



## Office of Legislative Corrections Ombudsman

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### **Parole Process**

The following information is based on Policy Directive 06.05.104 “Parole Process.”

**Remember, there is no right to parole prior to the maximum release date.**

**Parole Eligibility Date:** The parole eligibility date is the calendar minimum minus any applicable good time or disciplinary credits. Prisoners serving a non-parolable life sentence are not eligible for parole consideration.

**Parole Guidelines Score (PGS):** The following information is based on Policy Directive 06.05.100 “Parole Guidelines.”

**Calculation of PGS:** PGS ranges indicate low, average, or high probabilities of parole. The PGS sheet is separated into eight sections:

1. Active Sentence
2. Prior Criminal Record
3. Conduct
4. Statistical Risk
5. Age
6. Program Performance
7. Mental Health
8. Housing

Each section’s score is added together and the total becomes the preliminary PGS. An adjustment is made to some prisoners’ scores based on his/her housing security level, management points, conduct variable points, prior criminal record points, and whether the prisoner is 45 year of age or older. After all adjustments, the prisoner receives a final PGS. This score determines the prisoner’s probability of parole range (low, average, or high).

- Final PGS of +03 or greater = High Probability of Parole
- Final PGS of +02 or less, but greater than -13 = Average Probability of Parole
- Final PGS of -13 or less = Low Probability of Parole

A PGS in the high probability of parole range does NOT create a right for a prisoner to be paroled, nor does a PGS in the low probability range prohibit the Parole Board (“Board”) from granting parole.

**Parole Decision:** The Board considers a prisoner's PGS when considering the prisoner for parole. The Board may DENY parole without an interview if the prisoner has a PGS of low probability of parole. The Board may GRANT parole without an interview if the prisoner has a PGS of high probability of parole, except for prisoners serving for a sex offense or an offense involving the death of a victim. Prisoners with a PGS of average probability of parole will be interviewed before being granted or denied parole.

The Board may depart from the PGS range (i.e., deny parole to a prisoner with a high probability of parole, or grant parole to a prisoner with a low probability of parole). In these instances, there must be substantial and compelling reasons that must be stated in writing.

**Grievance Procedure:** A prisoner cannot grieve decisions by the Board. However, a prisoner may grieve and challenge the calculation of the PGS and the accuracy of the information used to calculate the score.

**Parole Eligibility/Lifer Review Reports:** The following information is based on Policy Directive 06.05.103 "Parole Eligibility/Lifer Review Reports."

**Initiation of Parole Eligibility/Lifer Review Report (PER):** Wardens are notified when PERs are due for prisoners under their supervision. This notification should be provided at least 8 months prior to the prisoner's parole eligibility date or parole reconsideration date.

**PER Preparer:**

1. Staff are designated to prepare PER's for prisoners. The PER preparer must interview the prisoner and review with him/her the parole consideration process.
2. Before the PER is completed, the prisoner should be given the opportunity to REVIEW the contents of his/her Counselor file, unless it is excepted from disclosure.
3. The prisoner may provide information to the PER preparer, such as letters, offers of employment, and other information that support parole. The PER preparer will make a note of this information in the PER and return the information back to the prisoner. This information may also be presented directly to the Board if interviewed.
4. A copy of the completed PER must be given to the prisoner. The prisoner should attempt to resolve any conflicts/questions with the content of the PER before it is submitted to the Board. The prisoner may present any unresolved questions about the PER to the Board member.
5. The completed PER should be forwarded to the Board at least 7 months before the prisoner's parole eligibility, reconsideration date, or interview/review date.

**Content of PER:** The PER must contain at least the following information:

1. Active offenses for which the prisoner is serving. The amount of any applicable disciplinary time must be indicated for each active sentence.
2. The prisoner's prior criminal record.
3. The prisoner's overall adjustment while incarcerated or since the last Board review date. A summary of all major misconducts must be included.
4. The prisoner's current status toward completion of program recommendations. The PER must indicate if the prisoner is exempt from GED requirements.
5. The prisoner's adjustment while in Community Residential Programs or on parole.
6. The prisoner's cooperation in providing information regarding his/her financial assets.

7. The prisoner's parole plans (unless the PER is being prepared for a prisoner serving a life sentence or being considered for a special parole, in which case this information must be included only at the request of the Board).
8. The prisoner's identification as a Security Threat Group member, pursuant to PD 04.04.113 "Security Threat Groups", including group name and validation level and date.

### **Parole Board Interviews:**

1. Parole interviews must be conducted at least 30 days prior to the prisoner's parole eligibility date.
2. Parole interviews after a continuance must be done at least 30 days before the reconsideration date given by the Board.
3. If a parole interview is not conducted in a timely manner and the prisoner is issued a continuance, the prisoner's next parole interview must be scheduled as if the previous interview was conducted in a timely manner.

### **Lifer Interviews:**

1. Prisoners serving a non-parolable life sentence are not eligible for parole; however, they may be considered for reprieve, commutation or pardon.
2. Prisoners serving a life sentence must be interviewed by one member of the Board at the conclusion of 10 calendar years of the life sentence even though they may not be eligible for parole at that time. Subsequent interviews are conducted at the discretion of the Board; however, each prisoner's file must be reviewed every 5 years after the initial interview to determine if an interview should be granted.
3. Notice of the 5 year review must be given at least 30 calendar days before the review takes place. After receiving the notice, the prisoner can submit written statements or other documents to the Board for consideration. These documents are kept in the prisoner's Central Office file. The Board will notify the prisoner if it decides not to interview the prisoner after the file review.
4. The Board's decision NOT to interview a prisoner serving a life sentence, or have a public hearing, is not a denial of parole. If the Board is interested in considering an eligible prisoner for parole, it must first conduct a public hearing. A decision to grant or deny parole will occur AFTER the public hearing.
5. If a parole interview is to be conducted, the Board must prepare and send to the prisoner a Notice of Intent to Conduct a Board Interview at least 30 calendar days before the prisoner's parole interview date.

### **Interview Process:**

1. Parole interviews are informal, non-adversarial proceedings, conducted with as much privacy as possible. Custody and security must be maintained at all times.
2. The prisoner and a staff member familiar with classification and program matters must be present at the interview. This staff member will assist the prisoner and Board by presenting/clarifying information in a fair and objective manner.
3. Assistance will be provided to those prisoners who are hearing-impaired or cannot adequately communicate in English.
4. The prisoner may have a representative of his/her choice present, but not another prisoner or anyone less than 18 years of age. An attorney may be included as the representative, but cannot provide legal representation at the interview and a prisoner cannot have appointed counsel at public expense at the interview.

5. The Board member will review the prisoner's file, including the Pre-Sentence Investigation Report (PSI), the most recent PER, information relevant to the issues in the Notice of Intent, and any additional reports requested by the Board. The Board member will discuss with the prisoner the nature and circumstances of the offenses for which s/he is serving, and any issues and concerns cited in the Notice of Intent. The prisoner will be given reasonable opportunity to express his/her views.
6. A Department employee cannot make a recommendation to the Board for or against the parole of a prisoner, except if the employee is the victim of the offense for which the prisoner is serving. In which case, the employee/victim may address, or submit a written statement to, the Board.

### **Parole Board Decision to Grant or Deny Parole:**

The Board must send a decision to grant/deny parole using the Board Notice of Decision within 21 calendar days after the final decision is made, except when not administratively possible. If additional information is needed to make a decision, the Board may issue a deferral until such material is received. The reasons for deferral must be recorded on the Notice of Action.

### **Decision to Deny Parole:**

When parole is denied, the reasons for that decision and, if appropriate, what corrective action the prisoner may take to improve the probability of being granted parole in the future should be recorded on the Notice of Decision.

1. Prisoners denied parole will be reconsidered at intervals not to exceed 24 months, as determined by majority vote of the Board or a panel of the Board. However, the Board may reconsider a prisoner at 60 months (5 years) under 3 circumstances:
  - a. Prisoner was convicted of an offense while on parole, committed after July 13, 2004 and involved the prisoner owning/possessing a firearm or, without authorization, being in the company of a person who the prisoner knew possessed a firearm.
  - b. Prisoner had a prior parole revoked for violating a condition of parole after July 13, 2004, that prohibited ownership or possession of a firearm, including having a firearm under his/her control, or being in the unauthorized company of a person who the parolee knew to possess a firearm.
  - c. The majority of the Parole Board concludes that the prisoner's history of predatory, deviant, or violent behavior indicates there is a present risk to public safety which cannot reasonably be expected to be mitigated in less than 60 months.

A firearm is considered to be any weapon capable of firing a missile of any type, including BB shot, and includes an imitation firearm and a simulation of a firearm.

### **Decisions to Grant Parole:**

1. Whenever parole is granted, the Notice of Decision will include the proposed parole release date.
2. After receipt of the Notice of Decision, a pre-parole investigation will be conducted for each prisoner to determine the suitability of the prisoner's proposed placement. Parole placement must be in an area where the prisoner has ties to the community or, if no ties, in the county of commitment, unless specialized placement (e.g., nursing home) is needed that cannot be provided in such areas.
3. The pre-parole investigation must include visiting the proposed placement to determine suitability. All relevant information (including prisoner and community interests) will be considered in making this determination. The following factors must be evaluated:

- a. General character of the neighborhood of the proposed placement.
  - b. Attitude toward the prisoner in the community of the proposed placement.
  - c. Physical aspects of the home environment.
  - d. Attitude of the home occupants toward the prisoner.
  - e. Willingness of the home occupants to cooperate with the field agent.
  - f. Ability of the head of the household to financially support the prisoner, if necessary.
  - g. Criminal record of home occupants.
  - h. Alcohol or drug abuse by home occupants.
  - i. Presence of weapons in the home environment.
  - j. Whether the prisoner's physical and mental health care needs can be met.
4. An Order for Parole (signed by the Board Chair), must be issued prior to the release of a prisoner on parole. The Order will indicate the DATE the prisoner is to be released and the length of the parole period.
  5. Parole cannot exceed the prisoner's maximum sentence (i.e., discharge date).
  6. If a parolable lifer is granted parole, parole cannot be for less than 4 years.
  7. For prisoners serving for any of the following, parole will be no less than 2 years unless the time left on the maximum sentence is less than 2 years: Second Degree Murder; First, second, and third degree criminal sexual conduct; Second or subsequent offense, criminal sexual conduct; Armed robbery; Kidnapping; Extortion; and Breaking and entering/home invasion of an occupied dwelling at night;
  8. The Order will set forth any special conditions for parole ordered by the Board.
  9. If a prisoner is paroling to detainer, the Order must identify the prisoner's parole obligations if s/he is released from the detaining agency's custody prior to the expiration of the parole period.
  10. An Order for Parole shall not be issued until at least 28 calendar days after a copy of the Parole Board Notice of Decision is sent to the appropriate prosecuting attorney and, as required by PD 01.06.120 "Victim Notification", to the victim(s). Written notice of the Order shall be given to the prosecuting attorney and law enforcement agency for the county in which the prisoner was convicted and for the county to which the prisoner will parole.

**Parole Release Process:**

1. A prisoner serving at least 2 years for an offense committed after December 15, 1998 cannot be paroled unless s/he has either a high school diploma or GED certificate, or receives an exemption from this requirement.
2. A prisoner cannot be released on parole unless s/he has provided a DNA sample. If the prisoner refuses to provide the sample, the Board will be notified immediately and the prisoner will not be released on parole.
3. Prior to release, each prisoner must read or have read to him/her the Prisoner Pre-Release Notice, which must be signed by the prisoner, witnessed by staff, and a copy of the completed form given to the prisoner.
4. A prisoner must be given the following upon release (unless paroling to detainer):
  - a. Clothing
  - b. The balance of his/her institutional account if paroling from a CFA institution
  - c. A parole loan, if eligible
  - d. Transportation at Department expense to a location as close as possible to the place in the state where the prisoner will parole, if the prisoner is unable to arrange transportation.

**Parole Suspensions and Rescissions:** If new information regarding a prisoner is received by the Board AFTER parole has been ordered but BEFORE the prisoner is released on parole, the Board may suspend the prisoner's parole. A Notice of Action must be issued when parole is suspended, and should indicate the reasons for the suspension. The Board must conduct an interview with the prisoner within 45 calendar days after receiving the new information to consider whether to grant or deny parole in accordance with this policy.

If new information is received by the Board AFTER a prisoner is released on parole regarding behavior prior to release, the Board may rescind the parole. However, a parole may not be rescinded without the Board interviewing the prisoner to consider whether to grant or deny parole within 45 calendar days after receiving the new information. The parolee will receive a Notice of Action which includes a summary of the new information received which led to the rescission interview.

**Parole Revocation:** Parolees must comply with all parole rules and special conditions issued by the Board. If a parolee violates a rule or condition of parole, parole may be revoked.