



Issue Note – Parole Board of Canada Independence

BACKGROUND

The Board is an independent administrative tribunal responsible for decision making under the *Corrections and Conditional Release Act* and the *Criminal Records Act*. Some of the reasons for creating administrative tribunals are to alleviate the justice system caseload and to provide for an expert review and resolution by those who are well versed in a particular area. Most importantly, administrative tribunals must be seen to function at arm's length from the government.

According to the Supreme Court of Canada's decision in *Valente v. Queen*, there are three elements to be met with respect to independence. This includes a) security of tenure; b) financial security (security of remuneration); and c) administrative independence with respect to matters of administration (e.g., matters of recruitment, classification, promotion, remuneration, supervision and necessary support staff).

Evidence clearly shows that a gradual, structured and supervised release is the most effective way of ensuring public safety. The PBC's independence is important as it ensures that the decisions of Board members are free from any interference. This includes political interference, from the Minister or government, or influence from internal decision-makers. This ensures that conditional release decisions are based on an assessment of the offender's risk and potential that the offender can be safely managed in the community, if released. The requirement for the PBC to be independent is rooted in principles of natural justice.

Finally, the Chairperson of the Board (who is also a Board member) reports directly to Parliament through the Minister. In this way, both the Chairperson's independence and decisions, and that of the Board are free from political influence.

Key Messages

- The PBC is headed by a Chairperson who reports to Parliament through the Minister of Public Safety and Emergency Preparedness.
- The Minister, however, does not have statutory authority to give direction to the Chairperson or other members of the PBC in the exercise of their decision-making powers. This structure helps to ensure the impartiality and integrity of the PBC's decision-making process.

- In making conditional release and record suspension decisions, as well as clemency recommendations, the PBC's primary objective is the long-term protection of society.
- In rendering its decisions, the PBC is autonomous and independent. However, its decisions are open and transparent to the public consistent with its legislation and policies.
- Conditional release decisions are limited to the least restrictive determinations that are consistent with the protection of society, in order to facilitate, as appropriate, the timely reintegration of offenders as law-abiding citizens.

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