

Parole Board for Scotland

REPORT FOR 2000

Presented to Parliament under Schedule 1, paragraph 5 of the Prisons (Scotland) Act 1989 and Schedule 2, paragraph 6 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.

Laid before the Scottish Parliament by the Scottish Ministers
June 2001

June 2001
SE/2001/99

EDINBURGH: THE STATIONERY OFFICE
£9.20

ISBN 0 10 888030 3

FOREWORD

The primary focus of the Board's work is, of course, on making decisions or recommendations in the cases referred to it by Scottish Ministers. A detailed record of the Board's work in this regard in the year 2000 is provided in this Report. It will be seen that the total number of cases referred to the Board has increased, with determinate sentence cases and consideration of recall of both parole and non-parole licences showing particular increases. The Board continues to meet the time targets in almost all of these cases and strives to ensure that the quality of decision making minimises risk to the public and fully respects the rights of the persons whose liberty is at stake.

Throughout the year, the Board has also taken the opportunity provided by the implementation of the Human Rights Act 1998 to review its procedures to ensure that they are fully compliant with the Act. It used its annual conference in 2000, inter alia, to invite two experts in the field to address members on the subject and appointed a sub-group of the Board to provide an analysis of areas where procedures might be improved. The Act requires that attention be paid to both procedural and substantive issues. On procedural matters, the Board has been keen to establish a conspicuous independence for itself. It is crucial that Board members act and are seen to act as a body separate from Scottish Ministers and officials of the Scottish Executive Justice Department. While members are appointed by Scottish Ministers, and Ministers have the right under the relevant legislation to establish guidelines for the Board's work, the Board's decisions in individual cases must be, and be seen to be, made by the Board alone on the basis of the information submitted to it.

The Board is accountable through judicial review in the Court of Session for the legality of its decisions, but not otherwise. It is in the nature of the quasi-judicial decisions which the Board takes that responsibility for the decisions rests with the Board itself. This is particularly clear when the Board sits as a tribunal to determine cases involving discretionary life sentence cases and cases involving life sentences for murders committed by persons below the age of 18. In these cases, as with the cases of determinate sentences of less than ten years, the Board has the power to direct release. It may be that, in due course, compliance with the Human Rights Act will require that the Board be given this power in all cases.

The Board is obviously concerned to ensure that the decisions it takes do not compromise public safety. The Board receives regular reports on the post-release behaviour of persons returning to the community. It pays particular attention to adverse reports and has the power to order return to prison in appropriate cases. There is a need, however, for more systematic information to be made available on the outcome of the Board's decisions, both those which lead to release and those which keep people in prison until their earliest date of liberation. To this end, the Board has been discussing with the Central Research Unit of the Scottish Executive Justice Department the design of appropriate research. It is hoped that such research can start in 2001.

Parole offers significant benefits to the criminal justice system. It enables people to be released from prison when it is no longer necessary in the public interest for them to be detained. Under proper supervision, and subject to recall to prison if anything goes wrong, the released person can continue to address in the real world issues which have led to offending in the past. Public safety is the Board's main concern and the best way to maximise this is for prisoners to be returned to the community in a managed way. The very existence of a parole system provides an incentive to people in prison actively to address their offending behaviour and to plan their return to life outside. Prison can too easily become an end in itself, a negative response to past actions which has little effect on the future save to render prisoners on release even less able to live in harmony with the whole of society. By focussing on the future and offering the opportunity of earlier release for those who use their time in prison positively, a parole system enhances public safety in the long term and makes prisons less negative institutions.

It is the Board's task to ensure that its decisions are reached in the light of the best information available and made in the best interests of the whole of society. The members strive to achieve this at each case meeting and to keep under review all the Board's procedures to ensure that it conducts its business with full regard to the principles of justice and proper economy.

A handwritten signature in black ink, appearing to read 'JJ McManus', written in a cursive style.

JJ McManus

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¹ Includes those detained without limit of time or at Her Majesty's pleasure only until 1997.

MEMBERSHIP OF THE PAROLE BOARD FOR SCOTLAND 2000

Dr James J McManus	Chairman, Senior Lecturer in Law, University of Dundee
Mr Hamish Hyslop	Vice Chairman, Former Chief Superintendent, Strathclyde Police
Dr John Baird	Consultant Forensic Psychiatrist
Mrs Megan Casserly	Former Principal Officer, Strategy, Social Work Department, North Lanarkshire Council
Mrs Linda Costelloe Baker (To 30 June 2000)	Chairman, South Lanarkshire Children's Panel Advisory Committee
Dr John P Donnelly	Consultant Forensic Clinical Psychologist
Mrs Johan Findlay	Justice of the Peace, Honorary Sheriff, member of the Criminal Justice Forum
Dr Judith Greenwood, OBE	Former Consultant Psychiatrist
Mrs Irene Guild	Former Procurator Fiscal
Sheriff Brian A Lockhart	Sheriff, Glasgow
The Hon Lord MacLean (To 10 April 2000)	Senator of College of Justice
Sheriff Principal John J Maguire	Former Sheriff Principal, Tayside, Central and Fife
Mrs Eleanor McLaughlin (From 1 September 2000)	Former Lord Provost, Edinburgh
Mr James Milne	Former Area Director, the Scottish Prison Service
Mr John Muirhead	District Officer, Criminal Justice, Social Work Department, Glasgow
Ms Morag Owens	Former Assistant Director, Criminal Justice Services, Tayside Social Work Department
The Rt Hon Lord Ross	Former Lord Justice Clerk
Professor Lorraine Waterhouse	Professor of Social Work, University of Edinburgh
The Hon Lord Wheatley (From 10 April 2000)	Senator of College of Justice
Dr Peter Young (To 31 August 2000)	Director, Centre for Criminology, University of Edinburgh
Hugh P Boyle	Secretary

CHAPTER 1 - THE YEAR'S WORK

The table below provides statistical details of the various cases considered by the Board during 2000.

Determinate Sentence Prisoners

Total number of cases eligible for consideration	719
Number not wishing to be considered	63
Number referred to the Board for consideration	656
Number recommended for parole by the Board	374
Number not recommended by the Board	279
Number of cases awaiting further information	3

Non-Parole Licences 85

Adult Mandatory Life Prisoners

Number referred to the Board for consideration	131
Number recommended for release	46
Number recommended for release and accepted by Scottish Ministers	25
Number recommended for release and not accepted by Scottish Ministers	2
Number recommended for release and not yet considered by Scottish Ministers	19
Number not recommended for release	83
Number of cases awaiting further information	2

Designated Life Tribunals

Number of cases referred	40
Number where release directed	10
Number where further review required	27
Number of cases where Tribunal adjourned or postponed	3

Children and Young Persons 8

Determinate Sentence Prisoners

The Board has powers to direct the release of determinate sentence prisoners serving 4 years or more but less than 10 years and it may also make directions as to the licence conditions of such prisoners.

During the course of the year there were a total of 719 cases which were eligible for consideration of early release. Of these, 656 cases were referred to meetings of the Board for consideration. This compares with 620 cases referred to the Board in 1999, an increase of 38 cases. Each prisoner was afforded an interview with a member of the Board.

The Board recommended that 374 prisoners or 57% of those referred during 2000 be released on parole. This compares with 311 or 50.2% recommended by the Board in 1999. This increase in the number of positive recommendations is indicative of the fact that the Board is now mainly dealing with the cases of those prisoners sentenced since the 1993 Act came into force. Such individuals have had the opportunity to address the causes of their offending before the case is referred to the Board on the run up to the half way stage of the sentence, as compared to those individuals sentenced under the terms of the 1989 Act who had their cases referred to the Board before completing one-third of their sentence. Fifty-five of the cases recommended for release during 2000 were being considered for a second or subsequent review.

Summary of Determinate Sentence Cases Where Release Recommended - by Offence

	Violence	Drugs	Sexual	Property	Other	Total
10 years or over	25	4	-	-	1	30
Under 10 Years	178	137	15	1	13	344
Total	203	141	15	1	14	374

Category of Offence	Offences Include
Violence	Culpable Homicide, Attempted Murder, Assault to Severe Injury etc., Assault and Robbery.
Drugs	Contraventions of the Misuse of Drugs Act and Customs and Excise Management Act.
Sexual	Rape, Attempted Rape, Sodomy, Incest, Clandestine Injury, Lewd and Libidinous Practices.
Property	Theft, Conspiracy to Rob, Embezzlement.
Other	Road Traffic Act, Fire-raising.

Thirty-nine of the 279 cases considered by the Board but not recommended for parole were recommended for a further review in less than the normal 12 month period that elapses between reviews.

As can be seen from the following table, the proportion of persons eligible for consideration for parole who opt out of the process has increased in the last year.

Year	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Eligible	1,176	1,249	1,433	1,301	744	633	674	687	680	719
Opting out	109	152	155	127	73	75	76	70	46	63
%	9.3	12.2	10.8	9.8	9.8	11.8	11.3	10.2	6.8	8.8

Non Parole Licences

The Board advises the Scottish Ministers on additional conditions to be attached to prisoners' release licences.

Those prisoners sentenced to 4 years' imprisonment or more on or after 1 October 1993 are released on licence when they have served two thirds of their sentence, subject, of course, to any added days awarded for breaches of prison discipline. These licences expire at the sentence end date and the term non-parole licence is used to describe this non-discretionary period of supervision in the community.

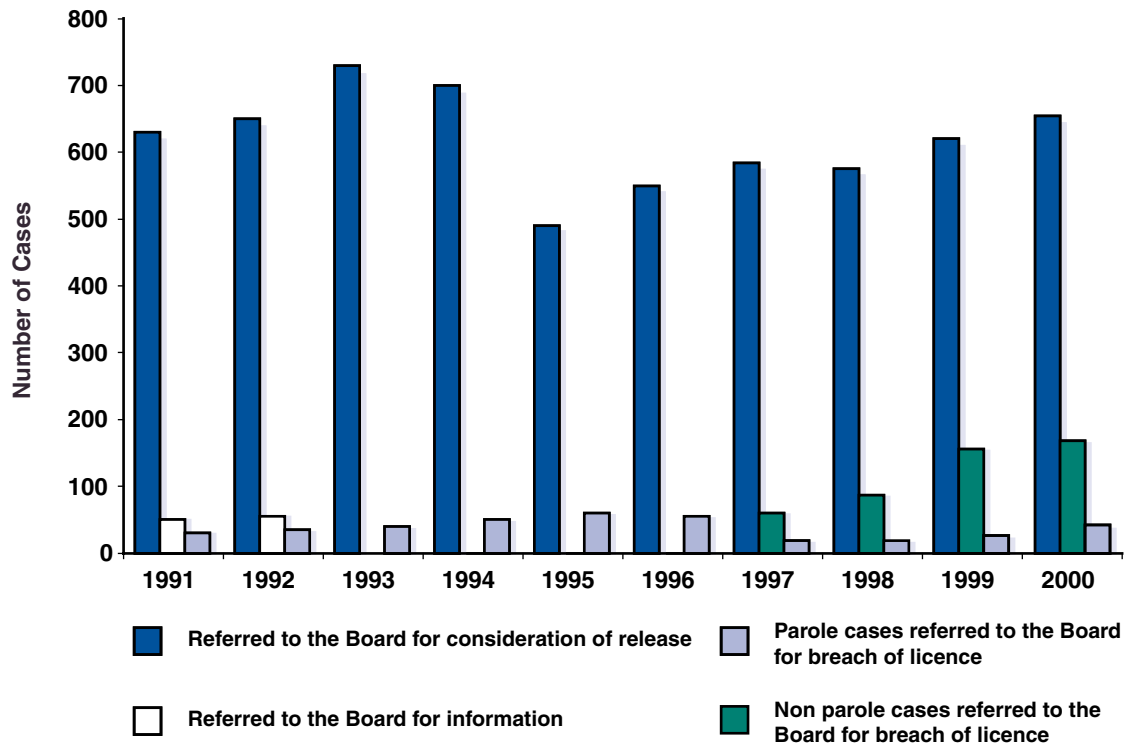
During 2000 the Board recommended that additional conditions be attached to the non-parole licences of 150 prisoners whom the members considered did not merit early release on parole. A further 85 cases were returned to the Board specifically in order that the members might consider whether or not additional conditions should be attached to the offender's non-parole licence. In 82 of these cases the Board recommended that additional conditions be attached to the offender's release licence.

Mandatory Life Prisoners

The Board has powers to recommend the release on life licence of adult prisoners serving a mandatory life sentence.

During the year the cases of 131 such prisoners were referred to the Board for consideration of their suitability for release on life licence. Release was recommended in 46 cases (35%) and Scottish Ministers accepted the Board's recommendation in 25 cases and did not accept the Board's recommendation in two cases. At the time of preparing the report Scottish Ministers' decision was

DETERMINATE SENTENCES 1991-2000



still awaited in relation to 19 cases. Details of the period of years served by life prisoners prior to release are given at Appendix C together with the corresponding information for preceding years.

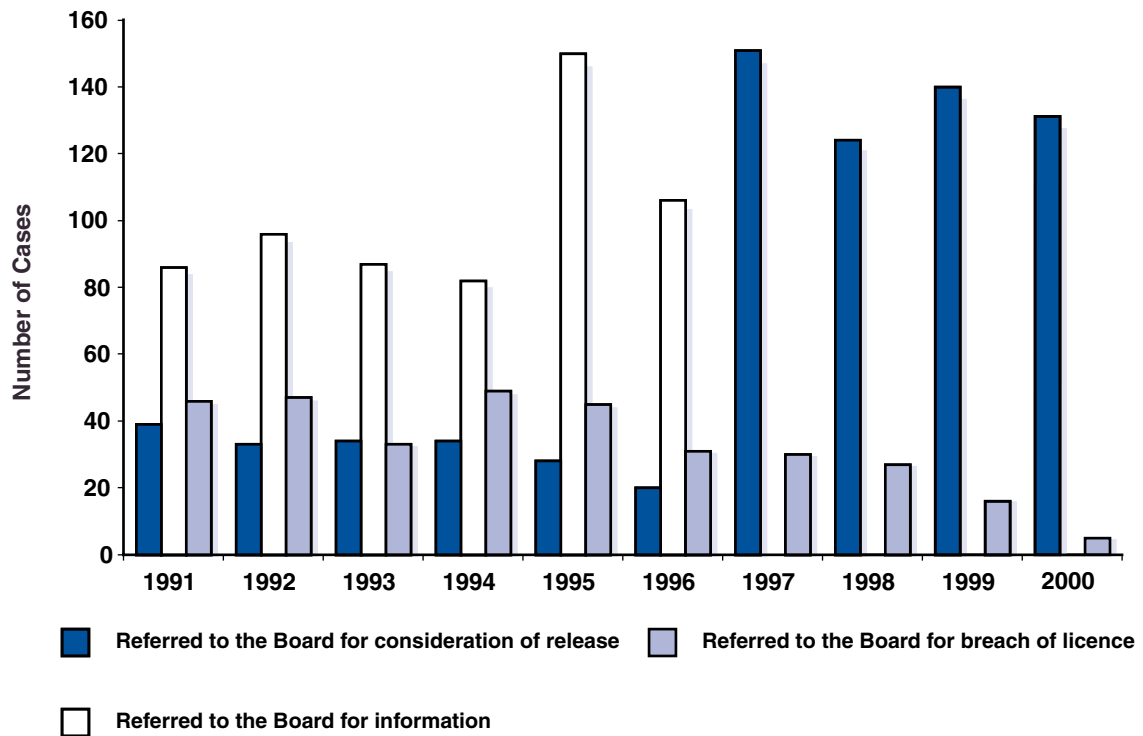
From the Table at Appendix C, it can be seen that the majority of those released on licence during 2000 had spent more than 12 years in custody.

Designated Life Tribunals

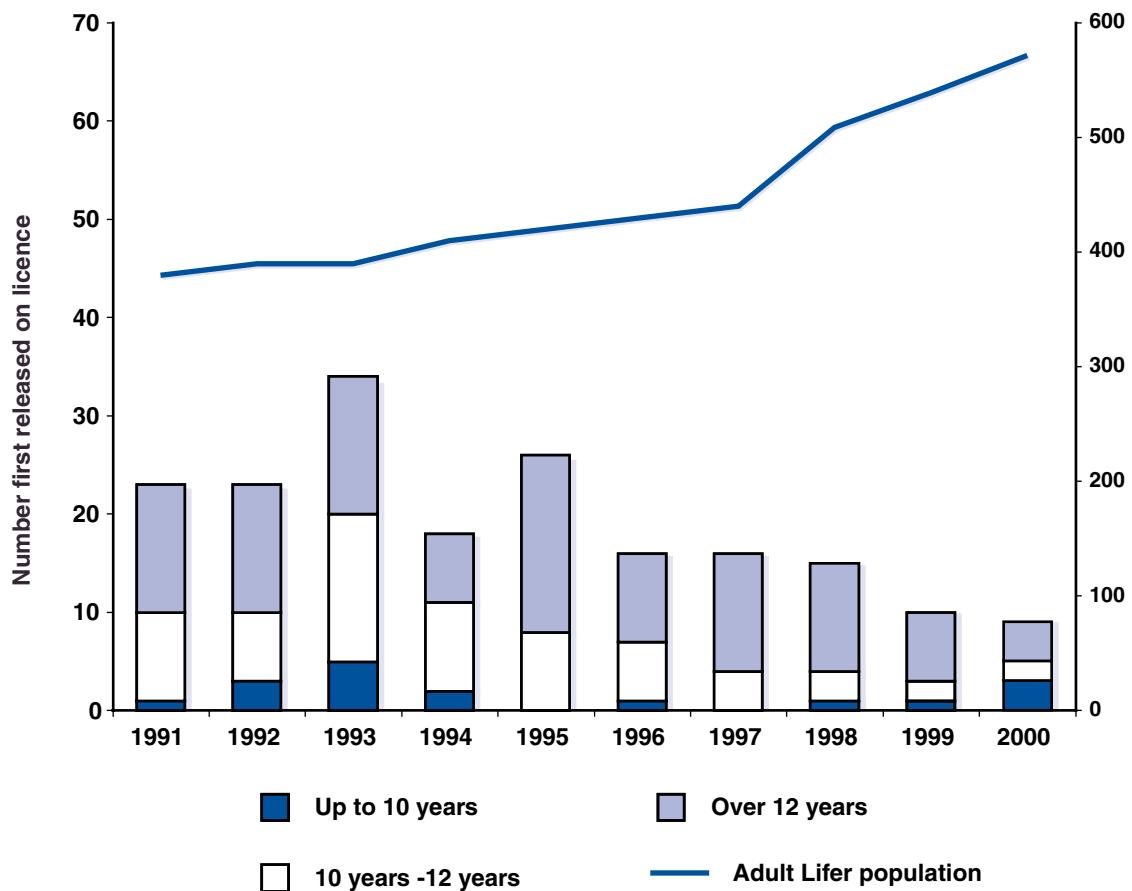
Tribunals are convened to deal with the following cases referred to the Board by Scottish Ministers:-

- (i) those sentenced to life imprisonment for an offence for which the sentence is not fixed by law; and
- (ii) those sentenced in respect of murder committed before he or she reached the age of 18 years.

LIFE PRISONER CASES 1991-2000



DISTRIBUTION OF TIME SPENT IN PRISON by prisoners first released on life licence



¹ The figure for 2000 is provisional.

In each referral Scottish Ministers requested advice on certain matters in the event that no direction to release the prisoner was made. These matters were:

- (i) the degree of risk posed by the prisoner and the steps needed to address this;
- (ii) the desirability of transfer of the prisoner to different conditions within the options available;
- (iii) whether exceptionally the prisoner's case should be referred to the Board for a further review earlier than the two-year period beginning with the disposal of the then current review.

A Tribunal consists of 3 members of the Parole Board for Scotland, appointed by the Chairman of the Board. The Chairman of the Tribunal must hold, or have held, judicial office.

During the calendar year 2000 the Board was required to convene Tribunals in respect of 40 referrals by Scottish Ministers. This resulted in 38 hearing days during the year. All the hearings were held in the establishment where the prisoner was detained. The hearing in respect of one case was adjourned at the request of the prisoner's agent. In 2 cases hearings were arranged, but postponed at the request of the prisoners' agents. Consideration of these cases should be concluded in 2001.

Consideration of 37 cases was concluded in 2000. In 10 cases, the Tribunal directed Scottish Ministers to release the prisoner and, in all such cases, the Tribunal recommended that additional conditions be attached to the prisoners' life licence. In 17 of the hearings, the Tribunal recommended a further review take place in less than two years from the disposal of the current review. In the remaining 10 hearings the Tribunal either recommended a review in two years time or made no recommendation in respect of a further review which meant that normally a period of two years would elapse before the next review.

The following table shows the number of Tribunals convened since 1994 and the outcome of these Tribunals.

	1994	1995	1996	1997	1998	1999	2000
Cases Referred	8	4	10	9	38	40	40
Release Directed	None	None	3	1	6	12	10
Postponed or Adjourned	None	None	None	None	None	None	3
Further Review	8	4	7	8	32	28	27

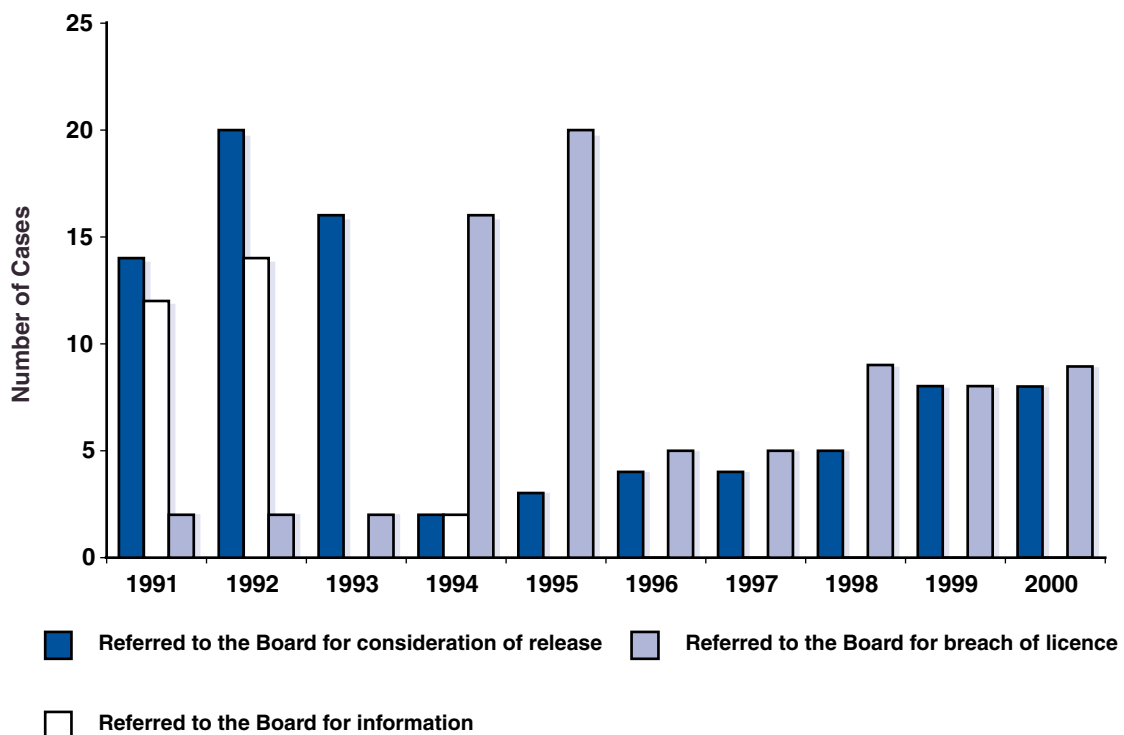
Children and Young Persons

The Board has responsibility for considering the case for early release of young people sentenced under section 208 of the Criminal Procedure (Scotland) Act 1995 referred to it by Scottish Ministers.

In 2000 the cases of 8 children and young persons sentenced under section 208 of the Criminal Procedure (Scotland) Act 1995 were referred to the Board. Four of these cases were referred in order that the Board might consider whether or not it was appropriate that the individuals be released on licence. In one case the Board recommended early release, in 2 cases it did not and consideration of one case was deferred awaiting receipt of further information. The remaining cases related to children and young persons who were due to be released on licence and were referred in order that the Board might consider recommending that additional conditions be attached to their release licences. In all 4 cases the Board recommended that additional conditions be attached to the licences.

A further 9 cases were reported to the Board where children and young persons sentenced under section 208 of the Act and released under section 7 of the 1993 Act had breached the conditions of their licence. The Board recommended that 6 be recalled to custody, that a warning letter be sent to one individual and that no action be taken in two cases. Of the 6 recalled, one was re-released, 3 were not and in the other two cases representations against recall were awaited at the end of the year.

CHILDREN AND YOUNG PERSONS 1991-2000



Possible Grounds for Recall

The Board has the powers to recommend the recall to custody of determinate sentence prisoners serving sentences of 4 years' imprisonment or more and life sentence prisoners who have been released on parole, non-parole licence or life licence in circumstances where such action is considered necessary in the public interest. As regards determinate prisoners sentenced to 4 years or more, but less than 10 years, Scottish Ministers are statutorily obliged to accept the Board's recommendation. The Board may direct Scottish Ministers to re-release any prisoner who has been recalled to custody without a recommendation of the Board or any prisoner who has been recalled with such a recommendation and who makes representations against such recall to Scottish Ministers.

Non Parole Licensees

As reported in 1999, at the end of that year the Board had still to conclude consideration of the cases of 47 licensees where their representations were awaited. Consideration of these cases was resumed in 2000. Fifteen were re-released on licence and 29 were not re-released. One of the licensees died and two have yet to be apprehended.

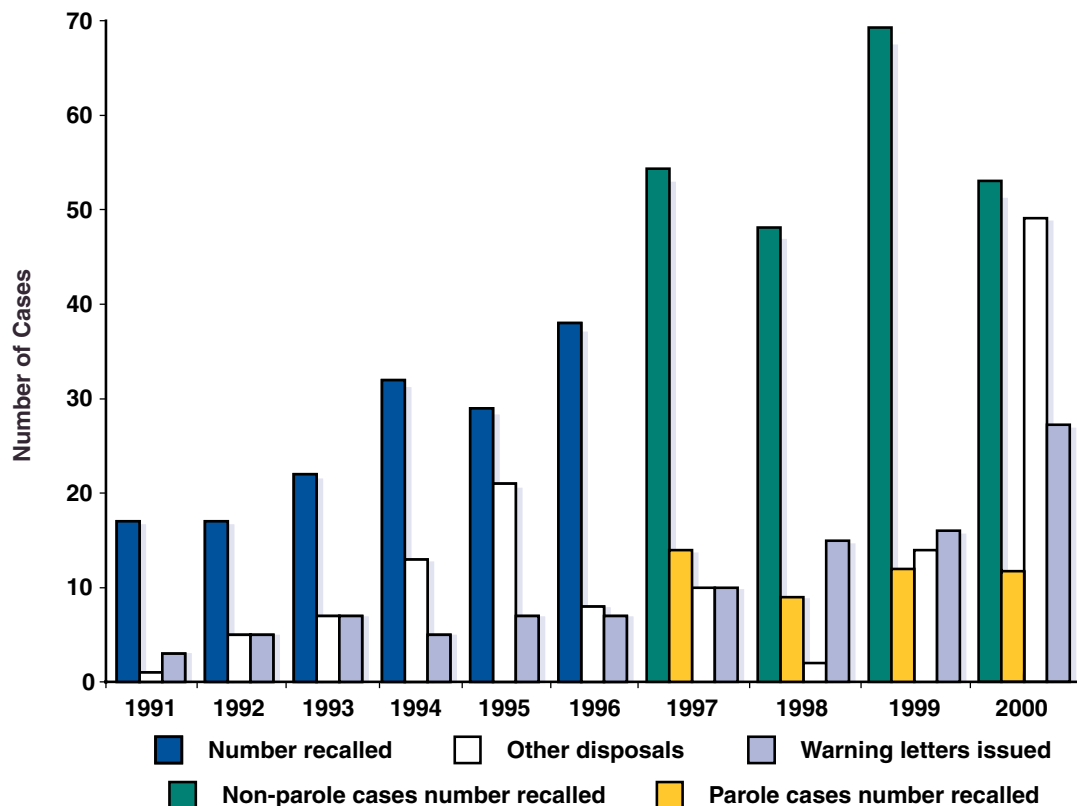
During 2000 the Board was asked to consider the cases of 169 individuals who were the subject of non-parole licences (i.e. those released on having served two-thirds of their sentence and those who were released on parole, but the discretionary period had expired) whose behaviour in the community was giving rise to concern. The Board recommended that 125 of these licensees be recalled to custody. Twenty-four were subsequently re-released, in 48 cases representations against recall are still awaited and 53 were not re-released. Warning letters were issued to 24 licensees and no action was taken in 20 cases.

Further examination of the cases of the 53 licensees recalled to custody and not subsequently re-released showed the following:

Index Offence	Reason for Recall to Custody				
	Charges Involving Violence	Facing Charges of a Sexual Nature	Facing MDA Charges	Failure to Comply With Supervision	Other Charges, Including theft, RTA and Carrying of Knives
Violence	16	1	5	5	7
Sexual	-	1	-	2	-
Drugs	-	-	9	1	3
Property	1	-	-	1	1
Total	17	2	14	9	11

GROUNDS FOR RECALL - DETERMINATE SENTENCES

Outcome of cases referred 1991-2000



Parole Licensees

As reported in 1999, at the end of the year the Board had yet to conclude consideration of the cases of 7 individuals who had been recalled to custody following their release on parole. Consideration of these cases was concluded in 2000 and 3 were re-released and 4 were not re-released.

During 2000 a number of parolees were reported to the Board for behaviour potentially constituting grounds for recall. The Board was obliged to give further consideration to these cases and determine whether to recommend that the individuals be recalled to custody, a warning letter sent or the matter dealt with in another way. There were 44 individual cases reported of parolees who had been released under section 22 (1) of the Prisons (Scotland) Act 1989 and section 1 (3) of the Prisoners and Criminal Proceedings (Scotland) Act 1993. See Appendix B Table 1.

Warning letters were issued to 3 licensees. Ten licensees were recalled to custody and subsequently re-released on licence. Twelve licensees were recalled to custody and not re-released. Thirteen further licensees were recalled to custody, but they have yet to submit representations against recall to Scottish Ministers and the Board has, therefore, not yet concluded consideration of their cases. In the remaining 6 cases no further action was deemed necessary.

Further analysis of the cases of the 12 licensees recalled during 2000 and not subsequently re-released showed the following:

Original Conviction	Reason For Recall
Contravention of the Misuse of Drugs Act.	Facing further charges relating to contravention of the Misuse of Drugs Act and Road Traffic Act.
Contravention of the Misuse of Drugs Act.	Facing further charges involving contravention of the Misuse of Drugs Act which resulted in a sentence of 30 months' imprisonment.
Contravention of the Misuse of Drugs Act.	Facing further charges of contravention of the Misuse of Drugs Act which resulted in a sentence of 7 years' imprisonment.
Contravention of the Misuse of Drugs Act and Assault to Severe Injury and Permanent Disfigurement.	Failure to keep in contact with the Supervising Officer.
Assault and Robbery.	Facing further charges of Breach of the Peace and Assault.
Assault and Robbery.	Facing further charges relating to contravention of the Misuse of Drugs Act.
Assault and Robbery.	Failure to keep in contact with the Supervising Officer.
Assault and Robbery.	Facing further charges of Breach of the Peace, contravention of the Criminal Law (Consolidation) (Scotland) Act and the Police (Scotland) Act which resulted in sentences of 3 months, 8 months and 6 months' imprisonment respectively.
Assault and Robbery and Assault and Attempted Robbery.	Facing further charges of Assault and Robbery, Assault x2 and contravention of the Misuse of Drugs Act which resulted in sentences of 6 years, 6 months x2 and 3 months' imprisonment.
Assault to Severe Injury and Danger of Life.	Lifestyle giving rise to concern.
Breach of the Peace, Assault to Severe Injury and Assault and Robbery.	Failure to keep in contact with Supervising Officer.
Theft and Assault and Robbery x5.	Facing further charges of theft, failure to keep in contact with the Supervising Officer and a lifestyle that gave rise to concern.

Life Licensees

During 2000 the Board considered the cases of 5 persons previously released on life licence who had allegedly breached the conditions of their licence or whose behaviour in the community was giving cause for concern. One licensee was recalled by Scottish Ministers as he faced charges of affray and possession of an offensive weapon. The Board ordered his immediate re-release on licence, on being satisfied that a package including suitable supported accommodation was available, as he was found not guilty in respect of the charge of affray and no evidence was offered in relation to the offensive weapon charge. One licensee was recalled as he was found guilty of charges of affray and possession of an offensive weapon and was sentenced to 15 months' imprisonment in respect of each offence, the sentences to run concurrently. The Board did not order his immediate re-release. The Board recommended that one licensee be recalled because he was out of contact with his supervising officer and he has yet to be apprehended. One licensee was recalled because he faces a charge of assault to severe injury and a Tribunal of the Board will require to be convened to consider whether or not he should be re-released on life licence. In the remaining case a warning letter was issued.

CHAPTER 2 - BOARD MEMBERSHIP MEETINGS AND VISITS

Board Meetings

2000 was the 33rd year of the operation of the parole system in Scotland. During the year the Board met on 36 occasions to consider the cases of prisoners and licensees referred by the Scottish Ministers. The Board also convened 38 Designated Life Tribunals during the year. In addition the Board held 3 General Purposes Meetings and an Annual Conference.

Board Membership

The membership of the Board during 2000 is shown at page 4. During the year Lord MacLean, Dr Peter Young and Mrs Linda Costelloe Baker left the Board. At the end of the year, Professor Lorraine Waterhouse and John Muirhead left the Board. The Board would like to express its appreciation for the contribution that they each made to the work of the Board and wishes them well for the future.

Two new members were appointed during the course of the year, namely Lord Wheatley and Mrs Eleanor McLaughlin.

Visitors

The Board welcomed a number of visitors to its casework meetings throughout the year including prison officers; prison and community based social workers; and officials of the Scottish Executive Justice Department. The Board members were pleased to welcome the Rt Hon Lord Mackay of Drumadoon and the Hon Lord Clarke, Senators of the College of Justice to a meeting in November. The members were also pleased that Ms Joan Aitken, the Prisons Complaints Commissioner, Tony Cameron, Chief Executive of the Scottish Prison Service, Jon Casey and David Swaysland of the Parole Board for England and Wales and Mrs Fehle and Mr Cannell of the Isle of Man Parole Committee were able to take the time to attend a meeting of the Board.

General Purposes Meetings

The Board held three General Purposes Meetings during the year. At these meetings the members of the Board discussed matters such as the implications that the implementation of the Human Rights Act 1998 has for the work of the Board. The members also discussed the design of proposed research into the outcome of Board decisions regarding the early release of offenders and the revocation of licences. Other topics discussed included training of new Board members; the Board's performance in relation to its targets; the Board's expenditure; and the preparation of responses to a variety of consultation documents.

Legal Adviser

During August the Board was advised by the Scottish Executive Justice Department that, in order to ensure that the Board's independence and impartiality is not compromised by having the same legal advisers as the Scottish Executive, the solicitors to the Scottish Executive would cease to act for the Board. The Board was, therefore, required to recruit its own independent legal adviser. Advertisements were placed in the media during November inviting suitably qualified firms to apply for and complete a pre-qualifying questionnaire. The tendering process will be completed early in 2001 and it is expected that the Board's legal adviser will be in place in April 2001.

Visits

During the year the members of the Board visited the prisons at Cornton Vale, Dumfries, Greenock, Noranside and Peterhead. Members also visited Aberdeen Social Work Department, North Lanarkshire Social Work Department and Glasgow Social Work Department's Homeless Persons' Team. In addition members attended the opening ceremony at the rebuilt St Mary's Kenmure in Bishopbriggs.

Preliminary Review Committee

The Chairman, Lord Wheatley and Dr Greenwood participated in the meetings of the Preliminary Review Committee for Life Prisoners which advises Scottish Ministers on the timing of the first review by the Parole Board of an adult mandatory life prisoner's suitability for release on licence.

Parole Board Conference

The Board held its ninth annual conference at Dunblane on Friday 13th and Saturday 14th October 2000. The Conference provides the members with the opportunity to gather together to discuss in depth matters relating to the work of the Board.

The members were particularly pleased that Roseanna Cunningham QC, MSP was able to attend and speak to the members of the Board about the work of the Scottish Parliament's Justice Committee. Mungo Bovey QC and John Scott, Chairman of the Human Rights Centre, addressed the Board about the implications that the Human Rights Act and compliance with the European Convention on Human Rights may have for the work of the Board. Dr Liz Levy and Professor Gill Mclvor gave an interesting presentation on research into the impact of Parole Board decisions.

CHAPTER 3 - EFFICIENCY

In its Corporate Plan for 1998 the Board set specific performance measures and objectives designed to monitor the Board's effectiveness in dealing with cases referred to it by the then Secretary of State and now Scottish Ministers. These were:

That 80% of interviews with determinate sentence prisoners be carried out 16 – 12 weeks before the prisoners' parole qualifying dates. The Board met, or bettered, this target in respect of 96.7% of cases.

Prisoners interviewed in 2000	639
Target met or exceeded	619 (96.7%)
Target not met	20 (3%)

The main reasons for not achieving the target in relation to 20 cases were:

Administrative difficulties	9
Prisoners moved establishments or interview cancelled at prisoner's request	8
Late referrals	3

That 80% of interviews with determinate sentence prisoners will be carried out within 5 weeks of SEJD referring cases to the Board. The Board met, or bettered, this target in 97% of cases.

Prisoners interviewed in 2000	639
Target met or exceeded	618 (97%)
Target not met	21 (3%)

The main reasons for not meeting the target in relation to 21 cases were:

Administrative difficulties	14
Prisoners moved establishments or interview cancelled at prisoner's request	7

That 80% of determinate sentence prisoners will have their cases considered at a meeting of the Board 12 – 8 weeks prior to their parole qualifying dates. The Board met, or bettered, this target in respect of 78% of cases.

Cases to meetings in 2000	645
Target met	506 (78%)
Target not met	139 (22%)

The main reasons for not meeting the target in relation to 139 cases were:

late referrals	132
administrative difficulties	7

That 80% of interviews with life prisoners will be carried out within 5 weeks of SOHD referring cases to the Board. The Board met, or bettered, this target in 94% of cases.

Prisoners interviewed in 2000	127
Target met	119 (94%)
Target not met	8 (6%)

The main reasons for not meeting the target in 8 cases were:

Administrative difficulties	7
Prisoner using alias	1

That 80% of life prisoners will have their cases considered at a meeting of the Board within 9 weeks of being referred to the Board by the Scottish Executive Justice Department.

Cases to meetings in 2000	127
Target met	119 (94%)
Target not met	8 (6%)

The reasons for not meeting the target are the same as above.

Cost Effectiveness

The Board recognises the need to have due regard to economy and cost effectiveness in carrying out its functions. Examination of the costs incurred by the Board during 2000 reveal that the work of the Board continues to represent good value for money. The average cost of a Designated Life Tribunal is £942; the average cost of considering a case at a meeting of the Board is £114; and the average cost of conducting an interview is £105.

CHAPTER 4 - Response to the Report of the MacLean Committee on Serious Violent and Sexual Offenders

The members of the Parole Board for Scotland greatly appreciated being afforded the opportunity to comment on the proposals contained in the above mentioned report. The Board's response is reproduced below.

The members of the Board acknowledge the tremendous difficulties posed for the criminal justice system by the small number of highly dangerous violent and sexual offenders who are the subject of the report. The Board also notes that a significant proportion of such offenders also form the remit of the Expert Panel on Sex Offending currently working under the chairmanship of Lady Cosgrove and Review of the Mental Health (Scotland) Act 1984 being conducted by the committee under the chairmanship of Bruce Millan. It may thus be thought prudent to await the reports of these two bodies before final decisions are reached regarding the appropriate measures to adopt.

The Parole Board broadly welcomes the MacLean Committee's recommendations concerning pre-sentence enquiries. Indeed, it may be thought that there is merit in extending these recommendations to all cases where a prison sentence is likely to be awarded. The speed and lack of transparency in current sentencing practice in Scotland are not seen, for example, in North America where it is common for issues of sentencing to be fully debated in open court in each case. This practice furthers public understanding of the rationale behind sentences, ensures that all relevant factors are both evidenced and considered in the process and provides those who must enforce the sentence with a clear idea of what is expected of them.

The Parole Board accepts that there have been advances in risk identification and risk management in recent years. It is not, however, persuaded that such advances are, or will ever be, sufficient to enable risk assessments to be relied upon as the sole or even main criteria on which individuals should be deprived of their liberty for any period in excess of what is merited by their historic conduct. The MacLean Committee recognises many of the shortcomings in these mechanisms, not the least of which is that none of the actuarial measures has been validated for Scotland. While structured clinical assessments do appear to provide the best results, even these are not robust enough to underpin extending sentences in any way.

There appears to the Parole Board to be several practical factors which raise further doubts about risk assessments. First is the apparent shortage of qualified forensic psychologists in Scotland. The Board regularly has to wait lengthy periods before receiving psychological reports and these waiting times are inevitably extended when a prisoner wishes to commission a "defence" report. In the inherently adversarial environment of sentencing, natural justice requires that the convicted person be afforded equality of arms. The MacLean Committee envisages the normal mechanism for seeking such reports as a prosecution motion, thus rendering the main report a prosecution production. The "science" is far from sufficiently advanced to ensure that there can be no case for excluding the defence from seeking its own report.

Secondly, it is envisaged that the convicted person will be remanded to “a centre accredited by the risk management authority” for assessment. It seems more than likely that such centres will be penal establishments. The Board would be surprised if the professionals involved considered such an environment conducive to the best clinical judgements. Any alternative centre would, in view of the preliminary assessments of dangerousness already made by the court, require such conditions of security as to render it both highly expensive and effectively a prison. Thirdly, while some of the factors involved in assessments are matters of record, a full clinical assessment requires the co-operation of the person being assessed. In the ongoing adversarial process of sentencing, legal agents might counsel clients not to co-operate or even school them in how best to appear to co-operate.

In sum, the context of the assessments appears to the Board to render it very difficult to achieve the highest level of clinical judgement possible, which level would not of itself justify the extended sentence.

The Parole Board is not persuaded that the proposed order for lifelong detention is significantly different from the existing Discretionary Life Sentence. Indeed, the Board notes the proposal that, when a motion for a risk assessment has been granted and the court is not subsequently convinced that an order for lifelong detention is appropriate, the court would be able to impose any sentence **other than** a discretionary life sentence. The criteria for the imposition of each sentence must, therefore, be very similar.

Indeed the main difference between the existing discretionary life sentence and the proposed new disposal is the role of the proposed risk management authority in relation to the latter. The Board sees considerable merit in the underlying argument for the creation of a mechanism for managing long term sentences both within prison and on release. It also, however, sees very practical problems with the proposal for a risk management authority (RMA). What is to be the relationship between the RMA and the courts or the RMA and the Parole Board? If the RMA has validated and accredited individuals and courses but the court or the Parole Board does not agree with individual reports, where does the RMA stand?

What is to be the relationship between the RMA and the Scottish Prison Service? Will the RMA be able to give orders to the Scottish Prison Service and determine the use of prison service resources? Equally, the relationship between the RMA and social work departments and the police would require to be defined, again especially in relation to control over resources. There is a clear need for greater co-operation amongst the various bodies involved with all long term sentenced persons, and the Parole Board would welcome further discussion of this issue. Putting all these functions of policy, standard setting and operational supervision in the hands of one new body may not be the best way forward. The Board would like to see this discussion widened to cover the management of all persons who receive sentences to be served partly in custody and partly in the community.

The Board consider that the report of the MacLean Committee highlights several issues worthy of further discussion in the light of the expected reports from the Expert Panel on Sex Offending and the Review of the Mental Health (Scotland) Act 1984. The Board looks forward to being fully involved in such discussions.

The Board wishes to thank the many individuals and agencies who continue to support the parole scheme for all their help and encouragement. The Board also wishes to thank the officials and staff of the Scottish Executive Justice Department and the Scottish Prison Service for their help throughout the year. In addition, the Board wishes to record its appreciation to its Secretariat for its continuing support and service throughout the year.

Hugh P Boyle
Secretary
Parole Board for Scotland
Saughton House
Edinburgh
April 2001

Members of the Board

James J McManus
Hamish Hyslop
John Baird
Megan Casserly
John P Donnelly

Johan Findlay
Judith Greenwood
Irene Guild
Brian A Lockhart
Eleanor McLaughlin

John J Maguire
James Milne
Morag Owens
Lord Ross
Lord Wheatley

Survey of Annual Caseloads During the Period 1.1.91 to 31.12.00
Table 1 Fixed Term Sentences

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
a. Total cases processed by the Department	1,176	1,249	1,433	1,301	744	633	674	687	680	719
Prisoners not wishing to be considered	109	152	155	127	73	75	76	70	46	63
Parole cases not referred to the Board	422	456	554	482	189	21	14	39	14	-
b. Total cases referred to the Parole Board	625	641	724	692	482	537	584	578	620	656
c. Total cases not recommended by the Parole Board	284	327	371	324	273	329	384	310	304	279
Cases not recommended by the Parole Board	267	297	287	259	233	279	328	262	253	240
Cases not recommended but early review requested	17	30	84	65	40	50	56	48	51	39
d. Total cases recommended for parole by the Parole Board	341	312	353	368	209	196	209	262	311	374
e. Total cases where further information awaited	-	-	-	-	-	12	3	6	5	3

Table 2 Adult Mandatory Life Prisoners

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Total cases referred to the Parole Board	128	130	124	119	179	125	151	123	140	131
Cases where release recommended	40	30	33	34	28	20	29	29	26	46
Cases where release not recommended	88	100	91	85	151	105	122	94	114	83
Awaiting further information	-	-	-	-	-	-	-	-	-	2

Table 3 Children and Young Persons

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Cases referred to the Parole Board for Consideration of release	14	20	16	2	3	4	5	5	8	4
Cases not recommended	4	8	10	2	3	4	4	1	4	2
Cases not recommended but early review requested or further information awaited	1	10	2	-	-	-	-	2	1	1
Cases recommended for release	9	2	4	-	-	-	1	2	3	1
Cases referred to the Board for information	12	14	1	2	-	-	-	-	-	4

APPENDIX B

Possible Grounds for Recall Reported to the Parole Board Annually During the Period 1.1.91 to 31.12.2000

Table 1: Persons released on parole before the two-thirds stage of sentence

Year	Total Cases Referred	No. Recalled	Warning Letters Issued	Other Disposals
1991	21	17	3	1
1992	27	17	5	5
1993	36	22	7	7
1994	50	32	5	13
1995	57	29	7	21
1996	34	24	4	6
1997	19	14	4	1
1998	20	9	6	5
1999	26	16	4	6
2000	44	12	3	29 *

* In 2000 includes 13 licensees recalled to custody who have yet to submit representations.

Table 2: Persons who were not released on parole or who were released on parole, but the discretionary period had expired (Known as non-parole licence)

Year	Total Cases Referred	Recalled and Re-released	Recalled and not Re-released	Recalled and Representations Awaited	Warning Letters Issued	Other Disposals
1997	62	5	27	16	8	6
1998	96	13	47	23	9	4
1999	156	24	69	47	12	4
2000	169	24	53	48	24	20

Table 3: Life Sentence Cases

Year	Total Cases Referred	Number Recalled	Warning Letters Issued	Other Disposals
1993	32	8	10	14
1994	52	15	16	21
1995	48	16	7	25
1996	31	20	2	9
1997	30	16	1	13
1998	25	6	5	14
1999	16	4	6	6
2000	5	3	1	1*

* This licensee was recalled but subsequently re-released after consideration of his representations.

APPENDIX C

Time Spent in Custody by Persons Released from Life Sentences¹

Year of release	Years detained in custody									Total
	6-7	7-8	8-9	9-10	10-11	11-12	12-13	13-14	over 14	
1968	-	-	-	3	1	-	-	-	-	4
1969	1	-	1	-	-	-	-	-	-	2
1970	-	-	-	1	1	1	-	-	-	3
1971	-	-	1	2	-	-	-	-	-	3
1972	-	-	1	-	2	-	-	-	-	3
1973	-	1	1	1	2	-	-	-	1	6
1974	-	-	2	5	1	1	1	-	-	10
1975	-	1	4	6	3	1	-	-	-	15
1976	-	1	6	5	5	1	-	-	-	18
1977	-	-	2	4	5	1	1	1	1	15
1978	-	-	5	4	1	2	-	-	1	13
1979	1	1	2	5	6	2	2	1	1	21
1980	-	-	3	4	6	4	5	3	-	25
1981	-	1	7	20	4	4	4	1	-	41
1982	1	-	-	9	10	1	3	2	3	29
1983	2	3	4	14	11	2	-	-	2	38
1984	1	-	1	5	6	1	-	-	1	15 ²
1985	1	1	5	4	6	4	1	-	1	23
1986	-	2	4	3	8	2	5	-	-	24
1987	-	-	1	4	6	2	-	1	1	15
1988	-	-	-	-	5	3	1	1	1	11
1989	-	-	-	2	2	4	8	5	4	25
1990	-	-	-	3	7	6	4	2	4	26
1991	-	-	-	1	5	4	2	1	10	23
1992	-	-	-	3	4	3	6	2	5	23
1993	-	-	-	5	8	7	3	1	10	34
1994	-	-	-	2	-	9	1	2	4	18
1995	-	-	-	-	2	6	7	7	4	26
1996	-	-	-	1	4	2	5	3	3	18
1997	-	-	-	-	2	2	2	1	8	15
1998	-	-	-	1	2	1	4	1	7	16
1999	-	-	-	1	2	-	-	-	7	10
2000	-	-	1	2	2	3	2	1	6 ³	17
Total	7	11	51	120	129	79	67	36	85	585⁴

Notes

¹ Includes those detained without limit of time or at Her Majesty's Pleasure only until 1997.

² In addition, one prisoner was released on life licence on compassionate grounds after serving 3 years 5 months in custody.

³ Of these 6 cases, 1 served 16-17 years, 1 served 17-18 years, 1 served 18-19 years, 1 served 19- 20 years and 2 served over 20 years.

⁴ Does not include those recalled to custody and subsequently re-released.

Statutory Provisions

Prisons (Scotland) Act 1989

Section 18

Ch. 45

SCHEDULE 1

PROVISIONS AS TO PAROLE BOARD

1. The Parole Board shall include among its members:
 - (a) a person who holds or has held judicial office;
 - (b) a registered medical practitioner who is a psychiatrist;
 - (c) a person appearing to the Scottish Ministers to have knowledge and experience of the supervision or after-care of discharged prisoners; and
 - (d) a person appearing to the Scottish Ministers to have made a study of the causes of delinquency or the treatment of offenders.
2. A person appointed to be a member of the Parole Board shall hold and vacate office under the terms of the instrument by which he is appointed, but may at any time resign his office; and a person who ceases to hold office as a member of the Parole Board shall be eligible for re-appointment.
3. There shall be paid to the members of the Board such remuneration and allowances as the Scottish Ministers may with consent of the Treasury determine.
4. The expenses of the Board under the last foregoing paragraph and any other expenses incurred by the Board in discharging its functions under section 18 of this Act shall be defrayed by the Scottish Ministers out of moneys provided by Parliament.
5. The Board shall as soon as practicable after the end of each year make to the Scottish Ministers a report on the performance of its functions during that year, and the Scottish Ministers shall lay a copy of each report so made before Parliament.

Ch. 9 Prisoners and Criminal Proceedings (Scotland) Act 1993

SCHEDULE 2

The Parole Board

Membership

1. The Parole Board shall consist of a chairman and not less than 4 other members appointed by the Scottish Ministers.
2. The Parole Board shall include among its members:
 - (a) a Lord Commissioner of Justiciary
 - (b) a registered medical practitioner who is a psychiatrist;
 - (c) a person appearing to the Scottish Ministers to have knowledge and experience of the supervision or after-care of discharged prisoners; and
 - (d) a person appearing to the Scottish Ministers to have made a study of the causes of delinquency or the treatment of offenders.
3. A member of the Parole Board shall hold and vacate office under the terms of the instrument by which he is appointed, but may at any time resign from his office; and a person who ceases to hold office as a member of the Parole Board shall be eligible for re-appointment.

Remuneration and Allowances

4. There shall be paid to the members of the Parole Board such remuneration and allowances as the Scottish Ministers may with the consent of Treasury determine.
5. The expenses of the Board under paragraph 4 above and any other expenses incurred by the Board in discharging its functions mentioned in section 20(1) of this Act shall be defrayed by the Scottish Ministers.

Reports

6. The Board shall as soon as possible after the end of each year make to the Scottish Ministers a report on the performance of its functions during the year, and the Scottish Ministers shall lay a copy before Parliament.

Financial Information

Fees and Expenses

1. Under the provisions of Schedule 1 of the 1989 Act and Schedule 2 of the 1993 Act, members of the Parole Board for Scotland may receive sessional fees for attendance at Board meetings; and they may also be paid a full fee or part of a fee for undertaking other business of the Board, the sessional rates payable to each category of member in 2000 were as follows:

Chairman	£300
Retired High Court Judge	£355
Retired Judicial Member	£255
Psychiatrist	£255
Lay Member	£161

2. Members of the Board are also paid allowances for travelling and subsistence in accordance with prescribed scales.
3. On the basis of the current information available, the Board's estimate of its expenditure during 2000/01 is £412,598 made up as follows:

Fees of Members	£226,772
Travel and Subsistence	34,555
Staff Salaries	102,274
Capital	5,663
Other	43,334
Total	£412,598

