

Reality Check T

Contributing to the factual knowledge of Canadians about crime and criminal justice.

THE JOHN HOWARD SOCIETY OF CANADA

PREPARED BY THE JOHN HOWARD SOCIETY OF ONTARIO

“Getting out of jail free”

The claim:

All federal prisoners are released before the end of their sentence. It is mandatory. Statutory release serves no purpose for society and only benefits the offender. It is a reflection of the lenient treatment of offenders in Canada.

The reality:

First of all, it is important to understand what Statutory Release (SR) is and what purpose it serves.

1. Only prisoners who are serving a fixed term of imprisonment of two years or more (not life or indeterminate sentences) are eligible for release under SR;
2. SR allows prisoners who have not been granted parole to be released to the community under supervision after completion of two-thirds of their sentence;
3. SR is a conditional release mechanism which is geared to assisting federal offenders to reintegrate back into the community after a period of imprisonment.

Programs and services attached to conditional release support successful reintegration. Successfully reintegrated offenders are less likely to re-offend. As well, the supervision permits the ongoing monitoring of the person's whereabouts and activities in the community. The release of federal offenders on SR reflects the principle that gradual release of offenders contributes to public safety.

When the person is released on SR, he/she must comply with certain conditions. Standard conditions applying to all include:

4. travelling directly to the specified release destination and reporting immediately to the parole officer;
5. reporting regularly thereafter to the parole officer and to the police;
6. staying within the territorial boundary set by the parole officer (no travel outside of this area without first getting permission);
7. informing the parole officer immediately of any change of address, employment, training or volunteer activity, domestic or financial situation;
8. informing the parole officer if arrested or questioned by the police; and
9. other conditions such as carrying the release certificate at all times to be produced at the request of any peace officer, obeying the law and keeping the peace, and not owning, possessing, or having the control of a weapon.

As well, the person on SR *may* be subject to other conditions imposed by the National Parole Board such as:

10. requiring the person to live in a halfway house for all or part of the sentence remaining;
11. attending counselling with a psychiatrist or a psychologist; and/or
12. attending programs for cognitive skills training or to deal with issues of substance abuse or family violence.

A violation of any of these conditions could result in the person's return to the penitentiary.

If the person is released at the end of their sentence, he/she is not subject to any of the above conditions. The opportunity available through the supervisory process to monitor the activities of released offenders and to intervene to promote programs and services that could assist in their reintegration is lost.

Not all prisoners serving a fixed sentence are automatically released on Statutory Release at two-thirds of their sentence.

13. Prisoners can be held until the end of their sentence if they have been convicted of certain offences defined in legislation, have been referred to the National Parole Board for a decision to detain and have been found “likely to cause serious harm or commit a serious offence before the expiration of their sentence”; and
14. For the past few years, there have been approximately 400 decisions per year to detain people beyond their SR date and potentially to the end of their sentence.

Detained prisoners are serving fixed sentences and, therefore, must be released at the end of their sentence. There is, however, no authority to supervise them upon their return to the community once they have completed their sentence. It is paradoxical that the people who have been assessed as presenting the greatest risk of re-offending upon release will be released with no support or supervision.

Rather than further limiting opportunities for conditional release mechanisms like Statutory Release, steps should be taken to end the practice of detention and to ensure that all prisoners are released conditionally to be supervised and supported in their return to the community.

For further information contact:
Graham Stewart,
Executive Director
The John Howard Society of Canada
Tel: (613) 542-7547
Fax: (613) 542-6824