <li>• Exclusivity of no-risk scenarios where the rights of offenders are balanced within the “<i>paramount</i>” protection of the public (p. 169)</li> </ul>

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## The Future of Parole?

- Technologies of clemency (1938) to risk (2007)
- Rationalities of 'Relief' and 'Support' (1938) to 'Responsibility' and 'Accountability' (2007)
- Not a turn, but a re-purposing
  - While the meaning (i.e., goal) of a sentence of imprisonment (e.g., rehabilitation) appears similar in 1938 & 2007, parole has been re-purposed to fit the given assumptions about prisons, criminality and prisoners (i.e., values) at each point in time
- *"the alleged reform of parole amounts to a transformation of early release into release at the latest possible point...The result will be renewed pressure for stiffer criteria of release and for more rigid supervision in the community, until early release mutates at last into 'zombie' parole"* (Brodeur, *The Attrition of Parole*, 1990, p. 509)
- Opportunity to re-shape, re-direct, re-purpose (Doob et al., 2014, p. 328)  
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## Thank-you!

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