

**Offenders Serving A Life Sentence for Murder  
A Statistical Overview**

**The National Parole Board  
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## TABLE OF CONTENTS

	Pages
1. Introduction	2
2. Murderers As A Group Within The Federal Offender Population	3
3. Parole Eligibility	5
4. Section 745 ("Faint Hope") Applications	6
5. Parole Grant Rates	8
6. Time Served Before First Release On Parole	9
7. Outcomes of Release	10
8. Homicide Rates In Canada And The United States	13

## **1. Introduction**

In 1976, Parliament abolished capital punishment and replaced it with mandatory life sentences for high treason, first-degree murder, and second-degree murder. Parole ineligibility periods were established at the same time: 25 years for high treason and first-degree murder; and 10 years for second-degree murder, with the judge having the power (after considering any recommendation from the jury) to increase the parole ineligibility period up to 25 years.

Offenders serving a life sentence for murder have become a high profile group within the federal offender population, given the nature of their offence and the public/media scrutiny related to their reintegration in the community.

The purpose of this report is to provide an overview of key issues related to offenders serving a life sentence for murder, particularly in terms of parole related matters. Subsequent sections of this report deal with:

- murderers as a group within the federal offender population;
- parole eligibility;
- section 745 ("faint hope") applications;
- parole grant rates;
- time served before first release on parole;
- outcomes of release on day and full parole; and
- homicide rates in Canada and the U.S.

## 2. Murderers as a Group Within The Federal Offender Population

Offenders convicted for murder generally represent a small proportion of annual warrant of committal admissions to federal penitentiaries (about 3%), and this proportion has remained relatively constant over the last six years.

<b>Table 1</b>						
<b>Warrant of Committal (WOC) Admissions For Murder As A Proportion of Total WOC Admissions</b>						
<b>Admissions</b>	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02
<b>WOC Total</b>	4,560	4,410	4,648	4,348	4,276	4,132
<b>WOC For Murder</b>	167	146	137	133	137	128
<b>WOC For Murder (%)</b>	3.7	3.3	2.9	3.1	3.2	3.1

Annual numbers of WOC admissions for murder are relatively small, but offenders in this group accumulate in the federal offender population because of their lengthy sentences (i.e. for life).

On March 31, 2002, there were 3721 offenders with life sentences for murder under federal jurisdiction, representing about 18% of the total federal offender population. Within this group:

- 2360 murderers were incarcerated (19% of the federally incarcerated population); and
- 1361 murderers were under supervision in the community:
  - 179 were on day parole;
  - 1182 were on full parole; and
  - offenders convicted for murder represented 24% of the total federal parole population.

## First And Second Degree Murder

Most offenders convicted for murder have been convicted for second-degree murder (78%).

<b>Table 2</b> <b>Offenders With Life Sentences For First Or Second Degree Murder</b> <b>March 31, 2002</b>								
Offence	Incarcerated		Day Parole		Full Parole		Total	
	#	%	#	%	#	%	#	%
<b>First Degree Murder</b>	680	29	23	13	120	10	823	22
<b>Second Degree Murder</b>	1680	71	156	87	1062	90	2898	78
<b>Total</b>	2360	100	179	100	1182	100	3721	100

\* Excludes offenders who are unlawfully at large (UAL).

NOTE: Murder is first-degree when it is planned and deliberate, or if

- the victim is a peace officer acting in the course of duty (including employees of a prison); or
- death is caused
  - during a hijacking, sexual assault, kidnapping or hostage taking; or
  - as part of a criminal harassment offence, a terrorist activity or at the direction of or in association with a criminal organization.

All other murder is second-degree murder.

### 3. Parole Eligibility

In cases involving first-degree murder, the convicted offender is not eligible to apply for full parole for 25 years. For second-degree murder, the convicted offender is not eligible to apply for parole for 10 years; however, the sentencing judge, after considering any recommendation from the jury, may set a time from 10 to 25 years when the offender will become eligible to apply for parole. For offenders convicted of murder, day parole eligibility is set, by law, three years before full parole eligibility.

In 2001, Canada marked the 25<sup>th</sup> anniversary of the abolition of capital punishment and the introduction of life sentences for murder. In this context, the Board examined data in the Offender Management System to learn whether or not there would be a spike in the number of first degree murderers becoming eligible for parole in the next few years. Data indicates that this is not the case. In August 2002, there were 2348 offenders incarcerated in federal institutions who were serving a life sentence for murder. Of this group 640 (27%) were past their full parole eligibility date. Most of the remainder have full parole eligibility dates spread fairly evenly over the next 10 years.

<b>Table 3</b>			
<b>Full Parole Eligibilities For</b>			
<b>Incarcerated Offenders Convicted For Murder</b>			
<b>August 2002</b>			
<b>Timing of Full Parole Eligibility</b>	<b>1<sup>st</sup> Degree Murder</b>	<b>2<sup>nd</sup> Degree Murder</b>	<b>Total</b>
Past FP Eligibility	46	594	640
FP Eligibility within 1 year	12	88	100
FP Eligibility > 1 year < 2 years	10	91	101
FP Eligibility > 2 years < 3 years	14	106	120
FP Eligibility > 3 years < 4 years	20	103	123
FP Eligibility > 4 years < 5 years	22	81	103
FP Eligibility > 5 years < 6 years	20	78	98
FP Eligibility > 6 years < 7 years	37	102	139
FP Eligibility > 7 years < 8 years	26	81	107
FP Eligibility > 8 years < 9 years	23	85	108
FP Eligibility > 9 years < 10 years	26	47	73
FP Eligibility > 10 years < 11 years	27	39	66
FP Eligibility > 11 years < 12 years	21	39	60
FP Eligibility > 12 years < 13 years	22	22	50
FP Eligibility > 13 years < 14 years	37	34	71
FP Eligibility > 14 years < 15 years	39	18	57
FP Eligibility > 15 years	270	41	311
No FP Eligibility Date	6	15	21
<b>Total</b>	684 (29%)	1664 (71%)	2348

#### **4. Section 745 "Faint Hope" Applications**

The Criminal Code provides automatic life sentences for murder. These life sentences fall into two categories:

- First-degree murder - the convicted offender is not eligible to apply for parole for 25 years; and
- Second-degree murder - the convicted offender is not eligible to apply for parole for 10 years. The sentencing judge, however, after considering any recommendation from the jury, may set a time from 10 to 25 years when the offender will become eligible to apply for parole.

In both categories, where the convicted offender is not eligible for parole for more than 15 years, sections 745.6 of the Criminal Code allows offenders to have their parole ineligibility period reviewed by a superior court judge and a jury. An offender may only apply for judicial review of parole eligibility after 15 years have been served.

On January 9, 1997, amendments to section 745.6 came into force, considerably toughening the requirements for offenders to have their parole ineligibility period reduced, to ensure that only exceptional cases benefit from judicial review.

Section 745.6 now prohibits any person who commits multiple murders after January 9, 1997, from ever applying for a judicial review of their parole ineligibility period. This means that for the future, multiple murderers will not have their original parole ineligibility period reduced.

A screening process for those still eligible to apply for judicial review is also now in place. The applicant must convince a superior court judge that his or her application has a reasonable prospect of success before he/she can proceed to a hearing before a jury. This is done by having the applicant and the Crown submit written materials.

Finally, for those cases that pass the screening, the jury hearing must result in a unanimous decision by the jury, if the parole ineligibility is to be reduced. In the past, only 8 of the 12 jurors needed to be in favour.

In cases where there is a unanimous decision by a jury that the parole ineligibility be reduced, the applicant can apply to the National Parole Board for parole once he or she has served the remaining portion of the reduced parole ineligibility period.

Parole is not granted automatically. The offender must apply. The Board must review the case and assess the offender's risk to the community, if released. If parole is granted, the offender remains under supervision for his/her entire life unless the parole is revoked. Any breach of the offender's parole conditions or a conviction for a new offence may result in the return of the person to prison.

### **Overview of S. 745 Applications - March 31, 2002**

On November 8, 2002, there were 417 offenders eligible to make an application for a S. 745 review as they had been incarcerated for at least 15 years past their arrest date.

A decision has been rendered through the judicial review process in 129 cases. This process, which does not involve NPB or CSC, other than as providers of "facts", has resulted in 102 offenders having their parole ineligibility reduced.

Of the 102 offenders who have had their parole ineligibility reduced, 51 were on full parole and 12 were on day parole on Nov 8/02.



## 5. Parole Grant Rates For Offenders Convicted For Murder

The concept of gradual and supervised release to the community is more extensively applied for offenders convicted for murder than for any other group. For example, day parole eligibility for federal offenders is generally set six months before full parole eligibility. For offenders convicted for murder, however, day parole eligibility is set, by law, three years before full parole eligibility. This lengthier period recognizes the importance of a gradual and controlled transition to the community, if offenders convicted for murder are to be released.

Furthermore, offenders convicted for murder participate extensively in temporary absence programs before consideration for day or full parole. In fact, 95% of all offenders released on day parole first reentered the community on temporary absence programs (TAs). Following TA programs, offenders convicted for murder generally apply for day parole. Day parole grant rates in this first application following TAs are usually in the range of 60% to 65%.

<b>Table 4</b>						
<b>Grant Rates For First Application For Day Parole For Offenders Convicted For Murder</b>						
	<b>1996/97</b>	<b>1997/98</b>	<b>1998/99</b>	<b>1999/00</b>	<b>2000/01</b>	<b>2001/02</b>
<b>Day Parole</b>	59%	69%	64%	55%	60%	62%

Overall, grant rates for day parole for offenders with murder convictions are higher than rates for full parole, reflecting the higher levels of control that day parole provides when offenders first enter the community. For example, offenders on day parole must return to a halfway house or a penitentiary each night.

<b>Table 5</b>						
<b>Grant Rates For Day And Full Parole For Offenders Convicted For 1<sup>st</sup> And 2<sup>nd</sup> Degree Murder (First And Subsequent Reviews)</b>						
<b>Supervision Type</b>	<b>1996/97</b>	<b>1997/98</b>	<b>1998/99</b>	<b>1999/00</b>	<b>2000/01</b>	<b>2001/02</b>
<b>Day Parole</b>						
<b>Murder 1</b>	90%	92%	89%	83%	86%	93%
<b>Murder 2</b>	76%	82%	84%	84%	84%	83%
<b>Full Parole</b>						
<b>Murder 1</b>	24%	19%	60%	30%	34%	54%
<b>Murder 2</b>	32%	36%	35%	40%	38%	41%

*Note: Many offenders with life sentences remain on day parole for lengthy periods during which they receive decisions to "continue" their day parole. These "continue" decisions raise the overall day parole grant rate.*

## **6. Time Served Before First Release on Parole**

There have been several attempts to determine the average amount of time served by offenders serving life sentences for murder prior to first release on parole.

This issue is complex because some offenders have not or may never be released. These offenders, some of whom have served as much as 40 years incarcerated, will die in a penitentiary. Calculation of average time served therefore involves complicated statistical modeling.

Rather than attempt to estimate time to be served for this group, the Board used a simplified approach for a select group of offenders. For the purpose of this report, the Board considers average time served by offenders serving a life sentence for first degree murder who have already been released on parole. Included in this group are 85 offenders (in February 2002) including:

- 58 who had their parole ineligibility period reduced through the judicial review process;
- 12 who did not have their parole ineligibility period reduced;
- 2 who were transferred from the USA with determinate sentences for 1<sup>st</sup> degree murder and different parole ineligibility periods;
- 4 who were young offenders at the time of their offence and who, therefore, became eligible for parole after 10 years, if aged 16-17 at the age of the offence; and
- 9 for whom information on release was not available.

The average time served by this group of offenders prior to their first release on parole was 17.6 years.

## 7. Outcomes of Release

"Lifers" represent a very visible and growing component of the federal offender population. Offenders serving a life sentence for murder represent about 19% of the federally incarcerated population and about 24% of offenders on day or full parole.

Day parole for offenders with life sentences for murder has yielded positive results. Successful completion rates have been as high or higher for this group than for other federal offenders with convictions for violent offences (schedule I) and rates of re-offending have been lower.

<b>Table 6</b>						
<b>Outcomes For Federal Day Parole</b>						
<b>Offenders With Life Sentences For Murder (%)</b>						
<b>Outcome</b>	<b>1996/97</b>	<b>1997/98</b>	<b>1998/99</b>	<b>1999/00</b>	<b>2000/01</b>	<b>2001/02</b>
<b>Successful Completions</b>	89.3	91.9	95.1	92	92.2	91.7
<b>Revoked For Breach of Conditions</b>	9.2	7.5	4.1	6.6	7.1	7.5
<b>Revoked For Non-violent Offence</b>	1.5	.6	.5	.9	0.5	0.5
<b>Revoked For Violent Offence</b>	0	-	.3	.5	0.2	0.2
<b>Total Revocations With Offence</b>	1.5	.6	.8	1.4	0.7	0.7

The outcomes of release for offenders with life sentences for murder compare favourably with outcomes for federal offenders who have been incarcerated for a violent offence, excluding murder (Table 7). They also compare very favourably with day parole outcomes for offenders with convictions for non-violent offences (property offences, drug offences - Table 8).

<b>Table 7</b>						
<b>Outcomes For Federal Day Parole</b>						
<b>Offenders With Determinate Sentences For Violent Offences (Schedule 1) (%)</b>						
	<b>1996/97</b>	<b>1997/98</b>	<b>1998/99</b>	<b>1999/00</b>	<b>2000/01</b>	<b>2001/02</b>
<b>Successful Completion</b>	79.6	79.9	81.9	79.5	82.5	82.1
<b>Revocation For Breach of Conditions</b>	14.4	14.7	11.5	13.7	12.7	13.3
<b>Revoked For Non-violent Offence</b>	4.0	3.7	5.4	4.6	3.1	3.2
<b>Revoked For Violent Offence</b>	2.0	1.7	1.2	2.2	1.7	1.4
<b>Total Revocations With Offence</b>	6.0	5.4	6.6	6.6	4.8	4.6

<b>Table 9</b>						
<b>Outcomes For Federal Day Parole</b>						
<b>Offenders With Determinate Sentences For Non-Violent offences (%)</b>						
	<b>1996/97</b>	<b>1997/98</b>	<b>1998/99</b>	<b>1999/00</b>	<b>2000/01</b>	<b>2001/02</b>
<b>Successful Completion</b>	85.5	82.3	80.3	79.7	77.5	80.9
<b>Revocation For Breach of Conditions</b>	9.8	10.5	10.5	11.1	12.0	12.2
<b>Revoked For Non-violent Offence</b>	4.4	6.5	8.3	8.7	10.0	6.3
<b>Revoked For Violent Offence</b>	.3	.7	.9	.5	.5	.6
<b>Total Revocations With Offence</b>	4.7	7.2	9.2	9.2	10.5	6.9

Offenders convicted for murder and released on full parole remain on parole for life, unless their release is revoked for a breach of conditions of release or for a new offence. Long-term follow-up for this group indicates that about 7% re-offend.

Between April 1, 1994 and March 31, 2002, 1,376 offenders with Life Minimum sentences had 1,487 full parole supervision periods. As of March 31, 2002, 1,079 (73%) of these supervision periods were still active. The outcome of the remaining cases was as follows:

142 (9%) offenders with life minimum sentences died between April 1/94 and March 31/02.

159 (11%) full parole supervision periods were revoked for a breach of conditions.

65 (4%) were revoked for a non-violent offence.

42 (3%) were revoked as a result of violent offence.

### **Conditional Release and Homicide Offences**

Between 1975 and 1999, there were 11,783 releases of offenders into the community on parole or statutory release who were serving sentences for murder (4,131), or manslaughter (7,752).

Of these, 37 (0.3%) were subsequently convicted for further homicide offences involving the deaths of 58 people in Canada. Thirteen of these repeat homicide offenders had originally been convicted of murder.

## **8. Homicides In Canada And The United States**

In Canada, the crimes classified as homicide include first-degree murder, second-degree murder, manslaughter and infanticide. Deaths caused by criminal negligence, suicide, accidental or justifiable homicide, are not included.

Although homicides represent less than 1% of all violent crimes in Canada, criminal justice agencies have been collecting homicide statistics since 1961 to monitor the extent and trends of such offences.

Police reported 554 homicides in Canada in 2001, eight more than 2000. Even with this increase in numbers of homicides, the rate remained stable for the third consecutive year at 1.8 homicides for every 100,000 population.

The Board frequently faces two questions with respect to homicide. The first is whether or not homicide incidence has increased since the abolition of capital punishment in 1976. In fact, homicides have declined since 1976. In 2001, there were 554 homicides in Canada, 151 lower than in 1975 (i.e. one year prior to the abolition of capital punishment). With respect to homicide rates, there were 1.8 homicides for every 100,000 population, in 2001. In 1975, there were about 2.5 homicides for every 100,000 population.

The second question deals with whether or not homicide rates are higher in Canada than they are in the United States, given the more extensive use of incarceration in the U.S., and the use of capital punishment in many U.S. jurisdictions. In reality, homicide rates are generally three to four times lower in Canada. The higher homicide rate in the United States is illustrated in Table 1 which compares rates in 1996 for seven Canadian and U.S. cities of similar size and general geographic location.

<b>Homicide Rates In Comparable US And Canadian Cities, 2000</b>		
<b>Municipal Police Force</b>	<b>Population of Municipal Area</b>	<b>Homicide Rate per 100,00</b>
Vancouver	2,048,823	2.0
Seattle	550,005	6.5
Calgary	952,960	1.6
Denver	529,978	6.0
Winnipeg	681,146	2.5
Minneapolis	364,049	13.7
Toronto	4,751,408	1.7
Chicago	2,866,191	21.9
Ottawa-Carleton	822,933	0.9
Washington DC	572,059	41.7
Montreal	3,480,342	2.0
Philadelphia	1,451,520	21.9
Halifax	355,996	2.2
Norfolk	232,632	18.9
Canada	30,750,087	1.8
United States	281,421,906	5.5

- Seven Canadian and US cities were selected to compare homicide rates. Cities were matched for similarity in size and geographical location.
- In all cases, the homicide rates of US cities were higher than their Canadian neighbors.
- In 2000, Canada's rate of incarceration was 118 per 100,000 total population.
- The US rate of incarceration was five to six times higher, yet American cities were much more dangerous than comparable Canadian cities.