



Conditional Release

Description



The *Conditional Release* module will demystify the process leading to the reintegration of offenders into the community. Extensive media coverage of cases where offenders on conditional release resume their criminal activities has given the public a negative impression of a process that is actually highly structured. Not all inmates are allowed to return to the community; release must be earned gradually.

Learning objectives

As part of their law and/or sociology coursework, this module will allow students to:

Law

- Define the rights and responsibilities set out by legislation;
- Develop critical thinking regarding legal and social issues;
- Acquire knowledge, skills and a positive attitude regarding the law;
- Describe the various points of view expressed by the public regarding controversial issues that affect society.

Sociology

- Understand that social organizations are necessary for maintaining order in society;
- Assess the validity or the reliability of information based on context, prejudices, sources, objectivity or evidence;
- Use critical thinking by asking questions, making comparisons, synthesizing information, drawing conclusions and defending a position to make informed judgments on a range of situations, questions and problems.

Earning release

Many people wonder why offenders are sentenced to a certain length of time and then released before the end of that sentence. The goal of conditional release is to protect the public while promoting a safe, gradual and supervised return to the community. Offenders who stay behind bars until the very end of their sentence and then released without any control or supervision are at greater risk of re-offending.

But how does the conditional release system work? Six months after offenders are admitted to a federal penitentiary, the Correctional Service of Canada (CSC) notifies them of their eligibility dates for various forms of conditional release—temporary absence, day parole and full parole—as well as the planned date of their statutory release (all these categories of release are explained in the following section of this module).

CSC is responsible for preparing an offender's case for review by the National Parole Board (NPB), the administrative tribunal empowered under the *Corrections and Conditional Release Act* with the exclusive authority to grant, deny or revoke conditional release and, in some cases, order the detention of offenders who would normally be granted statutory release.

The NPB is empowered to make conditional release decisions regarding offenders incarcerated in federal and territorial institutions. It also makes decisions regarding offenders serving sentences of less than two years in **provinces where there are no parole boards**. The NPB also grants, denies or revokes pardons under the *Criminal Records Act*.

Each case is submitted to the Board, which examines all the information available on the offender in order to make a preliminary risk assessment. This information includes:

- the offence
- criminal history
- social problems—alcohol, drugs or family violence
- mental health records, especially if disorders predispose the offender to commit other crimes
- behaviour during any past periods of release
- the offender's relationships and work experience
- psychological or psychiatric reports, in some cases
- opinions from professionals and others (such as Aboriginal Elders, judges and police officers), as well as any other information as to whether release would present an undue risk to society
- information provided by victims

Earning release (continued)

Board members also study the probability of re-offending based on statistics, meaning that they examine the rate of **recidivism** among a group of offenders with essentially the same characteristics and criminal history as the offender whose case is under review.

After a preliminary assessment, Board members consider the following factors:

- the offender's behaviour during incarceration
- whether the offender's words show that he has changed and is aware of his criminal behaviour and the necessity of controlling risk factors
- the benefits of the programs in which the offender participated, such as for substance abuse, living skills, Aboriginal spirituality or counselling, literacy, employment or socio-cultural activities or family violence prevention
- the fact that the offender was treated for a disorder diagnosed by a specialist
- the offender's release plan

All this information is taken into consideration during the **parole hearing**. At a minimum, the offender, two Board members and a hearing officer must be present. The offender may be accompanied by an assistant (a friend, relative, lawyer, Elder or potential employer), who may make submissions on the offender's behalf. Victims and other observers of crime may also attend the hearing.

After reviewing the case and questioning the offender, the Board members discuss the case among themselves and announce their decision. If release is denied, the offender may appeal the decision through the Appeal Division of the NPB.

Glossary

Provincial parole boards: Only Québec and Ontario have their own parole boards.

Criminal records: A criminal record is created every time a person is convicted of a criminal offence. It leaves a record of the offence and the conviction. These records can serve to justify harsher sentencing for new offences. Not long ago, a criminal record would follow a person for the rest of his or her life. Now, it is possible to be pardoned, meaning that all federal departments and organizations that hold information regarding a specific sentence must keep this separate from other information and cannot disclose this information without the authorization of the Minister of Public Safety Canada.

Recidivism: Commission of a new offence after being convicted of a similar offence.

Parole hearing: Anyone who wishes to observe a hearing must apply at least 60 days prior to the hearing to allow for a security check, as required by law, before a visitor can be admitted to an institution. Most people who have applied in writing to attend an NPB hearing will be allowed to attend as observers. In fact, hearings are not closed to only those with a vested interest in the case.

Gradual path to release: Types of conditional release

As we have seen, the conditional release process is highly structured, and decisions are made following an in-depth review of each case. Each release is subject to strictly defined conditions, and offenders must be placed under supervision while being supported in their progress. There are five types of conditional release:

- *Temporary absence (escorted or unescorted)* is usually the first type of release offenders may be granted. Temporary absences may be granted for various reasons, such as to perform community service, establish or maintain family relationships, undergo personal development, or see their doctor. Maximum-security offenders and those detained past their statutory release date are not eligible for unescorted temporary absences.
- *Work release* allows minimum- and medium-security offenders who do not present an undue risk to society to work under supervision in the community, which allows them to develop their skills and be better prepared for work following their release. Work release improves self-esteem, reducing the risk of re-offending.
- *Day parole* allows offenders to take part in activities in the community in order to prepare for full parole or statutory release. With some exceptions, day parole offenders must return nightly to an institution or halfway house.
- *Full parole* allows offenders to serve out the remainder of their sentences under supervision in the community. Offenders serving life sentences for second-degree murder may apply for full parole after serving between 10 and 25 years of their sentence, depending on the court's decision.
- *Statutory release* is automatically offered by law once offenders have served two-thirds of their sentence. It is another form of conditional release, and offenders may be returned to custody if they present an undue risk to society. Offenders serving a life sentence or an indeterminate sentence are not eligible for statutory release.

By assessing the potential for reintegration and the nature of the offence, the court may impose a long-term supervision order on offenders who have served their sentences and are about to be released. Orders may, if required, be issued for a period of up to 10 years to ensure public safety. Long-term supervision orders are accompanied by conditions similar to those applicable to conditional release; if offenders do not comply with the conditions, the order may be suspended and the offender may be returned to custody.

It should be understood that offenders on conditional release, and therefore living or working in the community, are closely supervised by CSC and its partners. When the National Parole Board grants release, a number of conditions are imposed: offenders must report regularly to their parole officer and to police, carry a release certificate or identity card at all times, and present them to any police officer upon request.

LifeLine

As we have seen, one of the primary goals of conditional release, apart from contributing to public safety, is to facilitate the reintegration of offenders into the community. However, it is not easy for offenders serving **life sentences** to find the motivation to serve out their sentence and do what it takes to rehabilitate themselves.

This led to the creation of LifeLine, an innovative service established through a partnership between CSC, the NPB and non-government organizations. LifeLine was designed for offenders serving life sentences who have successfully reintegrated the community for at least five years to provide guidance to other offenders serving life, indeterminate or long term sentences throughout their sentences. These former inmates, who are still on parole, are called “InReach workers” and “OutReach workers”. InReach workers work within institutions where they are involved in setting up programs for inmates serving life sentences and helping them stay motivated. Outreach workers work more specifically with lifers who have been released and need assistance and support finding work, reconnecting with their family, developing social circles, etc.

LifeLine organizers can measure success by the number of lifers who have reintegrated into the community and have become productive members of society. Moreover, the project has increased public awareness that lifers can contribute to crime prevention.

The various steps in the conditional release process and programs such as LifeLine prove that the more connections offenders have with the community, the greater their chances of making a successful transition.

Glossary

Life sentence: In 1976 the death penalty was removed from the *Criminal Code* and replaced by life imprisonment with no consideration for parole for 10 to 25 years.