

STATE OF OHIO



DEPARTMENT OF REHABILITATION  
AND CORRECTION

SUBJECT:	PAGE <u> 1 </u> OF <u> 7 </u> .
<b>Statutory Notice</b>	NUMBER: 105-PBD-13
RULE/CODE REFERENCE: ORC Section 2930.03, 2930.16, 2967.12, 2967.19, 2967.26, 2967.28, 5149.101; OAC Rule 5120-2-15, 5120-12-02, 5120:1-1-08, 5120:1-1-11, 5120:1-1-15.	SUPERSEDES: 105-PBD-13 dated 06/06/14
RELATED ACA STANDARDS:	EFFECTIVE DATE: July 11, 2016
	APPROVED: 

**I. AUTHORITY**

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

**II. PURPOSE**

The purpose of this policy is to establish uniform guidelines and procedures for the provision of statutory notice to victims, prosecuting attorneys, judges, and other parties regarding events occurring during an inmate's incarceration.

**III. APPLICABILITY**

This policy applies to all employees of the Ohio Department and Rehabilitation and Correction (DRC) and specifically to parole board staff.

**IV. DEFINITIONS**

**Clemency** - An act of mercy or leniency providing relief from certain consequences of a criminal conviction. The executive clemency power, including pardon, commutation and reprieve, is exercised by the Governor.

**Courtesy Notification Registrant** - A person who is either a local criminal justice professional or is a person who is not the victim of the instant offense but who has been adversely affected by an act committed by the offender.

**Designated Parole Board Staff** - Those staff members within the parole board designated by the parole board chair to administer the provision of notice to victims, prosecuting attorneys, judges, and other parties in accordance with Ohio law.

**Departmental Offender Tracking System (DOTS)** - The web-based information platform which serves as the primary information system for information on all offenders under DRC supervision. The

system contains information regarding the offender from reception to final release under supervision. This system is updated throughout each day. Access to DOTS Portal is restricted to essential users only.

**Full Board Hearing** - A parole board hearing conducted by a majority of parole board members as described in section 5149.101 of the Ohio Revised Code.

**Registered Victim** - A victim of an offense who has registered with the Office of Victim Services (OVS) to receive notice of those events occurring during an inmate's incarceration with respect to which the victim is entitled to receive notice under Ohio law.

**Senate Bill 160 Offense** - Aggravated murder; murder; a felony of offense of violence as defined in section 2901.01 of the Ohio Revised Code of the first, second, or third degree; and any offense punished by a life sentence.

**Opt Out** - An affirmative expression by the victim of a Senate Bill 160 offense of that victim's preference not to receive any of the statutory notifications concerning an inmate that the victim would otherwise be entitled to receive under Ohio law.

**Post-Release Control** - A period of supervision for an offender by the Adult Parole Authority (APA) following release from imprisonment that includes one or more post-release control sanctions imposed by the parole board pursuant to section 2967.28 of the Ohio Revised Code.

**Post-Release Control Sanction** - A sanction that is authorized under sections 2929.16 through 2929.18 of the Ohio Revised Code and that is imposed by the parole board at the time of the offender's release from prison.

**Victim's Immediate Family Member** - The mother, father, spouse, sibling, or child of a victim of a Senate Bill 160 offense, provided that in no case does "victim's immediate family member" include the perpetrator of the offense.

## V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) for the Ohio parole board to fulfill DRC's statutory duty to provide notice to victims, prosecuting attorneys, judges, and other parties of those events occurring during an inmate's incarceration to which they are entitled to notice under Ohio law. In addition to providing notice to registered victims, prosecuting attorneys, judges, and other parties, the parole board shall attempt to identify and locate victims of Senate Bill 160 offenses who have neither registered with the OVS nor opted-out of notification. The parole board shall perform its victim search and notification functions in a professional, efficient manner that ensures the timely provision of notice in accordance with statutory mandates. In searching for, providing notice to, and interacting with victims as required under Ohio law, parole board staff shall make every effort to respect the privacy and sensibilities of victims and their families.

**VI. PROCEDURES****A. Notice to Victims, Prosecuting Attorneys, and Judges**

1. At least sixty (60) calendar days before the parole board conducts a hearing to consider an inmate's parole and at least sixty (60) calendar days before the parole board recommends any clemency, designated parole board staff shall notify every registered victim of that inmate, the prosecuting attorney of the inmate's county of conviction, and the sentencing court. If the offense to which the parole hearing or clemency recommendation relates is a Senate Bill 160 offense, designated parole board staff shall attempt to provide notice of the hearing or clemency recommendation to every victim of the inmate regardless of whether the victim has registered with the OVS, unless the victim has opted out of notice.
2. At least sixty (60) days before an inmate is transferred to transitional control, designated parole board staff shall notify every registered victim of that inmate and the sentencing court. If the offense to which the transfer relates is a Senate Bill 160 offense, designated parole board staff shall attempt to provide notice of the transfer to every victim of the inmate regardless of whether the victim has registered with OVS, unless the victim has opted out of notice.
3. Upon DRC submitting to a sentencing court a request that the court consider granting an inmate an early release under section 2967.19 of the Ohio Revised Code, designated parole board staff shall promptly provide written notice of the submission to any registered victim of the inmate. If the offense to which the court submission relates is a Senate Bill 160 offense, designated parole board staff shall also attempt to provide notice of the submission to every victim of the inmate, regardless of whether the victim has registered with the OVS, unless the victim has opted out of notice.
4. Upon an inmate's escape from a DRC facility in which the inmate was incarcerated, the OVS shall promptly notify every registered victim of the inmate and shall promptly notify every registered victim of the inmate's subsequent capture. If the escapee is incarcerated for a Senate Bill 160 offense, the OVS shall attempt to provide the notices required under this paragraph to every victim of the inmate, regardless of whether the victim has registered with the OVS, unless the victim has opted out of notice.
5. Upon an inmate's death while in the DRC's custody, the OVS shall promptly notify every registered victim of the inmate. If the decedent is incarcerated for a Senate Bill 160 offense, the OVS shall attempt to provide the notice required under this paragraph to every victim of the inmate, regardless of whether the victim registered with the OVS, unless the victim has opted out of notice.
6. An immediate family member of a victim of a Senate Bill 160 offense shall be provided the notices described in sections VI.A.1 through VI.A.5 of this policy upon the family member's request.
7. If an officer of the law enforcement agency that arrested the inmate was a victim of the offense and if the offense is a Senate Bill 160 offense, then the notices described in

sections VI.A.1 through VI.A.5 of this policy also shall be provided to that law enforcement agency.

8. Designated parole board staff or the OVS shall notify, through the registration confirmation letter, every registered victim of the inmate of the date on which the inmate's sentence is scheduled to expire, which letter shall advise the recipient that the date is subject to change for earned credit, jail time credit modifications, and other events that can potentially accelerate a sentence's expiration.
9. Law enforcement, a victim's immediate family members, and any other individual not otherwise entitled to notice under section VI.A.6 or VI.A.7 of this policy but who nevertheless has a special interest in a particular inmate may register as a courtesy notification registrant for notification of the events described in section VI.A of this policy.

#### **B. Content of Notices Related to Parole Release Consideration Hearings**

1. Every notice of an upcoming parole release consideration hearing provided to a victim, victim's representative, or victim's immediate family member shall inform the recipient that the recipient has the opportunity to speak with a member of the parole board's staff at a victim conference prior to the hearing. The notice shall inform the recipient that the victim conference is that person's opportunity to share with the parole board how the victim has been impacted by the crime, to learn more about the parole release consideration process, and to learn more about victims' rights in that process. The notice shall direct the recipient to contact the OVS if the recipient is interested in scheduling a victim conference.
2. Victims and prosecuting attorneys shall be provided the following notifications regarding full board hearings.
  - a. Every notice of an upcoming parole release consideration hearing provided to a victim shall inform the recipient that should the parole release consideration hearing result in a favorable recommendation for parole, the victim has the right to request a full board hearing. The notice shall direct the recipient to contact the OVS for additional information about full board hearings.
  - b. If a parole release consideration hearing results in a favorable recommendation for parole, the OVS shall provide notice of that recommendation to every registered victim, every victim of a Senate Bill 160 offense who has not opted out, and the prosecuting attorney. The notice to victims shall advise victims of their right to petition for a full board hearing on the proposed parole. The notice to prosecuting attorneys shall advise them that they may request a full board hearing through the OVS. The OVS shall also advise the victim of the outcome of the parole board's vote on the petition, and the date, time, and location of the full board hearing if the petition is granted. Likewise, the OVS or designated parole board staff shall advise the prosecuting attorney of the outcome of the parole board's vote on the prosecuting attorney's request for a full board hearing and the date, time, and location of the hearing if the request is granted.

**C. Timing of Notice**

Notices provided in relation to parole consideration hearings, clemency recommendations, and transitional control transfers shall be provided to the recipient such that the recipient receives the notice at least sixty (60) days before the parole consideration hearing, clemency recommendation, or transitional control transfer, as the case may be.

**D. Post-Release Control Notification**

1. At least thirty (30) days before the release of an inmate who has committed a Senate Bill 160 offense, unless the victim has opted out, designated parole board staff shall notify the victim of the offense that the inmate will be subject to a period of post-release control supervision following release. The notice shall notify the victim of the date on which the inmate will be released, the period for which the inmate will be under post-release control, and the general terms and conditions of post release control.
2. The immediate family member of a victim of a Senate Bill 160 offense shall be provided the notice described in section VI.D.1 of this policy upon the family member's request.
3. The law enforcement agency that arrested an inmate who has committed a Senate Bill 160 offense shall be provided the notice described in section VI.D.1 of this policy if any officer of that agency was a victim of that offense.

**E. Notification Methods**

Notice shall be provided to a victim, prosecuting attorney, judge, or other party via regular mail, telephone, or electronic mail.

**F. Victim Searches**

1. Designated parole board staff shall attempt to identify and locate every victim of a Senate Bill 160 offense who has not registered with the OVS and who has not opted out of notice. Attempts shall be made to identify and locate victims of Senate Bill 160 offenses sufficiently far in advance of the hearing or other event to which they are entitled to receive notice to allow notice to be provided to them within the applicable timeframes set forth in this policy.
2. Attempts to locate and contact a victim of a Senate Bill 160 offense shall continue until three or more unsuccessful attempts to locate and contact the victim have been made.
3. Every attempt to locate and contact a victim of a Senate Bill 160 offense shall be recorded on a Victim Locator Worksheet (DRC3149E) or in DOTS Portal.
  - a. Records of attempts to locate and contact victims of Senate Bill 160 offenses shall indicate the identity of the victim, the date on which the attempt was made, the manner in which the attempt was made, and the parole board staff member who made the attempt. In the event that a victim search yields no viable address or other contact

information, then each attempt to identify viable contact information shall constitute an attempt to provide notice and shall be documented as such in accordance with this paragraph.

- b. Records of attempts to locate and contact victims of Senate Bill 160 offenses are not public records but are available to prosecuting attorneys, judges, law enforcement agencies, and members of the Ohio General Assembly upon request. Records of attempts to locate and contact victims shall therefore be maintained in such form as to allow prompt production of the record to those parties upon their request.
4. In the case of parole release consideration hearings that involve Senate Bill 160 offenses, if attempts to locate and contact the victim before the hearing were unsuccessful and if the result of the hearing was to continue the inmate's incarceration, attempts must again be made to locate and contact the victim prior to the inmate's next parole consideration hearing.
5. In the case of parole release consideration hearings and clemency recommendations that involve Senate Bill 160 offenses, designated parole board staff is permitted to cease attempts to locate and contact a victim if notice has been given to the victim with respect to at least two prior considerations of clemency or parole and the victim did not provide any written statement, did not attend any hearing conducted relative to the pending action, and did not otherwise respond to the office with respect to the pending action.

#### **G. Opt Out**

1. Every notice provided to a victim of a Senate Bill 160 offense shall inform the victim that the victim may request that future notices pertaining to the inmate not be provided to the victim. The notice shall direct the victim to contact the OVS for more information about opting out.
2. The OVS shall request a victim of a Senate Bill 160 offense who is interested in opting out to complete a form documenting the victim's desire to opt-out, Victim Notification Opt Out (DRC3209). Upon receiving the opt-out form, the OVS shall document the victim's desire to opt-out in DOTS portal. The OVS shall maintain a paper copy of the victim's signed opt-out form. An opt-out is not effective unless documented on a Victim Notification Opt Out Form (DRC3209) completed by the victim.
3. If a victim of a Senate Bill 160 offense has opted out of notification, the parole board shall not provide any notifications to that victim in relation to the particular inmate and offense or offenses to which the opt out applies, unless and until the victim subsequently contacts the OVS and registers for notification.

#### **H. Additional Responsibilities of the Office of Victim Services and other Parole Board Staff**

1. It is the responsibility of the designated parole board staff or the OVS to register victims, including victims of Senate Bill 160 offenses who choose not to opt out of notification. Designated parole board staff or the OVS shall acknowledge receipt of victims' requests for notification by regular mail, telephone, or electronic mail.

2. The OVS shall maintain a file for each registered victim identifying the victim's name, current address, telephone number, and e-mail address if an e-mail address is provided by the victim.
3. It is the victim's responsibility to provide to the OVS any changes in the victim's contact information. However, the parole board remains responsible for attempting to locate and provide notice to a victim of a Senate Bill 160 offense in accordance with this policy regardless of whether the victim has maintained current contact information with the OVS.
4. If a request for notification is received from a victim after the inmate has been released from incarceration, designated parole board staff shall immediately notify the victim of the inmate's release.

**Related Department Forms:**

Victim Locator Worksheet	DRC3149
Victim Notification Opt Out	DRC3209