



IPRT Briefing on Parole and Temporary Release of prisoners serving long sentences

The Irish Penal Reform Trust

The Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for the rights of everyone in the penal system, and for a more effective penal system that will build safer communities. IPRT is committed to reducing imprisonment and to the progressive reform of the penal system based on evidence-led policies.

Context

IPRT believes that the early prison release system in Ireland should be coherent, transparent and fair. To this end, the establishment of a statutory parole system, which is fully independent of political control, will help to achieve clarity in the law and support a proper balance between the protection of the public and the rights of sentenced persons to a fair and balanced system of release.

Furthermore, a more transparent and structured system of release for prisoners will incentivise meaningful engagement with services and regimes inside prison, and support more successful reintegration of prisoners back into the community.

The establishment of a Parole Board on a statutory basis was among the key recommendations of the Joint Oireachtas Committee on Justice and Equality *Report on Penal Reform* (Rec. 4, 2013)¹, the Law Reform Commission's *Report on Mandatory Sentences* (Rec. 6.05, 2013)², and the cross-agency Department of Justice and Equality *Strategic Review of Penal Policy* (Rec. 31, 2014).³

Defining the Terms

Parole: The term 'parole' in the Irish context is used to refer to the temporary release of longer-term prisoners. However, there is currently no statutory definition of parole in Ireland.

Parole Board: The Parole Board was established by the Minister for Justice on an administrative basis in 2001 to consider temporary release for life sentence and other long-term prisoners.

Temporary release: Under the *Criminal Justice Act 1960*, the Minister for Justice may grant temporary release to prisoners at any time before they qualify for standard remission or to life-sentenced prisoners who are not entitled to standard remission. In effect there are two categories of temporary release:

- (i) temporary release granted with a view to the person returning to detention; and
- (ii) full temporary release, which is intended as ending the period of detention.

Remission: While temporary release and parole are forms of release on licence, remission marks the complete ending of the sentence.

1 Available at: <https://www.oireachtas.ie/parliament/media/Penal-Reform-Report-13-March-2013-Final.pdf>

2 Available at: <http://www.lawreform.ie/fileupload/Reports/r108.pdf>

3. See: Department of Justice and Equality (2014) *Strategic Review of Penal Policy*, available at: <http://www.justice.ie/en/JELR/Pages/PB14000244>

Life sentence: A prisoner sentenced to life imprisonment is subject to that sentence for the rest of his or her life. Since there is no formal provision for the release on licence of life-sentenced prisoners, such prisoners can only be granted renewable temporary release. The prisoner remains subject to the life sentence and can be recalled to prison at any time.

Figures

- On 30th November 2015, there were 344 prisoners serving life sentences; 254 serving sentences of 10+ years; and 681 serving sentences of 5-10 years in prison custody in Ireland.⁴
- The length of time served by life-sentenced prisoners increased from an average of 11 years for prisoners released in 2002, to 20 years for prisoners released in 2014.⁵
- 4 life-sentenced prisoners were released from prison on Reviewable Temporary Release in 2013; 4 in 2012; 5 in 2011.⁶

Remit and Powers of the Parole Board

Currently, the Parole Board reviews the sentences of prisoners serving eight years or more, and makes recommendations to the Minister as to whether the prisoner should be granted temporary release:

- Prisoners serving fixed-term sentences of 8 to 14 years are reviewed at the half-way mark of their sentence.
- Prisoners serving more than 14 years, including those sentenced to life imprisonment, are first reviewed after seven years.

The Parole Board advises the Minister for Justice of the prisoner's progress, the degree to which he/she has engaged with therapeutic services, and how best to proceed with his/her sentence. However, the recommendations of the Parole Board are not legally binding. The decision to release a prisoner or not is made by the Minister for Justice. The Parole Board is not required to apply any specific criteria but in practice it adopts the legislative criteria set out in the *Criminal Justice (Temporary Release of Prisoners) Act 2003*. Those criteria are heavily focussed on the original offence, the level of perceived risk and future behaviour. The weight attributed to these criteria, the prioritisation of different criteria and the reliance on additional considerations is unclear, and as such decision-making can appear unstructured and lacking in transparency.

Where the Parole Board does not recommend the prisoner's release, the Board holds an annual review if the prisoner is serving less than ten years and a review every 2-3 years if the prisoner is serving more than ten years.

Composition of the Parole Board

Currently, members of the Parole Board are appointed by the Minister for Justice. The Parole Board should comprise experts who can make informed decisions and balanced assessments on the suitability of prisoners for release, with public safety and the rights of sentenced prisoners as the core criteria. The appointment process should be clear and transparent, and all appointments to the Parole Board should be based on merit and qualifications for the role.⁷

Adequate resources must be provided for appropriate and necessary initial and refresher training of Parole Board members, as well as full administrative support.

⁴ Irish Prison Service (2016) *Annual Report 2015*.

⁵ Lally, C. (2015) 'Average life sentence up to two decades from 7½ years in 1980s'. *The Irish Times*, 19 April 2015.

⁶ Lally, C. (2015) Sharp rise in number of prisoners serving life terms. *The Irish Times*, 10 February 2015.

⁷ Minimum qualifications may include: a university degree in a human science; five years' experience in a decision-making position; knowledge of the criminal justice system, societal issues relating to criminal justice and relevant legislative provisions; the ability to co-operate effectively with those from other cultures; and sensitivity to the impact of crime on victims.

Submissions to the Parole Board

It is centrally important that those agencies tasked with making decisions on prisoner release are independent in their assessment of rehabilitation, risk, and timing of release. For that reason, all submissions to the Parole Board as part of an offender's sentence review must be governed by appropriate protections and protocols. This includes any submissions by victims and by An Garda Síochána. Protocols must be observed to ensure that re-sentencing does not occur. For prisoners serving long sentences, IPRT believes that risk cannot be properly assessed by Gardaí who have not had contact with the offender in 5 or more years.

Recommendations

- 1. The Parole Board should be granted full independence and placed on a statutory footing, and parole decisions removed from political control.**
- 2. The Parole Board must be given the power to making binding decisions on prisoner releases.**
- 3. The Parole Board should have an independent chairperson, such as a member of the judiciary.**
- 4. The Parole Board must be structured to ensure that it has the required expertise, including psychiatrists and psychologists, to make responsible release decisions.**
- 5. Parole Board appointments must be solely on merit, to ensure greater public confidence.**
- 6. The criteria for decision-making on prisoner release should be enshrined in legislation.**
- 7. Parole Board decision-making criteria should be balanced and clear, and should not engage in "resentencing".**
- 8. Clear protocols should be established around the presentation of views on a prisoner's suitability for release to the Parole Board, including those of An Garda Síochána.**
- 9. The Parole Board must be adequately resourced in terms of funding and staffing, including the provision of appropriate and necessary initial and refresher training, such as interview techniques.**
- 10. Prisoners should be automatically scheduled by law for a parole review within six months of their eligibility date, and should be provided with adequate notice and information on their hearings.**
- 11. Prisoners should be entitled to legal representation in proceedings before the Parole Board, particularly those involving oral hearings.**
- 12. Parole Board decisions must be provided in writing to the prisoner and include "proper, adequate and intelligible" reasons for any decision made.**
- 13. The remit of the Parole Board should be extended to include earned early release applications of those sentenced to 5-8 years.**
- 14. Restrictions on certain categories of long-term prisoners from consideration for parole should be removed.**
- 15. Conditions attached to release should be reasonable and proportionate. A violation of conditions should not mean a prisoner is returned to prison unless a new criminal offence has been committed.**
- 16. If a prisoner is not granted release at a parole review, follow-up reviews should be scheduled every year for sentences under ten years and every two years for sentences over ten years.**

More information

More detail on IPRT proposals for comprehensive reform of early release mechanisms is available in *IPRT Position Paper 9: Reform of Remission, Temporary Release and Parole*, which can be downloaded from: www.iprt.ie/contents/2443

See also the *IPRT Submission on Heads of Criminal Justice (Victims of Crime) Bill 2015*, in which IPRT broadly welcomes the implementation of the EU Victims' Rights Directive as a positive step forward for reform of Irish law. See: www.iprt.ie/contents/2777

About Us

The Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for the rights of everyone in the penal system, with prison to be used only as a sanction of last resort. IPRT is committed to reducing imprisonment and the progressive reform of the penal system based on evidence-led policies. IPRT works to achieve its goals through research, raising awareness, and building alliances.

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