

**OHIO PAROLE BOARD
HANDBOOK**

JULY 2015

TABLE OF CONTENTS

I.	INTRODUCTION	Page 1
II.	PAROLE	Page 4
	Inmates Subject to the Discretionary Releasing Authority of the Parole Board	Page 4
	General Parole Decision Making Considerations	Page 5
	Eligibility Determination	Page 7
	Suitability Determination	Page 10
III.	STAKEHOLDER PARTICIPATION IN HEARING PROCESS	Page 14
	Statutory Notice Requirements	Page 14
	Offender & Victim Conference Days	Page 16
	Correspondence	Page 16
IV.	HEARING TYPES AND OUTCOMES	Page 18
	Hearing Types	Page 18
	Hearing Procedures	Page 20
	Hearing Outcomes	Page 21
V.	RESCISSION AND RECONSIDERATION	Page 25
VI.	CONCLUSION	Page 27
VII.	REFERENCE LIST	Page 28

INTRODUCTION

Ohio Revised Code (“R.C.”) § 5149.02 created the Adult Parole Authority (“APA”) “in the division of parole and community services of the Department of Rehabilitation and Correction” (“DRC”). The Ohio Parole Board (“Board”) is one of the sections within the APA. Pursuant to R.C. § 5149.10, the Board consists of up to twelve (12) members, including the Chair. The members are appointed by the Director of the DRC, and must be qualified by education or experience in correctional work, including law enforcement, prosecution of offenses, advocating for the rights of victims of crime, probation or parole, in law, in social work, or in a combination of the three categories. Members, except the Chair and the Victim Representative, appointed after September 30, 2011 are subject to term limits of two (2) six (6) year terms. The Director, in consultation with the Governor, must appoint one individual to the Board who is a victim of crime, a member of a victim’s family, or who represents an organization that advocates for the rights of victims of crime.

The Board determines release suitability of eligible offenders serving indefinite sentences through decisions that promote fairness, objectivity, and public safety and are responsive to the concerns of victims, members of the community, and other persons within the criminal justice system.

The Board currently consists of eleven members whose primary duty entails conducting release consideration hearings on all parole-eligible inmates. These hearings are held every month from the institutions, and generally include a majority of Board Members conducting a personal interview with each parole-eligible inmate. These hearings are usually conducted using video-conference technology. If parole is denied at the initial hearing because an inmate is not suitable for release, the Board establishes a subsequent hearing date. In making release decisions, the Board is mandated by Administrative Rule 5120:1-1-07 to consider certain factors in determining an inmate’s suitability for release.

Although the outcome of all parole hearings is public information, institutional parole release hearings and deliberations are closed to the public. However, the Board offers participation in offender conference and victim conference days each month, providing

victims and/or their representatives and offender families and/or their representatives an opportunity to exchange information with the Board prior to an inmate's release consideration hearing.

Previously, the Board developed and used a number of tools to promote consistency with its release decisions because of the large diversity of crimes committed by inmates in the DRC. The tools were part of The Ohio Parole Board Guidelines Manual, initially developed in 1998, and amended in 2000 and 2007. Since Senate Bill 2 ("SB2"), the "truth in sentencing" legislation enacted in 1996, the once diverse population subject to the releasing authority of the Board has significantly narrowed. Most of this population is serving sentences for crimes that have unique factors that thwart any effort to generalize a suggested range of time or specify common risk factors. In April 2010, use of the Ohio Parole Board Guidelines Manual was determined to be no longer practical or effective, and the Board discontinued its application at subsequent release consideration hearings. Accordingly, after April 1, 2010, the Board continued to exercise its discretionary release authority solely by reference to Ohio statute and administrative code provisions. In addition, all parole suitability determinations are now decided by a majority vote of the Board. These votes are based upon consideration of the unique factors and variables of the individual case.

The Board recognizes the principle of structured parole decision making and the use of evidence-based practices in the parole decision making process. Practices are continually sought that will enhance transparency, consistency, efficiency and accuracy, and produce quality rationales. The Board seeks to ensure that in determining parole suitability, information and factors that are empirically demonstrated to be linked to risk and to the likelihood of reoffending are considered at every hearing. In so doing, Board Members will more effectively navigate the extensive information considered while at the same time maintaining their discretion to render individual case level decisions, which is critical to the parole decision making process.

The Board may grant parole "if in its judgment there is reasonable ground to believe that...paroling the prisoner would further the interests of justice and be consistent with

the welfare and security of society.” R.C. § 2967.03. In keeping with its statutory mission and the guidance of the courts, the Parole Board provides meaningful consideration for all inmates who are eligible for parole. Such consideration refers to the factors and risks, and the facts and circumstances, presented in the individual cases. These factors, risks, facts and circumstances may be discerned from many sources of information, and do not come solely from the entry of conviction, or even the legal record as a whole. In exercising its functions and duties relative to parole release decisions, the Board may, pursuant to R.C. § 2967.03, “investigate and examine, or cause the investigation and examination of, prisoners confined in state correctional institutions concerning their conduct in the institutions, their mental and moral qualities and characteristics, their knowledge of a trade or profession, their former means of livelihood, their family relationships, and any other matters affecting their fitness to be at liberty without being a threat to society.”

This Handbook was created to provide interested parties with a reference source for the release hearing process.

PAROLE

Parole in Ohio is subject to the absolute discretion of the Board. Discretion, by its very nature, is subject to the changing norms and context in which it is exercised. The Board is vested with the responsibility to determine when an inmate is suitable for release. Under Ohio law, an inmate has neither the constitutional nor inherent right to be conditionally released on parole before the expiration of the maximum term of his or her sentence. Additionally, the Ohio Supreme Court has specifically held that Ohio inmates have no right to rely on a particular set of parole guidelines, or have parole guidelines in effect at the time of conviction applied at subsequent parole hearings. Thus, it is clearly established that Ohio inmates do not have a constitutionally protected liberty interest in parole or parole procedures. Furthermore, the Board may modify conditions of parole, or modify parole release procedures, as long as the modifications are not contrary to Ohio statute.

INMATES SUBJECT TO THE DISCRETIONARY RELEASING AUTHORITY OF THE PAROLE BOARD

Those inmates whose crimes were committed prior to July 1, 1996, and to whom the court imposed an indefinite term of imprisonment pursuant to R.C. Chapter 2967 as it existed prior to July 1, 1996, are subject to the discretionary releasing authority of the Board. This population is commonly referred to as the “old law inmates”. As indicated earlier, the parole eligible population has dramatically changed since 1996 when Ohio adopted a primarily determinate sentencing scheme. This once diverse population has significantly narrowed. Most of the remaining pre-SB2 parole eligible population is convicted of the more serious offenses, as illustrated in the following statistics.

According to DRC’s January 2015 Census report, there are 4,421 pre-SB2 inmates currently incarcerated. 2,846 are incarcerated for a “Crime Against Person”, including:

- 2,317 convicted of a Homicide offense, which equates to approximately 52% of the pre-SB2 population.

- 1,353 are convicted of Aggravated Murder; 36 are convicted of Attempted Aggravated Murder;
 - 821 are convicted of Murder; 44 are convicted of Attempted Murder; and
 - 143 are convicted of Manslaughter, including both Involuntary & Voluntary.
- 1,338 are convicted of a “Sex Offense”, which equates to approximately 30% of the pre-SB2 population.
 - 1,106 are convicted of Rape; 49 are convicted of Attempted Rape.

By contrast, there are only 134 pre-SB2 inmates incarcerated for second degree felonies, 4 incarcerated for indeterminate third degree felonies, and 5 incarcerated for indeterminate fourth degree felonies, totaling 3.2% of that population.¹

In addition to the “old law” inmate population, SB2 maintained the discretionary releasing authority of the Parole Board as the release mechanism for any inmate serving a life sentence for an offense committed on or after July 1, 1996, which includes inmates convicted of Aggravated Murder and Murder since July 1, 1996. In addition, Ohio’s most recent criminal sentencing statute, House Bill 86 (HB 86) also maintained the Parole Board’s release discretion relative to inmates serving those life sentences. Again, according to DRC’s January 2015 census report, there are 3,603 SB2 inmates, and 529 HB 86 inmates serving Life sentences who will be subject to the discretionary releasing authority of the Parole Board. The number of offenders serving life sentences for crimes committed after July 1, 1996 now surpasses the number of old law offenders serving life sentences for crimes committed before that date. As inmates continue to be convicted of and incarcerated for offenses that carry life sentences, the number of inmates subject to the discretionary releasing authority of the Parole Board will continue to increase, necessitating the existence of the Board, and will not decline as is commonly suggested.

GENERAL PAROLE DECISION MAKING CONSIDERATIONS

The following general considerations are supported by research and are inherent in the parole decision making process:

¹ Although the maximum sentences for pre-SB2 felony 3 & 4 offenses were 10 and 5 years, respectively, offenders convicted of these crimes are still incarcerated either because they are serving consecutive sentences with aggregate maximum sentences of more than 10 years, or they were admitted to DRC to serve these pre-SB2 sentences after the effective date of SB2. According to DRC’s Bureau of Research, DRC continues to receive a few admissions yearly of offenders convicted of pre-SB2 felony 3 & 4 offenses.

- Parole eligibility does not equal parole suitability. Parole is *conditional* release involving a demonstration of suitability. Parole suitability involves a balance between public safety and offender rehabilitation. Eligibility reflects statutes and policy. Parole involves the determination of a change in the offender regarding rehabilitation and an understanding that (early) release will not unduly place the community at risk.
- Parole reflects case-level decisions, not group-based decisions. Offenders who commit similar crimes can have different risk estimates. Risk estimates are about criminal history and dynamic risk factors, not offense type. Risk instruments should be specific to the type of crime and normed for the population. The most conservative risk estimate should be used.
- Parole decision making involves more than risk assessment; risk assessment does not equal parole decision making. What is required is a case analysis of the individual, not just an indication of risk group membership.
- An analysis of individual cases should include consideration of the statistical estimate of an offender's risk to reoffend, the offender's criminal history and parole history, the offender's ability to control his or her behavior (including the offender's substance abuse history), whether the offender has taken programming appropriate to his or her risk level, the offender's behavior in prison and while on supervision in the community, the degree to which the offender demonstrates that he or she has changed, and the quality of the offender's release plan, all of which are empirically linked to parole success. Analysis should also include consideration of any salient case specific factors, and any discordant or incongruent information from different sources.
- Parole conditions can only somewhat mitigate risk. Increasing the number of conditions does not necessarily manage risk. At some point, there is a

limit as to the number of conditions that can be required, or even meaningfully met, to manage risk.

- Criminal history factors remain important predictors of parole success. The extent to which age, time served and program completion can offset risk is a matter for debate, at the case-level.
- Program performance, at the individual level, has yet to be strongly linked to post-program outcome. Program completers have better outcomes than dropouts (and in some cases, refusers) but little empirical evidence exists regarding change scores predicting post-program outcomes.
- Institutional misbehavior remains a moderately important predictor of post-release failure. Time served since the misbehavior is perhaps less compelling than demonstrated changes in attitudes and competencies, in terms of parole success. However, institutional good behavior is not correlated to post-release success.
- Continuity of care and community aftercare is at least as important as other factors in contributing to parole success. Frontloading of community support is important in managing risk. Protective factors are important in understanding parole success and are different from risk factors.

ELIGIBILITY DETERMINATION²

Those offenders who are subject to the discretionary releasing authority of the Board become eligible for parole after serving the imposed minimum sentence as described in R.C. § 2967.13. Ohio Administrative Code (“O.A.C.”) § 5120:1-1-03 (“Minimum

² This section is meant to provide a general description of parole eligibility determination, and should not be construed as containing all applicable rules and law that govern the calculation of parole eligibility dates. Any questions regarding the calculation of any individual inmate’s statutory parole eligibility date should be directed to the Bureau of Sentence Computation (“BOSC”).

Eligibility for Release on Parole”) expressly prohibits the release of any inmate serving an indefinite sentence prior to the expiration of that inmate’s minimum sentence.

An inmate’s initial parole eligibility date is calculated by the DRC’s Bureau of Sentence Computation (“BOSC”) in accordance with: R.C. §§ 2967.13, 2967.191, 2967.193 and O.A.C. §§ 5120-2-03 (“Determination of minimum, maximum and definite sentences when multiple sentences are imposed”); 5120-2-031 (“Determination of stated prison terms and life sentences when multiple terms or sentences are imposed”); 5120-2-032 (“Determination of multiple sentences or prison terms with an offense committed before July 1, 1996 and an offense committed on or after July 1, 1996”) and 5120-2-10 (“Life sentences”).

In general, inmates serving concurrent indefinite sentences for crimes committed prior to July 1, 1996 become parole eligible after serving the imposed minimum sentence. That minimum sentence may be diminished by 30% for good behavior, also known as “good time” (OAC § 5120-2-05). If an inmate fails to maintain good behavior, time credited off of the sentence can be reinstated. The minimum sentence can also be diminished by jail time credit (O.A.C. § 5120-2-04). For example, an inmate sentenced to 10-25 years will become statutorily parole eligible after serving 7 years minus jail time credit, if he or she maintains good behavior. The minimum term can also be further diminished by earned credit (O.A.C. § 5120-2-06) or maintaining minimum security status (O.A.C. § 5120-2-07), if not precluded due to the offense of conviction. Inmates sentenced to life under SB2 for crimes committed on or after July 1, 1996, who are sentenced concurrently, are parole eligible after serving the minimum sentence, diminished only by jail time credit.

In addition, as described in O.A.C. § 5120-2-03, inmates serving consecutive indefinite sentences for crimes other than Aggravated Murder committed prior to July 1, 1996, have their aggregate minimum sentences capped, and thereby become statutorily parole eligible earlier than service of the aggregate minimum sentence imposed. Inmates who are serving consecutive sentences for crimes other than Murder or Aggravated Murder committed prior to July 1, 1996 have their aggregate minimum sentences capped at 15 years, diminished by 30% for good behavior, jail time credit, and earned credit when

applicable. Inmates serving consecutive sentences for crimes including Murder committed prior to July 1, 1996 have the minimum portion of their consecutive sentences capped at 20 years, diminished by 30% for good behavior, jail time credit, and earned credit when applicable. This statutory cap on the minimum portion of the consecutive sentences results in inmates becoming eligible for parole sooner than the expiration of the actual aggregate minimum sentence imposed. Nonetheless, these inmates can be released onto parole supervision when they become eligible pursuant to statute, and are not required to serve the full aggregate minimum sentence imposed prior to release onto parole supervision, if found to be suitable by the Board.

There is no statutory cap on aggregate minimum sentences for crimes committed prior to July 1, 1996, if the crimes committed include Aggravated Murder. Likewise, inmates sentenced to life under SB2 for crimes committed after July 1, 1996, do not receive a cap on aggregate minimum sentences imposed, and become parole eligible after serving the aggregate minimum term, diminished only by jail time credit.

Once an inmate becomes parole-eligible, the Board must consider the inmate for release. Each month, Ohio's correctional institutions provide the Board with a list, known as "call sheets", identifying all inmates who are statutorily eligible for parole. The inmates identified on the monthly "call sheets" are then scheduled for parole release consideration hearings.

If an inmate is released onto parole supervision and returned for either technical violations of the conditions of parole or for committing a new offense, subsequent parole eligibility is governed by O.A.C. §§ 5120:1-1-18 ("Release revocation hearing"), 5120:1-1-19 ("Procedures after revocation and release"), and 5120:1-1-21 ("Revocation of release if releasee recommitted for new offense"). Parole violators who are returned for technical violations as a result of a revocation hearing are again considered for parole suitability at a hearing date determined by a majority vote of the Board Members. Parole violators, who are returned for committing new offenses for which they receive prison sentences, are scheduled for further parole consideration after serving the new definite

sentence or the minimum term of an indefinite sentence, as calculated by BOSC pursuant to O.A.C. §§5120-2-03 to 5120-2-08 and 5120:1-1-13.

It is often suggested that offenders serving SB2 sentences are serving significantly less time than those serving “old law” sentences for the same offense, and that a conversion to a SB2 sentence would result in a benefit to most “old law” inmates. A comparison or conversion of those remaining inmates currently serving a Pre-SB2 sentence to the potential SB2 sentence for the same offense of conviction does not result in a benefit to the inmate in the vast majority of cases. SB2 increased the penalties for Aggravated Murder, and eliminated the ability for an inmate to receive “good time” off the minimum sentences for both Aggravated Murder and Murder, thereby requiring those inmates convicted of these offenses under SB2 to serve *longer* minimum sentences before reaching parole eligibility than those inmates convicted of these same crimes under Pre-SB2 law. In addition, penalties for some sex offenses, primarily those involving child victims increased in SB2 and subsequent statutes (SB 260). Given that approximately 80% of the “old law” population is serving a sentence for a crime whose penalty was increased under SB2, a conversion to a SB2 sentence is in fact not a benefit to most “old law” inmates.

SUITABILITY DETERMINATION

Once an inmate becomes parole-eligible, the Board is required to conduct a hearing, pursuant to O.A.C. § 5120:1-1-11, to determine whether the inmate is suitable for release. Parole suitability involves a balance between public safety and offender rehabilitation. Eligibility reflects statutes and policy. Parole involves the determination of a change in the offender regarding rehabilitation and an understanding that a release will not unduly place the community at risk.

The Board can only grant parole, pursuant to R. C. § 2967.03, “if in its judgment there is reasonable ground to believe that...paroling the prisoner would further the interests of justice and be consistent with the welfare and security of society.” In making parole

suitability determinations, O.A.C. § 5120:1-1-07 lists the following factors that must be considered by the Board:

- Any reports prepared by any institutional staff member relating to the inmate's personality, social history, and adjustment to institutional programs and assignments;
- Any official report of the inmate's prior criminal record, including a report or record of earlier probation or parole;
- Any presentence or postsentence report;
- Any recommendations regarding the inmate's release made at the time of sentencing or at any time thereafter by the sentencing judge, presiding judge, prosecuting attorney, or defense counsel, and any information received from a victim or victim's representative;
- Any reports of physical, mental or psychiatric examination of the inmate;
- Such other relevant written information concerning the inmate as may be reasonably available, except that no document related to the filing of a grievance under rule 5120-9-31 of the Administrative Code shall be considered;
- Written or oral statements by the inmate, other than grievances filed under rule 5120-9-31 of the Administrative Code;
- The equivalent sentence range under Senate Bill 2, (effective July 1, 1996,) for the same offense of conviction if applicable;³
- The inmate's ability and readiness to assume obligations and undertake responsibilities, as well as the inmate's own goals and needs;
- The inmate's family status, including whether any relatives display an interest in the inmate or whether the inmate has other close and constructive associations in the community;
- The type of residence, neighborhood, or community in which the inmate plans to live;

³ SB2 parity is only considered when the comparable range would result in a lesser penalty than the actual sentence imposed, if the offender were sentenced under SB2. SB2 parity is not considered if the comparable range would result in a lengthier sentence. An inmate will not be denied release because he or she has not served the comparable SB2 sentence.

- The inmate's employment history and occupational skills;
- The inmate's vocational, educational, and other training;
- The adequacy of the inmate's plan or prospects on release;
- The availability of community resources to assist the inmate;
- The physical and mental health of the inmate as they reflect upon the inmate's ability to perform his plan of release;
- The presence of outstanding detainers against the inmate;
- Any other factors which the board determines to be relevant, except for documents related to the filing of a grievance under rule 5120-9-31 of the Administrative Code.

After considering and analyzing all the mandatory factors, the Board may recommend parole if it finds the inmate suitable for release. The Board may also, pursuant to O.A.C. § 5120-1-1-07, determine that an inmate is not suitable for release if it finds that at least one of the following reasons is applicable:

- There is substantial reason to believe that the inmate will engage in further criminal conduct, or that the inmate will not conform to such conditions of release as may be established;
- There is substantial reason to believe that due to the serious nature of the crime, the release of the inmate into society would create undue risk to public safety, or that due to the serious nature of the crime, the release of the inmate would not further the interest of justice nor be consistent with the welfare and security of society;
- There is substantial reason to believe that due to serious infractions of rule 5120-9-06 of the Administrative Code, the release of the inmate would not act as a deterrent to the inmate or to other institutionalized inmates from violating institutional rules and regulations.

The Board's reference to the serious nature of the crime, the risk to public safety, the interests of justice and the welfare and security of society are often criticized as being

overly broad or devoid of meaning. Although the Board acknowledges that producing more transparent and specific rationales for its decisions is important and an area that can always be improved upon, as indicated above, the OAC requires that the Board finds that one of these reasons is present to warrant the denial of release. More generally, those reasons for denying parole emanate from, and amplify, the statutory mandate in R.C. 2967.03 to grant parole only “if in its [the Parole Board’s] judgment there is reasonable ground to believe that...paroling the prisoner would further the interests of justice and be consistent with the welfare and security of society.” Of course, the nature of the crime must be considered in determining whether any release would promote the interests of justice or the welfare and security of society. Therefore, a reference to the serious nature of the crime, demonstrates the Board’s compliance with both the OAC and the Ohio Revised Code, and will continue to be cited.

STAKEHOLDER PARTICIPATION IN THE HEARING PROCESS

The decisions of the Board are best made when they include consideration of information obtained from all interested parties and stakeholders. Although it is important for the Board to understand the seriousness of the offense and the extent of victimization, it is also important for the Board to understand the extent of the inmate's institutional adjustment to include the support system the offender has developed and has available in the community if parole is granted. Statute designates notice of parole hearings to certain interested parties so that they may provide input into the parole release process. In addition, the Board encourages and welcomes input from other parties who have a substantial interest in the potential release of the inmate.

STATUTORY NOTICE REQUIREMENTS

On March 22, 2013, Senate Bill 160 (SB 160), (known as "Roberta's Law"), went into effect and significantly changed prior law governing the class of victims to whom the Board is required to provide notice of parole hearings, and expanded the timeframes of providing notice to victims and other stakeholders in the parole hearing process. R.C. § 2967.12 now requires that at least sixty (60) days prior to conducting a parole release consideration hearing, notice of the hearing must be provided to the prosecuting attorney and the judge of the court of common pleas of the county in which the indictment against the inmate was found. The notice must contain the name of the inmate, the inmate's offense of conviction, the sentence imposed by the court, and the date of conviction.

Prior to SB 160, notice of the release consideration hearing and an explanation of the victim's opportunity and method to participate was required to be provided to any victim or victim's representative who requested notification pursuant to R.C. § 2930.16. Under former law, the victim or victim's representative had to opt-in to receive notification by registering for notification through the Office of Victim Services (OVS). SB 160 has essentially changed victim notification in the parole hearing process from an opt-in system to an opt-out system. In addition to any victims who have requested notification,

the Board must now also provide sixty (60) days notice of a parole hearing to any unregistered victim, if the inmate who is the subject of a parole release consideration hearing is serving a sentence for Aggravated Murder or Murder, a felony 1, 2 or 3 offense of violence or a life sentence, which includes virtually all of the parole-eligible population. The Board must make three attempts to locate and notify any unregistered victim(s) of the upcoming parole release consideration hearing, and can only cease providing notice if the victim opts out of receiving notification. The Board must also provide notice to any arresting law enforcement agency if an officer of that agency was the victim of the offense.

At the time notice is provided to the prosecutor and judge, DRC must also post on the database it maintains⁴, pursuant to R.C. § 5120.66 (known as “Laura’s Law”), the inmate’s name and the date of any hearing regarding the possible grant of parole, along with the right to submit a written statement regarding the proposed release consideration hearing. Laura’s Law gives members of the general public the opportunity to provide input into the release consideration decision. Any information or correspondence received by the Board in response to these notices must be considered in determining an inmate’s suitability for release.

If it is discovered at the time of the release consideration hearing that the above-referenced statutory notice requirements were not met, the hearing will not be conducted but will be rescheduled to ensure notice is provided.

In response to the expanded statutory notice requirements of SB 160, the Board established a Notification Unit. This unit is responsible for providing all statutory notices, and searching for unregistered victims who are required to receive notice. When a non-registered victim is located, the notice provided encourages the victim to contact OVS to speak to a victim advocate who can assist the victim in navigating through the parole hearing process. Non-registered victims are encouraged to contact the OVS at the number listed in the attached Reference List to learn more about registration and parole hearing participation options.

⁴ The website address for this database is: <http://www.drc.ohio.gov/OffenderSearch/Search.aspx>

OFFENDER AND VICTIM CONFERENCE DAYS

Prior to SB 160, the Board, as a matter of Department policy, offered victims/representatives and inmate supporters the opportunity to meet with a Board Member, or other designated staff person, to provide input and share information regarding the potential release of an inmate scheduled for a parole consideration hearing. The meetings are known as victim conferences and offender conferences. SB 160 bestowed upon victims and/or victim representatives the statutory right to attend a victim conference relative to an inmate's upcoming parole hearing, if the inmate is serving a sentence for Aggravated Murder or Murder, or a felony 1, 2, or 3 offense of violence or a life sentence. SB 160 required the Department to establish administrative rules that addressed attendance by the victim, members of the victim's immediate family, the victim's representative, and if practicable, other individuals, and allotment of one (1) hour for the Conference. SB 160 did not create a similar statutory right for inmate supporters to attend offender conferences. However, the Board continues to conduct offender conferences as a matter of Department policy.

Generally, both victim and offender conferences are scheduled monthly and are attended by those victims/representatives and inmate supporters who have an interest in an inmate who is scheduled to be heard during the following month. These conferences are held at the Board's office in Columbus, as well as district offices in Cleveland, Canton, Dayton & Toledo. For those interested parties who are not able to travel to one of these sites to personally attend a conference, a telephone conference is an available alternative. Parties interested in scheduling a conference may contact the Board at the phone number listed in the Reference List attached to this Handbook.

CORRESPONDENCE

Interested parties may also provide input regarding the release of an offender through correspondence. Correspondence may be submitted by regular U.S. Mail, fax or through the DRC's website at: <http://www.drc.ohio.gov/web/parboard.htm>. The mailing address and fax number are listed in the attached Reference List. Any correspondence regarding

a particular inmate should include the inmate's institution number to ensure that it is included in the appropriate electronic file and available for review by the Board when considering an inmate for release.

HEARING TYPES AND OUTCOMES

O.A.C. 5120:1-1-10 (“Initial and continued Parole Board hearing dates; projected release dates”) and 5120:1-1-11 (“Procedure of release consideration hearing”) govern the timeframes for scheduling hearings, the possible results of hearings, and those authorized to conduct hearings. In addition, DRC policy 105-PBD-03 (“Parole Board Release Processes”), further describes the hearing process.

HEARING TYPES:

First Hearing. This is the initial hearing at which an inmate can be considered for parole based upon the sentencing court’s order and statute. The hearing is held on or about the date when the inmate has completed the imposed minimum sentence, as calculated by BOSC, and has become parole-eligible. The purpose of the hearing is for the Board to determine if the inmate is suitable for release.

Continued Hearing. This is a subsequent hearing conducted if release is not granted at the first hearing. Currently, pursuant to O.A.C. § 5120:1-1-10, a continued hearing can be scheduled no further than ten (10) years from the first hearing, or a previous continued hearing.

Full Board Hearings. Although the outcome of all parole hearings is public information, institutional parole release hearings and deliberations are closed to the public. However, effective July 1, 1996, Senate Bill 2 created Full Board Hearings which permitted participation by a victim or other designated interested parties in a hearing subsequent to the institutional hearing and upon acceptance of a petition. R.C. § 5149.101 provides that when the Board initially believes an inmate may be suitable and proposes parole or re-parole, a Hearing Officer, Parole Board Member or the OVS may petition for a Full Board hearing. The OVS may submit a petition on behalf of a victim/victim’s representative, prosecutor or any other interested party. The Board considers the petition and decides by majority vote whether to conduct the Full Board hearing, which occurs prior to the inmate’s physical release. In an effort

to ensure that all parties who have a right to receive statutory notice are given the opportunity to petition for and participate in a Full Board hearing when parole is proposed, the Board, in collaboration with the OVS, contacts the relevant parties to advise of the proposed parole and determines whether a petition will be submitted. On those occasions where input from relevant parties is unclear as to the intent to petition and participate in a Full Board hearing, the Board Chair will petition for a Full Board hearing to ensure that every opportunity is provided to interested parties to participate before an inmate's physical release from custody occurs. The Board will not authorize the physical release of an inmate onto parole supervision until it has determined whether those parties who have a right to receive notice intend to participate in a Full Board hearing and that hearing is conducted.

If the inmate for whom parole or re-parole is proposed is convicted of Aggravated Murder or Murder, a felony 1, 2 or 3 offense of violence, or is serving a life sentence, the Board cannot deny the petition and must conduct the Full Board hearing. Full Board hearings are conducted prior to the release of an inmate, at DRC's Operation Support Center with at least a majority of Board Members participating. The inmate is not present, but may be represented by counsel or some other designated person. The Board, in general, has the discretion to determine who should appear and give testimony. However, the Board must permit certain persons to appear and give testimony or written statements. Those persons include the following: the prosecuting attorney; the sentencing judge or successor; the victim or victim's representative of the original offense; and/or the victim of behavior that resulted in parole revocation. If the inmate for which parole or re-parole is proposed is convicted of Aggravated Murder or Murder, a felony 1, 2 or 3 offense of violence, or is serving a life sentence, the Board must also permit the appearance of the spouse, parent or parents, sibling(s) or child(ren) of the victim of that offense. A final decision regarding the inmate's suitability for parole is made and announced at the conclusion of the Full Board hearing.

HEARING PROCEDURES

Institution Hearing Panels. The vast majority of first and continued hearings are conducted by a hearing panel that consists of a majority of Board Members utilizing video-conferencing. Hearing panels may consist of any designated number of Board Members and/ or Hearing Officers. However, Hearing Officers are only rarely utilized when monthly hearings cannot be conducted timely by the Board Members due to unforeseen circumstances⁵. Hearings are conducted with a majority of Board Members participating through video-conferencing in an effort to obtain the required majority Board Member vote at the institution hearing. When the majority Board Member vote cannot be obtained and finalized at the institution hearing, the case is referred to Central Office Board Review (COBR). COBR is the mechanism by which the Board considers cases referred by Hearing Panels for a majority vote of Board Members, and occurs at a time subsequent to the institution hearing.

Institution Hearing Participants. First and continued hearings are conducted at the various correctional institutions with the inmate present. The Board Members conduct the hearings through video-conferencing from DRC's Operation Support Center or a district office. Participation in a hearing is limited to Board staff, the inmate, and if required, special needs facilitators. Within 90 days of admission to DRC, inmates subject to the discretionary releasing authority of the Board receive verification of the date (month & year) upon which they become statutorily parole eligible. In addition, inmates receive notice of the actual date of parole hearings at least 30 days in advance.

Information considered. The hearing panel considers all information pertaining to the mandatory factors listed in O.A.C. § 5120:1-1-07 that is either produced during the inmate's incarceration or is received from an outside stakeholder or interested party. In addition, the inmate is given the opportunity to speak and respond to any factual information disclosed during the hearing and to provide any information

⁵ It has not been necessary to use Hearing Officers to conduct parole release consideration hearings since approximately July 2007 when the Board Members began exclusively conducting these hearings.

deemed relevant to the release decision. Confidential information provided to the Board by victims and other stakeholders is not disclosed to the inmate.

Recommendation. After considering all relevant information, the hearing panel formulates a decision or recommendation regarding the inmate's suitability for release. O.A.C. § 5120:1-1-11 indicates that the decision or recommendation shall be communicated to the inmate both verbally and in writing immediately or as soon as administratively possible following the hearing. If the decision or recommendation is to deny release, the written notice **must** cite the grounds under § O.A.C. 5120:1-1-07 on which the decision was based. These grounds include that there is substantial reason to believe that the inmate will engage in further criminal conduct, or that the inmate will not conform to such conditions of release as may be established; there is substantial reason to believe that due to the serious nature of the crime, the release of the inmate into society would create undue risk to public safety, or that due to the serious nature of the crime, the release of the inmate would not further the interests of justice nor be consistent with the welfare and security of society; or there is substantial reason to believe that due to the serious infractions of rule 5120-9-06 of the Administrative Code, the release of the inmate would not act as a deterrent to the inmate or to other institutionalized inmates from violating institutional rules and regulations. The Board must also cite the factors deemed significant in making the decision. The notice must also include the next hearing date at which the inmate will again be considered for release. If the recommendation must be referred to obtain the majority vote of Board Members, the written notice will be provided to the inmate after the majority vote is obtained.

HEARING OUTCOMES

O.A.C. § 5120:1-1-08 and 5120:1-1-10 provide the potential outcomes of a parole consideration hearing. If parole is proposed as a result of an institution hearing, the Board will then conduct a Full Board hearing when a petition is submitted by a Hearing Officer, Parole Board Member, or the OVS. A final decision regarding the proposed parole will be made at the conclusion of the Full Board hearing. If an inmate is found

suitable for release after the Full Board hearing is conducted, and the proposed parole is recommended, a release date may be established at no earlier than sixty (60) days and no later than five (5) months from the date the recommendation is finalized. This is known as the “Parole On or After Date” (POA). If parole is not recommended at either the institution hearing or a Full Board hearing, and the recommendation is not a continuance to the expiration of the maximum sentence, the Board shall set a continued hearing date, not to exceed 10 years from the current hearing date.

A third outcome provided in OAC is a “Projected Release Date” (PRD). A PRD permits the Board to establish a release date up to 10 years into the future without requiring that the inmate appear at a subsequent hearing prior to release. At one time, O.A.C. § 5120:1-1-10 expressly prohibited certain inmates from receiving PRDs including those serving life sentences, sentences of fifteen (15) years to life, or for any sentence imposed for a sex offense. The result was that PRDs were rarely used in more recent years because 80% of the parole-eligible population was, by Department rule, prohibited from receiving them. A recent change to this rule allows for a PRD to be established for those previously ineligible inmates, not to exceed one (1) year from the institution or Full Board hearing date. Given the length of time that these inmates generally serve, it was determined that PRDs would be a beneficial tool to ensure that long-term inmates transition successfully through a Reintegration Unit⁶ prior to actual release to the community in order to prevent an abrupt change from incarceration to release, after the Board determines that they are otherwise suitable for release. A review of an inmate’s progress and adjustment to a Reintegration Unit will be conducted prior to the approval of the actual release date to ensure that transitioning and release preparation are adequately addressed.

When a POA or PRD is established, the Board will also determine if Special Conditions should be imposed. Special Conditions are those conditions of supervision that are required, in addition to the general set of release conditions. Special Conditions are

⁶ The Department’s Reintegration Units focus inmates housed within them on developing those elements to their lives-be they social, familial, vocational, or educational in nature-that will be key to their successful reentry into society. Linkages between inmates and relevant community resources are emphasized and facilitated within the reintegration units.

generally tailored to an inmate's specific offense behavior and identified needs. However, certain Special Conditions will be imposed in all parole cases, including a supervision level of very high, the development of a case plan, and a specified length of supervision, depending on the underlying offense(s) level. Examples of other Special Conditions include mandated programming, no contact orders and no change of residence without permission from the Parole Board.

DRC policy 105-PBD-03, dictates that all determinations and recommendations from a release consideration hearing shall require a majority vote of the currently appointed and active Board Members. The majority Board Member decision may occur at the institutional hearing if a sufficient number of Board Members are participating and can reach a majority vote. If the Board Members participating cannot reach a majority vote or the institutional hearing is not conducted with at least a majority of Board Members participating, the case will be referred to COBR to obtain the required majority vote.

As indicated above, whether the majority vote can be obtained at the institutional hearing, or must be referred for a majority Board Member vote at COBR, written notice of the decision will be provided to the inmate when the decision is finalized. If the decision is to deny release, the written notice will cite which of the following reasons indicated in O.A.C. § 5120:1-1-07 are applicable, any one of which is sufficient to support a determination that an inmate is not suitable for release:

- There is substantial reason to believe that the inmate will engage in further criminal conduct, or that the inmate will not conform to such conditions of release as may be established;
- There is substantial reason to believe that due to the serious nature of the crime, the release of the inmate into society would create undue risk to public safety, or that due to the serious nature of the crime, the release of the inmate would not further the interest of justice nor be consistent with the welfare and security of society;
- There is substantial reason to believe that due to serious infractions of rule 5120-9-06 of the Administrative Code, the release of the inmate would not act as a

deterrent to the inmate or to other institutionalized inmates from violating institutional rules and regulations.

In addition, the written notice will cite the factors determined to be significant in finding the inmate not suitable for parole, and will include the date at which the inmate will again be provided a release consideration hearing.

RESCISSION AND RECONSIDERATION

All release decisions are subject to review and approval by the Parole Board Chair and are not final until actual physical release from custody occurs. The physical release of an inmate onto parole may be stopped by the Parole Board Chair up to and including the day of release. Despite every effort by the Board to receive all relevant information regarding each inmate's case prior to or during the hearing, there are instances when relevant information is not known or available until after a release decision has been made. In addition, there are situations where the inmate's institutional conduct subsequent to a release decision has a direct bearing on the release decision.

DRC Policy No. 105-PBD-04 (“Request for Reconsideration of Parole Board Release Consideration Decision”) outlines the circumstances under which rescission and reconsideration of the outcome of a parole hearing is permitted. A request for reconsideration must be based on, and specifically refer to, relevant and significant new information that was either not available or not considered at the time of the hearing.

Requests for reconsideration must be made in writing, and sent to the Parole Board at DRC’s Operation Support Center. Reconsideration requests are reviewed by the Parole Board Chair or designee who can authorize a rescission of the previous decision and cause a new hearing to be scheduled, or can submit the matter to the Board Members for a majority vote.

Reconsideration requests generally decided by the Chair include information that involves a petition by the OVS for a Full Board Hearing, pending charges or institution rules infractions which occurred after the last rehearing or hearing but prior to release or were not known to the Board at the last hearing, the lack of an appropriate, approved placement, or the addition or removal of a special condition of supervision. Most other reconsideration requests that are determined to have merit, based on a review by the Chair or designee, are submitted to the Board Members for a majority vote. After review, the Board will adopt by majority vote the option to modify the decision with an action

commensurate with the reconsideration request, modify the decision with an alternative action than requested, rescind the previous decision and schedule a rehearing, or maintain the previous decision.

Parole decisions are not subject to appeal. R.C. § 5149.10 provides that “parole determinations are final and are not subject to review or change by the chief.”

CONCLUSION

The Board exercises its discretion in determining release suitability of eligible offenders serving indefinite sentences. The Board strives to ensure fairness and systemic participation in all levels of decision making, and to promote individual case consideration when determining release suitability. It serves offenders, victims, community members and other interested parties within the criminal justice system by promoting balanced and objective decision making to help achieve understanding of and participation in its statutory duties. By doing this, the Ohio Parole Board helps the Department of Rehabilitation and Correction achieve transparency in decision making by promoting public confidence in its processes.

REFERENCE LIST

STATUTES

2967.01	Pardon - parole - probation definitions
2967.03	Duties and powers as to pardon, commutation, reprieve or parole
2967.12	Notice of pendency of pardon, commutation, or parole sent to prosecutor and court
2967.13	Eligibility for parole
2967.191	Reduction of prison term or parole eligibility date for related days of confinement
2967.193	Earning days of credit
5149.01	Adult parole authority definitions
5149.02	Adult parole authority
5149.10	Parole board
5149.101	Full board hearings
5120.66	Internet database of inmate offense, sentence, and release information

ADMINISTRATIVE RULES

5120:1-1-03	Minimum Eligibility for Release on Parole
5120:1-1-06	Shock Parole
5120:1-1-07	Procedure for Release on Parole and Shock Parole; Factors that Shall be Considered in a Release Hearing
5120:1-1-08	Full Board hearings
5120:1-1-10	Initial and Continued Parole Board Hearing Dates; Projected Release Dates
5120:1-1-11	Procedure of Release Consideration Hearing
5120-2-03	Determination of Minimum, Maximum and Definite Sentences when Multiple Sentences are Imposed
5120-2-031	Determination of Stated Prison Terms and Life Sentences When Multiple Terms or Sentences are Imposed
5120-2-032	Determination of Multiple Sentences or Prison Terms with an Offense Committed Before July 1, 1996 and an Offense Committed On Or After July 1, 1996
5120-2-04	Reduction of Minimum and Maximum or Definite Sentence or stated prison term for Jail Time Credit
5120-2-05	Time Off for Good Behavior
5120-2-06	Earned Credit for Productive Program Participation
5120-2-07	Days of Credit of Maintaining Minimum Security
5120-2-10	Life Sentences

DRC POLICIES

- 105-PBD-03 Parole Board Release Processes
- 105-PBD-04 Request for Reconsideration of Parole Board Release Consideration Decision
- 105-PBD-06 Full Board Hearing
- 105-PBD-13 Statutory Notice

CONTACT INFORMATION

Ohio Parole Board, 770 West Broad Street, Columbus, Ohio 43222 (Phone 614-752-1200 or toll-free 888-344-1441) (Fax 614-752-0600)

Bureau of Sentence Computation (BOSC) P.O. Box 2650, Columbus, Ohio 43216 (Phone 614-877-3336)

Office of Victim Services (OVS), 770 West Broad Street, Columbus, Ohio 43222 (Phone 614-728-1976 or toll-free 888-842-8464)