



Department of  
Rehabilitation & Correction

SUBJECT: <b>Statutory Notice</b>	PAGE <u> 1 </u> OF <u> 8 </u>
	NUMBER: <b>105-PBD-13</b>
RULE/CODE REFERENCE: ORC2930.03, 2930.16, 2967.12, 2967.19, 2967.26, 2967.28; 5149.101; OAC 5120-2-15, 5120-12-02, 5120:1-1-08, 5120:1-1-11, 5120:1-1-15	SUPERSEDES: 105-PBD-13 dated 07/23/18
RELATED ACA STANDARDS: 2-1128-1	EFFECTIVE DATE: <b>March 2, 2020</b>
	APPROVED: 

## I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

## 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 individual's incarceration.

## III. APPLICABILITY

This policy applies to all employees of the Ohio Department and Rehabilitation and Correction (ODRC) 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 has requested to receive notification but does not meet the definition of victim registrant.

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

**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.

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

**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 incarcerated individual that the victim would otherwise be entitled to receive under Ohio law.

**Post Release Control (PRC)** - A period of supervision for an offender by the Adult Parole Authority (APA) following release from imprisonment that includes one (1) or more Post Release Control (PRC) Sanctions imposed by the parole board pursuant to ORC section 2967.28.

**Post Release Control (PRC) Sanction** - A sanction that is authorized under ORC sections 2929.16 through 2929.18 and that is imposed by the Parole Board at the time of the incarcerated individual's release from prison.

**SB160 Victim Registrant** - A victim of an SB160 offense, or the immediate family member of a qualifying SB160 victim (i.e., parent, child, sibling, spouse of a homicide victim) or Law Enforcement Agency chief if the victim of an SB160 offense was a law enforcement officer.

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

**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.

**Victim Registrant** - A victim of a non-SB160 offense who has registered with the Office of Victim Services (OVS) to receive notice of those events occurring during an individual's incarceration with respect to which the victim is entitled to receive notice under Ohio law

## V. **POLICY**

It is the policy of the Ohio Department of Rehabilitation and Correction (ODRC) for the Ohio Parole Board to fulfill ODRC's statutory duty to provide notice to victims, prosecuting attorneys, judges, and other parties of those events occurring during an individual'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 Office of Victim Services (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 incarcerated individual's parole and at least sixty (60) calendar days before the Parole Board recommends any clemency, designated Parole Board staff shall notify every victim registrant, SB160 victim registrant and courtesy notification registrant of that incarcerated individual, the prosecuting attorney of the incarcerated individual'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 incarcerated individual regardless of whether the victim has registered with the OVS, unless the victim has opted out of notice.
2. At least thirty (30) calendar days before a full board hearing is conducted, a designated Parole Board staff shall notify every victim registrant, SB160 victim registrant and courtesy notification registrant of that incarcerated individual, the prosecuting attorney of the individual'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, a designated Parole Board staff shall attempt to provide notice of the hearing or clemency recommendation to every victim of the incarcerated individual regardless of whether the victim has registered with the OVS, unless the victim has opted out of notice.
3. At least sixty (60) calendar days prior to a rebuttal hearing held to determine if an individual's incarceration shall be maintained for an additional period, designated Parole Board staff shall notify every victim registrant, courtesy registrant, prosecuting attorney of the individual's county of conviction, and the sentencing court. If the offense to which the hearing relates is an SB 160 offense, designated Parole Board staff shall attempt to provide notice of the hearing to every victim of the incarcerated individual regardless of whether the victim has registered with the OVS, unless the victim has opted out of notice.
4. If the Director recommends a reduction of the minimum prison term, designated Parole Board staff shall send notices to the prosecuting attorney and court not earlier than ninety (90) calendar days prior to the date on which the Director wishes to credit the reduction toward the satisfaction of the incarcerated individual's minimum prison term. In addition to identifying the incarcerated individual, the notice should include the following:
  - a. Specify the length of the recommended reduction;
  - b. Specify the reason or reasons that qualify the incarcerated individual for the recommended reduction;

- c. Inform the court of the rebuttable presumption and that the court must either approve or, if the court finds that the presumption has been rebutted, disapprove of the recommended reduction, and that if it approves of the recommended reduction, it must grant the reduction;
  - d. Inform the court that it must notify the department of its decision as to approval or disapproval not later than sixty (60) calendar days after receipt of the notice from the director;
  - e. An institutional summary report that covers the incarcerated individual's participation in rehabilitative programs and activities and any disciplinary action taken against the incarcerated individual;
  - f. Any other documentation requested by the court, if available.
5. At least sixty (60) calendar days before an incarcerated individual is transferred to transitional control, designated Parole Board staff shall notify every victim registrant, SB160 victim registrant and courtesy notification registrant of that incarcerated individual 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 incarcerated individual regardless of whether the victim has registered with OVS, unless the victim has opted out of notice.
6. Upon ODRC submitting to a sentencing court a request that the court consider granting an incarcerated individual an early release under ORC section 2967.19, designated Parole Board staff shall promptly provide written notice of the submission to any victim registrant, SB160 victim registrant and courtesy notification registrant of the incarcerated individual. 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 incarcerated individual, regardless of whether the victim has registered with the OVS, unless the victim has opted out of notice.
7. Upon an incarcerated individual's escape from an ODRC facility in which they were incarcerated, the OVS shall promptly notify every victim registrant and courtesy notification registrant of the incarcerated individual and shall promptly notify every victim registrant and courtesy registrant of the incarcerated individual'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 incarcerated individual, regardless of whether the victim has registered with the OVS, unless the victim has opted out of notice.
8. Upon an incarcerated individual's death while in the ODRC's custody, the OVS shall promptly notify every victim registrant, SB160 victim registrant, and courtesy notification registrant of the incarcerated individual's death. 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 incarcerated individual, regardless of whether the victim registered with the OVS, unless the victim has opted out of notice.

9. If an officer of the law enforcement agency that arrested the incarcerated individual 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.
10. Designated Parole Board staff or the OVS shall notify, through the registration confirmation letter, every victim registrant, SB160 victim registrant, and courtesy notification registrant of the incarcerated individual of the date on which the individual'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.
11. 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 incarcerated individual 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 or the OVS 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 such to every victim registrant, SB160 victim registrant, and the prosecuting attorney. The notice to victims shall advise victims of the date of the full board hearing or, if the Parole Board chair/designee is not initiating the petition process for a full board hearing, the victims' right to petition for

a full board hearing on the proposed parole. If a full board hearing has been requested by a victim, 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.

- c. If no victims were located, OVS may contact the prosecutor's office to petition for a full board hearing.

### **C. Post Release Control (PRC) Notification**

1. At least thirty (30) calendar days before the release of an incarcerated individual 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 incarcerated individual will be subject to a period of PRC supervision following release. The notice shall notify the victim of the date on which the incarcerated individual will be released, the period for which the individual will be under PRC, and the general terms and conditions of PRC.
2. The law enforcement agency that arrested an incarcerated individual 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.

### **D. Notification Methods**

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

### **E. 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 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 way the attempt was made, and the Parole Board staff member who made the attempt. If 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 individual's incarceration, attempts must again be made to locate and contact the victim prior to their 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 (2) 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.

#### **F. 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 incarcerated individual 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 incarcerated individual and offense or offenses to which the opt out applies, unless and until the victim subsequently contacts the OVS and registers for notification.

**G. 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. The designated Parole Board staff or 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 incarcerated individual has been released from incarceration, designated Parole Board staff shall immediately notify the victim of the individual's release.

**Related Department Forms:**

Victim Notification Opt Out

DRC3209