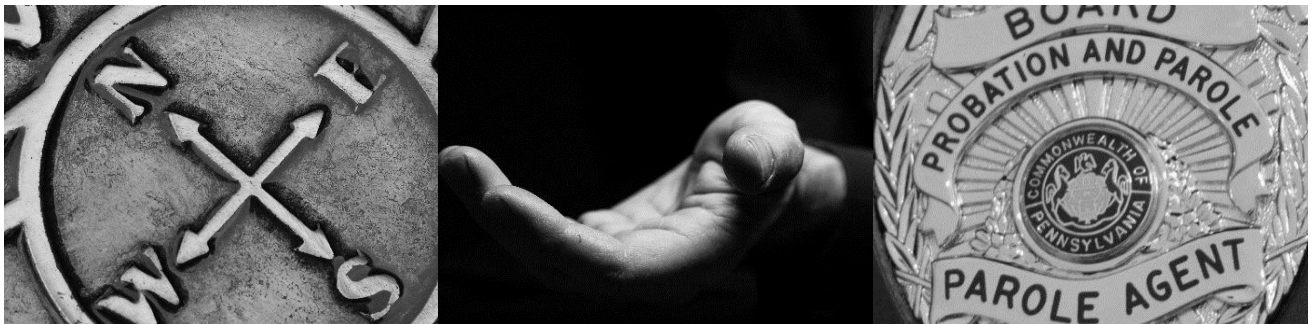

PAROLE 101

Guide. Support. Enforce.



pa board of probation and parole

Ted Johnson, Chairman
PA Board of Probation and Parole



MISSION STATEMENT

The Pennsylvania Board of Probation and Parole is committed to promoting public safety, utilizing sound decision making practices that include evidence-based approaches, employing effective methods to aid offenders in reentering society and to reduce recidivism, addressing the needs of crime victims, and improving county adult probation and parole services.

Parole serves a very important role in the criminal justice system. Most inmates who have been sentenced to prison will be released at some point and return to the community. Criminal justice experts agree that it is better for society if most individuals are reintegrated into the community on a gradual basis and under parole supervision rather than being released without it.

The Arrest and Conviction of John*

***NOTE: The following case example is a fictitious person. It does not depict any actual person or event. For the purpose of this example, the individual has been named John*.**

John was 21 when he was arrested for entering an apartment without consent and attacking his victim. John was convicted of burglary and aggravated assault. He was sentenced to 4 years and 6 months to 10 years. His minimum (MIN) sentence date was November 28, 2013 and his maximum (MAX) sentence date is May 28, 2019. He was not eligible for RRRI sentencing.

Sentencing

The sentencing process can be a complicated process to understand. MIN... MAX... Original sentence...What does all of it mean? These are the definitions:

Original Sentence: The sentence comes from the original conviction. **It is from this sentence that the board paroles the inmate** and the parolee serves the remaining time in the community unless recommitted by the board.

Aggregate Sentence: Two or more consecutive sentences that have been combined.

Consecutive Sentence: A sentence to be served immediately following the termination or completion of another sentence.

Concurrent Sentence: Sentences being served simultaneously (at the same time).

How is the length of a sentence determined?

Mandatory Sentences: The court cannot impose a sentence less than that required by a mandatory minimum provision established in statute. When the guideline range is lower than that required by a mandatory sentencing statute, the mandatory minimum requirement supersedes the sentence recommendation. When the sentence recommendation is higher than that required by a mandatory sentencing statute, the court shall consider the guideline recommendations.

Minimum Sentence (MIN): An inmate in state prison must serve the entire minimum sentence prior to becoming eligible for parole. The MIN date is **NOT** an inmate's parole date.

Maximum Sentence (MAX): The court must impose a maximum sentence that is at least double the minimum sentence, but the maximum sentence cannot exceed the period of time authorized. After an inmate is paroled, the balance of the sentence (until the maximum is reached) is served on parole.

Sentencing Guidelines

Courts consider the sentencing guidelines in determining the appropriate sentence for individuals convicted of, or pleading guilty or nolo contendere to, felonies and misdemeanors.

Where crimes merge for sentencing purposes, the court shall consider the sentencing guidelines only on the higher-graded offense. Guidelines do not apply to: certain diversion programs, contempt or revocations, summary convictions, violations of local ordinances or current juvenile adjudications of delinquency.

What is Recidivism Risk Reduction Incentive (RRRI)?

- ➔ Enables eligible, non-violent offenders to reduce their minimum sentences if they complete recommended programs and maintain a positive prison adjustment (good conduct and remain misconduct free during incarceration)
- ➔ Is a public safety initiative to reduce recidivism and victimization
- ➔ Intent is to provide more access to crime-reducing drug/alcohol treatment programs and to provide incentives to less violent offenders to complete programs that will provide them with tools to help them become productive, law-abiding
- ➔ Applies to sentences received on/after November 24, 2008

How does RRRI work?

At sentencing, the court makes the determination whether the defendant is an eligible offender. The prosecuting attorney has an opportunity to argue eligibility, and the victim has a right to provide input. The court will prescribe two minimum sentences: one is RRRI minimum; the other is the regular minimum.

Example: A less violent offender who is eligible for the incentive receives a typical 2-4 year sentence. The RRRI minimum would be 18 months, and the regular minimum 2 years.

Who is eligible for RRRI?

Generally, only less serious offenders (defined as those who have not committed a personal injury crime, a sex crime, a crime with a firearm and are not considered to be a key player in the drug trade) are eligible for RRRI. These offenders are generally drug and/or alcohol dependent, which is the primary motivating factor that has led to their crime. Certain offenses, current or prior, affect eligibility and these are determined by the courts.

John arrives at a state correctional institution (SCI)

John arrived at state prison and was admitted to the Diagnostic and Classification Center. For male inmates, this is the SCI Camp Hill. (For females, it is SCI Muncy). The DOC conducts a battery of assessments:

- Risk Screen Tool (RST) - risk of reoffending and program indicator
- Criminal Sentiments Scale-Modified (CSS-M) –measures criminal attitudes
- Texas Christian University Drug Screen (TCU) – substance abuse treatment
- Personality Assessment Inventory – guides future clinical interviews and programming, including violence indicator
- Psychological Assessment Interview – screen for clinical pathology and risk and mental health issues
- Test of Adult Basic Education (TABE)

The Department of Corrections (DOC) delivers cognitive behavioral programming to address treatment needs that have been proven to reduce recidivism.

- Thinking for Change – addresses criminal thinking
- Violence prevention – low, moderate and high intensity
- Batter’s intervention – addresses domestic violence
- Sexual offender programming – low and moderate/high
- Drug and alcohol treatment – based on TCU score (outpatient or therapeutic community)

The results of John’s assessment are:

- No mental health needs
- Low CSSM – criminal attitudes
- High RST- risk; Low TCU - drug screen
- High LSI-R – risk and needs
- Did not attain 12th grade education
- Prior parole failure

The DOC and the board created a joint correctional plan that would best meet the rehabilitative needs for John. His correctional plan was:

1. Participate in violence prevention programming which was to include Thinking for a Change;
2. Become employed as barber in prison; and,
3. Obtain his GED.

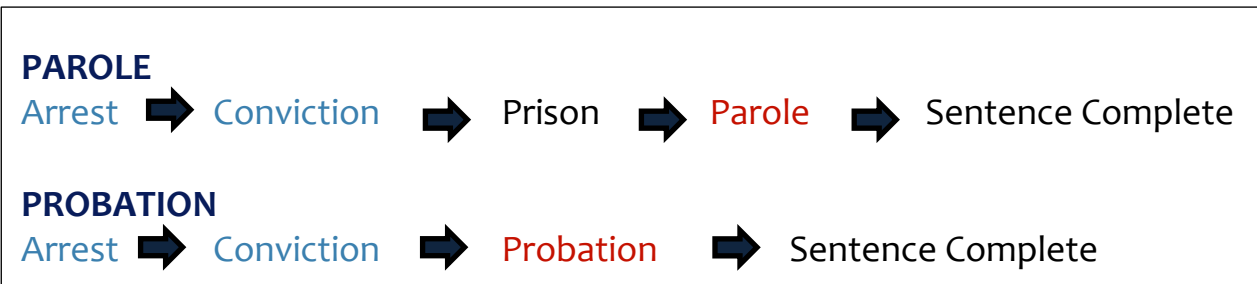
The DOC delivers cognitive behavioral programming to address treatment needs, which have proven to reduce recidivism.

- ▶ Thinking for a Change – addresses criminal thinking
- ▶ Violence prevention – low, moderate and high intensity
- ▶ Batter’s intervention – addresses domestic violence
- ▶ Sexual offender programming – low and moderate/high
- ▶ Drug and alcohol treatment – based on TCU score (outpatient or therapeutic community)

John is transferred from SCI-Camp Hill to another state correctional facility to serve his sentence.

What is parole?

Parole is the release of an inmate from prison prior to his or her sentence's maximum date, but after the minimum sentence date, to continue serving the balance of the sentence under supervision in the community. Probation is a sentence that does not include a period of incarceration; it is served in the community rather than jail. The sentencing judge always makes the decision regarding a person's probation conditions and violations. However, a judge may request the Pennsylvania Board of Probation and Parole to supervise certain county inmates with the judge retaining decision making power; however, these are known as "special probation" cases.



Parole is also different from a pardon or a commutation. The Governor may grant a pardon or commutation if the Board of Pardons, which is separate from the Board of Probation and Parole, recommends that one be granted.

The board has paroling authority over sentences with a maximum date of two or more years that are served in state correctional institutions. A maximum sentence less than two years is a county sentence and county parole.

There is no right to parole under state or federal law. Parole decisions in Pennsylvania are not subject to judicial review unless the prisoner asserts a constitutional challenge to the denial of parole or seeks a writ of mandamus to compel the board to exercise its discretion. The board does not have the authority to parole from sentences of life imprisonment or death.

Minimum and maximum sentence dates are calculated by the Pennsylvania Department of Corrections (DOC). The minimum sentence date is a parole eligibility date, not a guaranteed release date. Contrary to popular misconception, Pennsylvania inmates are not required to serve 85% of their maximum sentence to be released on parole.

An order by a sentencing judge which grants or denies parole to a person serving a maximum sentence in excess of two years is a nullity. A sentencing judge may make recommendations as to the length of confinement and conditions of parole; however, these orders are advisory and are not binding on the board.

John has been serving his sentence

John was transferred to SCI-Coal Township to serve his 4 years and 6 months to 10 years sentence. His minimum sentence date (MIN) was November 28, 2013. Eight months before his MIN date, Department of Corrections (DOC) and Board of Probation and Parole (board) staff began working together to gather information for his parole interview with the board.

After all of his assessments are completed, John is a violence category 2 (violent offense with no violent history; LSI-R 27 (high risk). He received no misconducts while incarcerated and is currently participating in his programming, but it has not been completed.

The Decision Makers

The board consists of nine members, appointed by the Governor with the advice and consent of the Senate. The board may make parole and revocation decisions by a majority of the board or in panels of two persons. Panels consist of one board member and one hearing examiner or two board members. A hearing examiner is also a decision maker empowered to sit on parole revocation panels, conduct parole hearings in lieu of panels and conduct parole interviews on behalf of the board.

For voting purposes, the board uses four groups based on the inmate’s current offense:

Group 1 - Murderers and sex offenders

The majority of the board members must vote ‘yes’ for an inmate to be paroled. These inmates are interviewed jointly by two board members, or one board member and one hearing examiner. The hearing examiner vote does not count for these cases.

Group 2 - Other violent inmates:

At least two decision makers must vote ‘yes’ for an inmate to be paroled. These inmates are usually interviewed jointly by a board member and a hearing examiner.

Group 3 - Non-violent inmates:

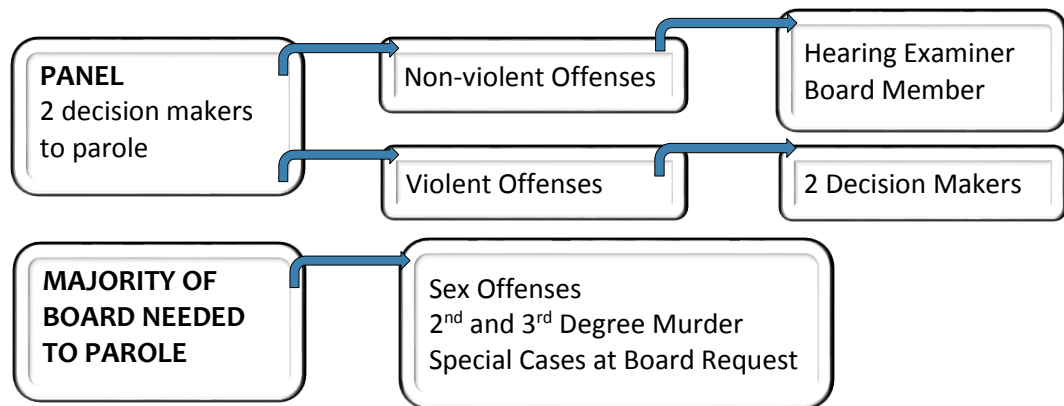
Non-violent offenders need one ‘yes’ vote from a hearing examiner and one ‘yes’ vote from a board member. These inmates are usually interviewed by a hearing examiner.

Group 4 – Recidivism Risk Reduction Incentive (RRRI):

RRRI-eligible inmates may be paroled if they receive a ‘yes’ vote from a hearing examiner.

**RRRI is a sentence imposed upon a non-violent inmate that can allow them the opportunity to reduce their minimum sentence upon completion of recommended programming, and while maintaining a good conduct record.*

The Voting Process



Point to Remember

It is the board’s job to determine whether or not an inmate should be on parole. The board’s main consideration is whether or not an inmate has reduced their risk of committing a new crime and can be safely supervised in the community.

Four months prior to John’s MIN date, the parole interview is held...

John is interviewed in prison in August 2013. Board members have prepared for the interview by reviewing his file. John is interviewed by two board members – one in person at the correctional facility and one via video conference. John’s case was a violent case requiring two decision makers to interview him. If the vote was a split decision, the case would go to a third board member. Certain violent cases require a vote by a majority of the board.

Making Parole Decisions

The board uses a valid and reliable risk and needs assessment instrument to assist with parole decisions, as well as other nationally recognized assessments.

The board follows five main principles when making parole decisions:

- ➔ Defer to the sentencing court regarding issue of appropriate punishment
- ➔ The sentencing court establishes all individual sentences for a person convicted of a crime
- ➔ Ensure all inmates are accurately and consistently evaluated for their readiness to parole to enhance public safety and use a structured decisional instrument
- ➔ Because of the significant stakes involved in violent crimes, the board evaluates violent offenses at a more stringent standard than non-violent offenses
- ➔ The board supports order and safety within the DOC

The parole interview is conducted to:

1. Address with the inmate both criminal history and institutional conduct, program participation, and consider needs and risks.
2. Assess the adequacy of treatment or programming while incarcerated, at the point of reentry and on an ongoing basis in the community.

RISK is the likelihood of an inmate to commit another crime and the board tries to determine how much an inmate’s risk has been reduced.

Human behavior is difficult to predict. A risk assessment is a statistical tool that does not predict which individual will re-offend, but identifies groups likely to re-offend. The risk assessment may place an inmate in a high risk group, but specifically which inmate in the group will re-offend is difficult to identify.

The Parole Decisional Instrument

The board uses a Parole Decisional Instrument (PBPP 361) to analyze individual cases and guide consistency in decision making. The instrument is a guide to advise the decision maker. It does not replace professional discretion and does not bind the board to grant or deny parole, or create a right, presumption or reasonable expectation that parole will be granted.

1

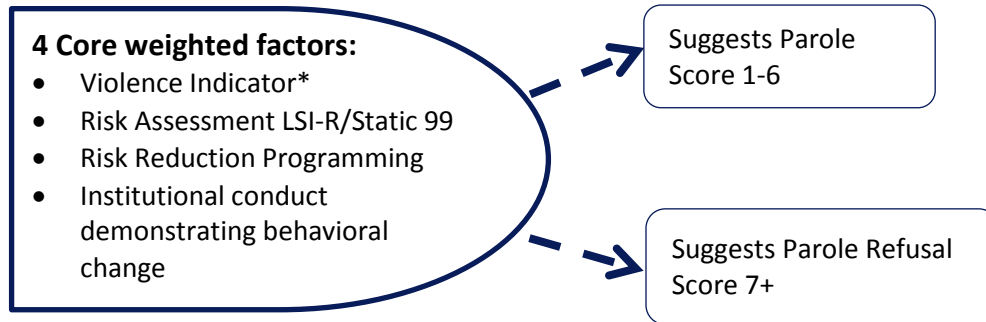
Weighted Factors

Weighted information can be statistically calculated by assigning a point value. For validity and fairness, the items that are weighted must be factors that are common to all individuals. Four primary factors are calculated and are directly related to a reduced risk of re-offending:

- ➔ **Violence Indicator by Offender Violence Risk Typology (OVRT) Category**
The board holds Category 3 inmates to a more stringent standard.

- ➔ **Risk/Needs**
The risk level relates to the likelihood of reoffending.
- ➔ **Institutional Programming**
Participation in or completion of programming designed to reduce the risk level.
- ➔ **Institutional Behavior**
Reflects demonstrated behavioral change.

The calculation of these factors determines a threshold score that “Suggests Parole” or “Suggests Parole Refusal.”



**Violence Indicator: Instant offense, prior criminal history/violence, age of criminal onset, use of weapons and other static risks*

2 Non-Weighted Countervailing Factors

Countervailing factors are factors that will not pertain to all individuals, therefore they are not weighted. They are identified through evaluation of the information in the case file and the parole interview.

3 Professional Judgment

During the interview, the decision maker contemplates how the interview findings link to certain factors to determine if the inmate’s likelihood of re-offending has been reduced:

Insight and Response to Criminal Behavior	Demonstrated Motivation for Change	Overall Risk	Assessment of Parole Challenges	Home Plan
Inmate perception of offense	Program compliance/ completion	Analysis of risk domains	LSI-R problem domains	Satisfactory residence plan/options
Inmate perception of criminal lifestyle	Acceptable prison conduct	Actions to mitigate risk	Treatment/program evaluations	Development of continuity of care plan
Acceptance of responsibility	Articulation of accepting responsibility	Type of risk (theft vs. rape)	Reentry planning	
Expressed remorse		Judge/DA/Victim Input	Prior supervision experience	
Non-minimization of offense	Community Corrections Center adjustment	Prior supervision		
		Risk: escalation – mitigation	Extent of criminal history	

The board is required by law to consider the following factors when considering parole:

- The nature and circumstances of the crime for which the inmate was convicted, as well as his/her entire criminal history, including any juvenile arrests or adjudications
- Information regarding the general character and background of the inmate
- Notes on the sentencing hearing testimony
- Emotional stability: physical, mental and behavioral condition and history of the inmate
- History of family violence
- Recommendation of the sentencing judge and prosecuting attorney
- Input from the victim and the victim's family
- Recommendation from the warden or superintendent of the facility where the inmate is incarcerated

Other requirements considered are the status of program completion and the person's adjustment to prison. The board looks at all misconducts, but concentrates on those that occurred within the past two years.

After the Interview

The decision to grant or refuse parole is recorded on the Parole Decisional Instrument (PBPP 361).

The board action is the public record that documents the decision of the board to grant or deny parole. It was commonly called the "green sheet" because it used to be printed on green paper. The board action will contain the decision to:

- ➔ Parole and the reasons for granting parole and the conditions of supervision
- OR**
- ➔ Refuse parole with specific requirements to be fulfilled by the time of the next parole review (usually 6 months to 1 year) and the reasons for denying parole

Each case that has an interview is voted on by the board members and hearing examiners. How many votes are required per case is determined by the type of offense.

The Parole Decision

The board frequently clarifies the misunderstanding that the minimum sentence date is the parole release date. Public perception is they are one and the same. It is crucial that all incarcerated individuals in Pennsylvania understand the minimum sentence date represents the minimum amount of time a person must be incarcerated under DOC's control; an inmate becomes eligible for parole release after they have served their minimum sentence.

Additionally, an inmate's family and friends mistakenly believe after their loved one has been granted parole, they are immediately released. This is not the case as a positive board action triggers numerous other events that must take place before the inmate is released on parole.

The board action, also called a board decision, (previously referred to as a "green sheet" because it was printed on green paper, but is now printed on white paper), will tell the inmate whether they have been granted or denied parole and the reasons for the decision.

Explanation of Parole Denial

If the parole denial contains a general statement the inmate does not demonstrate a motivation for success, it means that neither the completion of programs nor the interview statements show the inmate seems prepared to succeed as a law-abiding citizen.

If the parole denial contains a general statement regarding risk and needs assessment, it means the inmate has a high risk of re-offending according to his/her evaluations.

If the parole denial contains a general statement regarding lack of remorse or not taking responsibility for the crime(s), it means the statements and actions during the parole interview, including the inmate's written statement, gave the impression the inmate does not care about the impact of his/her actions on other people and society.

Explanation of Parole Approval

If the parole decision grants parole, it will highlight the reasons for the approval. The board action also spells out the individual's parole conditions.

Parole to detainer means the inmate is not being released. It is a grant of parole to a detainer sentence, which is a sentence separate from the one the inmate is currently serving. The detainer ensures that when the inmate has been paroled on the present sentence, the inmate will be turned over to the authority imposing the detainer sentence to serve the next sentence, rather than being released from confinement. It means the inmate is allowed to start serving the other Pennsylvania sentence while on parole or will be sent to the other jurisdiction, which lodged the detainer, to address that situation.

Parole release is not immediate when an inmate receives a board action granting parole. There are several things that need to occur before the inmate is released to parole supervision. After parole is granted, the inmate needs to work with the institutional parole agent to determine what criteria from this list must be met before release:

- Crime Victims' Compensation Fund Payment
- DOC RRRRI Certification
- Victim Awareness Class Completion (if applicable)
- DNA Sample (if a past or present felony conviction exists)
- Megan's Law Registration (if required)
- Completed Programming (if noted)
- Urinalysis (test results are good for 45 days)
- Chairman's Certification (if violent crime)
- Community Corrections Center (CCC) Bed Available Date
- Approved Home Plan (An in-state, Pennsylvania home plan is valid for 150 days; an out-of-state home plan is valid for 120 days)
- Release Orders from the Board
- Release Date from DOC

If the board action/decision contains conditions that must be fulfilled before an inmate is released, they must complete them before any release processing will begin. Inmates must also remain misconduct free. Any detainers or new charges may delay or invalidate an inmate's parole.

Community Corrections Centers

A CCC, often called a halfway house, is a residency under the jurisdiction of the DOC. To be placed in a CCC, DOC must approve an inmate's placement and provide a bed date. This will be requested for the inmate by the board's institutional parole staff **if** the board action/decision states the inmate is to be paroled to a CCC. DOC is responsible for placing inmates at CCCs. The board always encourages each inmate to work with his/her institutional parole agent to develop an approved home plan in order to expedite placement.

DOC controls the location and times for bed dates. The parole agent only makes a referral to a DOC Corrections Classification Program Manager. An inmate may check with their corrections counselor or the institutional parole agent if they have not received a bed date within one month of receiving a paroling board action.

Legally, an inmate cannot be released on parole prior to the minimum sentence date. If an inmate has completed all required programming, is a non-violent, has an approved home plan or CCC bed date, and has no detainers, release may occur within a short time frame. The average inmate is released within 130 days of an interview resulting in parole approval.

John is Granted Parole

According to John's board action, he was to be paroled on or after November 28, 2013, his MIN date. In his board action, the primary reasons for the decision were:

- ▶ Accepted responsibility
- ▶ Recommendation of DOC
- ▶ Involved in programming
- ▶ Placement in a community corrections center

John's board action stated the following:

- Paroled on or after November 28, 2013 to a CCC. (While incarcerated, John submitted a home plan but his request by the landlord was denied. John is to be paroled on or after November 28 to a CCC as he continues to work on another home plan.)
- Maintain employment/training/schooling
- No contact with persons who sell or use drugs outside of a treatment setting
- Subject to drug testing and must pay for tests
- Cannot enter establishments that sell alcohol
- No contact with victim in any manner
- No contact with associates or co-defendants
- Wage attachment for court ordered financial obligations

Before John is released from the SCI, he completes the required items such as urinalysis, needed before he leaves prison. John signs his release orders and conditions of parole and leaves the SCI. He must report to a parole office or CCC within 24 hours. John meets with his assigned agent within five days. They review his initial supervision plan. The supervision plan addresses John's risks for reoffending and his needs to help him be successful on parole. This supervision plan is re-assessed every year. When he submits a home plan, a visit to the site will occur within 10 days.

Parole Supervision

There are two types of parole conditions: general and special. General conditions of parole apply to every individual under parole in the state of Pennsylvania. Special conditions of parole are specific and individualized conditions placed on a parolee by the board, the sentencing court and/or field supervision staff. Special conditions are in addition to general conditions and all must be followed to be in compliance.

General Conditions of Parole

1. Report in person within 24 hours to the district office or sub office specified by the board and not leave that district without prior written permission of the parole supervision staff.
2. Live at the residence approved by the board at release and not change residence without the written permission of the parole supervision staff.
3. Maintain regular contact with the parole supervision staff by:
Reporting regularly as instructed and following written instructions of the board or the parole supervision staff.

Notifying the parole supervision staff within 72 hours of one of the following:

- ▶ Arrest
- ▶ Receipt of a summons or citation for an offense punishable by imprisonment upon conviction
- ▶ Change in status including but not limited to employment, on the job training and education

4. Comply with municipal, county, state and federal criminal statutes, as well as the Vehicle Code and the Liquor Code.

5. Additionally:

- ▶ Abstain from the unlawful possession or sale of narcotics and dangerous drugs and abstain from the use of controlled substances within the meaning of The Controlled Substance, Drug, Device and Cosmetic Act without a valid prescription
- ▶ Refrain from owning or possessing firearms or other weapons
- ▶ Refrain from assaultive behavior

6. Pay fines, costs, and restitution imposed by the sentencing court. Establish with appropriate county authorities within 30 days of release from prison a payment schedule for the fines, costs and restitution owed for those cases for which each individual is now on state parole. Thereafter, each person shall:

- ▶ Pay these obligations according to the established payment schedule or as ordered by the court;
- ▶ Provide proof of such payment to parole supervision staff; and
- ▶ Keep the parole supervision staff and the court informed of any changes in the parolee's financial ability to pay fines, costs and restitution.

Parole agents are peace officers. However, they are also permitted to perform these functions:

- They can impose special parole conditions on any parolee in their caseload if they determine it is warranted.
- They have police power and authority throughout Pennsylvania to arrest without warrant, writ, rule or process any parolee or probationer under the supervision of the board for failing to report as required by the terms of their probation or parole or for any other violation of the probation or parole.

- They are authorized to search on a reasonable suspicion standard without a warrant. Any item found in the parolee's possession that is a violation of parole/reparole from the search may be used as evidence in the parole revocation process.
- They can also supervise county parolees and probationers.

The parole agent is a parolee's first point of contact for any problems the individual may encounter while on parole. The parole agent is responsible for helpful guidance and also for enforcing parole conditions.

Violations of Parole

There are two types of state parole violators: convicted and technical.

Convicted Parole Violator (CPV)

A parolee who violates parole by committing a new crime while on parole. For a parolee to be recommitted as a CPV:

- (1) The crime must be committed during the period of parole or while delinquent on parole;
- (2) The crime must be punishable by imprisonment; and,
- (3) Parolee must be convicted or found guilty by a judge or jury, or plead guilty or nolo contendere in a court of record.

Technical Parole Violator (TPV)

A parolee who violates probation or parole terms and conditions, other than a new misdemeanor or felony conviction. Examples include: missed curfew, signing out for work and not showing up, leaving the district without permission, etc.

Points to Note

- If a parolee is arrested for a crime while on parole or is accused of assaultive behavior against another person, they will most likely be returned to prison. Other parole violations may or may not result in re-incarceration depending on what the violation is and if it's a repeat behavior. All violations will result in a sanction ranging from curfew, increased urine testing, or attending programming to being placed in an in-patient treatment or technical parole violator center.
- If a parolee is arrested on new criminal charges, the board has the authority to lodge a detainer against the parolee, which will prevent his/her release from custody, pending disposition of those charges, even though the parolee may have posted bail or has been released on their own recognizance from those charges.
- If a parolee violates a condition of parole/reparole and, after the appropriate hearing(s), the board decides the parolee is in violation of a condition of parole/reparole, the individual may be recommitted to prison for a time specified by the board.
- If a parolee is convicted of a crime committed while on parole/reparole, the board has the authority, after an appropriate hearing, to recommit the parolee to serve the balance of the sentence or sentences the parolee was serving when paroled/reparoled, with no credit for time at liberty on parole.
- A hearing is required before parole may be revoked. The parolee is entitled to assistance of counsel at revocation hearings and to free counsel if indigent. The board does not appoint counsel. A public

defender of the county in which an indigent parolee is incarcerated provides counsel. Rules of Criminal Procedure do not apply. Board regulations govern proceedings. In a parole revocation hearing, the standard of proof is preponderance of evidence. Parole revocation decisions can be made by a majority of the board or in a panel of two persons.

Violation Hearings

Parolees have a right to both a first and second level hearing as part of their due process rights. A parolee may also choose to waive these rights.

First Level Hearings

Preliminary hearings are for parolees with technical parole violations. These hearings are held within 14 days of detention on the board's warrant.

Detention hearings are for parolees with new criminal charges. These hearings are held within 30 days of detention on the board's warrant.

The burden of proof for preliminary and detention hearings is *probable cause*. These hearings may not be needed under certain circumstances.

Possible Outcomes at First Level Hearings: "continue on parole" or "detain pending second level hearing"

Continuing on parole after first level hearings means the decision maker did not find a reasonable basis to conclude the parolee violated parole or the circumstances did not warrant detaining the parolee.

Second Level Hearings

Revocation hearings are for parolees who committed a criminal act while on parole or while delinquent on parole and are convicted or found guilty by a judge or jury or the parolee pleads guilty or no contest in a court of record of a crime punishable by imprisonment.

This hearing is held either within 120 days from the date the board receives official verification of the plea of guilty, no contest plea or guilty verdict at the highest trial court level or within 120 days of the date the board receives official verification of the parolee's return to a state correctional institution depending on the circumstances. A parolee may waive this hearing.

Violation hearings are for parolees who violated either a general or special condition of parole. This hearing is held within 120 days of the preliminary hearing. A parolee may waive this hearing.

The burden of proof for revocation and violation hearings is *preponderance of the evidence*.

Possible Outcomes at Second Level Hearings: "continue on parole - with or without new conditions" or "recommit"

A parolee may be placed in a CCC, CCF or PVC.

A PVC is a secure CCC and individuals are not permitted to leave during their time there. Parolees will immediately receive programming at the PVC. PVC stays range between 60 to 120 days, depending on program completion and satisfactory adjustment. If an individual fails the PVC program, they will be unsuccessfully discharged and returned to a CCJ or a SCI. Individuals may be sent directly to a PVC after waiving hearings or as a result of the decision from a hearing.

In accordance with 61 Pa. C.S. § 6138, all TPVs will go to a CCC/CCF/PVC unless the violation was:

- Sexual in nature
- Involved assaultive behavior
- Involved possession of a weapon
- The PV poses an identifiable threat to public safety
- The PV is an absconder who cannot be safely managed in a CCC/CCF/PVC.

In that case, the PV will be returned to a CCJ or a SCI. Technical parole violators sent to a CCC/CCF/PVC will usually serve between 60 and 120 days, depending on their satisfactory adjustment while at the center. The maximum length of recommitment to a CCC/CCF/PVC is six months. The PV will be released on automatic reparole at that time unless they are not in “good standing with the board.”

TPVs returned to a CCJ or a SCI will serve at most six months for the first violation, nine months for the second violation and one year for the third and subsequent violations before being automatically reparaled, without having to be interviewed or reviewed by the board.

However, if the parolee has: 1) Committed disciplinary infractions involving assaultive behavior; 2) Committed a sexual assault; 3) Had possession of a weapon or controlled substance; 4) Has spent more than 90 days in segregated housing due to one or more disciplinary actions; or, 5) Has refused programming or work assignments, the PV is not entitled to automatic reparole.

Convicted parole violators will be returned to a SCI and will stay there until the board determines they are ready to reenter the community. If convicted, the board can recommit the parolee to serve the balance of their original sentence with no credit for time at liberty on parole. The board has discretion in determining whether to award street time to some categories of CPVs.

Continuing on parole after a second level hearing means either the decision makers did not find enough evidence to suggest the parolee violated parole OR it could mean there was enough evidence to recommit the parolee to prison but the decision makers determined the parolee could be safely returned to the street with additional sanctions.

Recommitment means the parolee was found to have violated parole and the decision makers chose to return the parolee to a CCC/CCF/CCJ or a SCI.

If a parolee waives his/her hearing rights, the board will examine the facts of the case and make a decision based on the waiver, admission (if applicable) and any reports or evidence that are made available. The board will then make a decision on whether recommitment is warranted based on that information and issue one or more board actions reflecting that decision.

John's Supervision/Violation Status

While still at the CCC, John commits several center violations by signing out for work but failing to report to work. John's parole agent works collaboratively with CCC staff. On his first violation John receives a written warning. John later commits a second violation and his parole agent places him on GPS. A week later, John has a positive urine for synthetic drugs. On February 6, 2014, John is unsuccessfully discharged from the CCC by the BCC staff. John's parole agent submits a referral to BCC and he is placed in inpatient drug and alcohol treatment.

John is transported to an inpatient drug and alcohol program. Within three days, John was found with K2 (synthetic marijuana) in his pocket and refused to be searched by staff.

An expedited removal of John is requested by inpatient staff to his parole agent to remove him to a PVC. John is informed of his rights. He is given a Notice of Charges against him, which includes being unsuccessfully discharged from the CCC and inpatient treatment. A preliminary hearing on John's case will be held within 14 days. John chooses to waive his rights to a preliminary hearing. While at the PVC, John was noncompliant with programming and had aggressive behavior toward staff.

At John's technical violation hearing, the parole agent provides the evidence. The CCC discharge summary is provided: John had been signing out to go to work but was not reporting to work. The board's hearing examiner finds John in violation based on this evidence: John's own admission of signing out for work but not going to work and also the CCC records that showed the dates, times and John's signatures. The hearing examiner recommits John to state prison because of the violation, early parole failure and his previous parole failure from a separate sentence. The hearing examiner also considered that John was an identifiable threat because of his unmanageable behavior when the board diverted him to parole violator center. John is recommitted to state prison for up to six months. The parole agent then transports John to the designated SCI.

While at the SCI, John follows the rules and remains eligible for automatic reparole. John is automatically repared in six months. He signs his release orders and leaves prison. John reports to his designated parole district office within 24 hours of his release. The board's prior conditions of parole still apply to John. John is still serving the remainder of his court-imposed sentence and will be on parole until May 28, 2019.

Website: www.pbpp.pa.gov

Facebook: Pennsylvania Board of Probation and Parole

Twitter: @PAParole