Preparing for Parole Release Hearings:
A Guide for People in West Virginia Prisons

COMMUNITY COLLABORATIVE COUNCIL

Introduction

The Community Collaborative Council (CCC) created this guide for people preparing for their parole release hearings. You deserve a *meaningful* hearing in front of the Parole Board – one that gives full consideration of the person you are today.

The information in this guide includes:

✓ Basic information about the Parole Board and release hearings;

✓ Tips on how to create a strong release plan and to prepare for your hearing; and

✓ How to involve your loved ones and support team in this process.

This guide was written by and for incarcerated people, advocates, and family members. It is a living, breathing guide. We welcome your feedback and wisdom. If you have tips, corrections, insights – feel free to share those with us at the address below. We may not be able to respond individually, but we will do our best to integrate feedback into future versions of the guide that we mail out to others.

The information in this guide is not legal advice in any individual case. There are many rules and exceptions in parole eligibility and release. If you have questions, please consult a lawyer who is experienced with parole hearings.

The CCC is a project of the West Virginia Center on Budget Policy (WVCBP), an independent, nonprofit policy research organization dedicated to improving the quality of life for all West Virginians. When it comes to the criminal legal system, WVCBP seeks to reduce the number of people incarcerated and harmed by the criminal system. The WVCBP is not a government agency, nor affiliated with any state agency.

At the end of this guide, you will find an optional form that asks about your own parole hearing experience. We will use the information you provide to inform future versions of this guide, and to understand how parole policies and procedures can be improved to provide more meaningful hearings.

If you have any suggestions for this guide, write to WVCBP's criminal legal policy analyst, Sara Whitaker, at:
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1610 Washington St. East, Suite 200
Charleston, WV 25311

This guide is dedicated to the memory of Darrin Lester, a man who fought hard for his own release in 2021 and then continued to fight for others to come home.
This guide would not exist without Darrin.

CCC's Five Pillars for Preparing to See The Parole Board

No. 1	No. 2	No. 3	No. 4	No. 5
Get to Know the Parole Board and Release Hearing Process	Make a Release Plan	Prepare for the Release Hearing	Create an *Evidence for Release* Packet	Show Community Support at the Release Hearing

Updated: February 10, 2025

Pillar No. 1
Get to Know the Parole Board and Release Hearing Process

How Do I Learn About the Parole Board?

The number one complaint we hear about the parole hearing process is that people do not know what to expect.

We encourage you to review ***Introduction to Parole Release Hearings***, which you will find in **Appendix A** at the end of this guide. There you will find an overview of the Parole Board, a summary of some of their rules, and what usually happens during a release hearing.

For a more detailed look at the law, check out ***Parole: State Code & Administrative Rules*** in **Appendix B**, which is a compilation of state code sections and administrative rules about parole. This includes information not addressed in this guide, such as: details about *who* is eligible for parole; good time; supervision rules and violation procedures; special release programs like the nonviolent offense parole program; and more.

Thoughts On How to Approach This Process

This guide is the result of many people's work, advice, and feedback. We propose that you approach your preparation in the same way.

You do not have to do this alone. In fact, people find it's much more joyful and productive to have a support team participate in this process. Your support team can include loved ones, former residents who have been released, or people who have taught, supervised, or counseled you in prison.

With this in mind, we have created a companion guide for loved ones, ***How Do I Help My Loved One Prepare for Their Parole Release Hearing?***

You may be reading this because your loved one already requested a copy of their own guide. But if that's not the case, they can request this companion guide at: https://westvirginiaccc.org/parole. We will email them a copy of the guide within five business days, excluding holidays and weekends.

The guide for loved ones follows the same Five Pillars in this guide, with tips on how they can support you through each stage of the process.

Who Should be On My Support Team?

The short answer: Any person who supports your release!

Make a list of all the people who want to see you come home. Then, one-by-one, ask each person if they will write a letter of support to the Parole Board. (We have a step-by-step guide on how supporters can write a strong letter of support in Pillar No. 4 below.)

After a person has agreed to write a letter of support, ask if there are any other actions they want to take in support of release planning. You can use the chart on the next page as a starting point, then add your own ideas depending on your specific needs.

Preparing for Parole Release Hearings: A Guide for People in West Virginia Prisons

It can be scary to ask for help. But remember: people know very little about the parole process. Without being asked, your family and friends may not know what is needed. Plus, people love to be helpful when they can. As one community organizer says, "The fastest way to make a friend is to ask a favor."

Important Tip: Select <u>one person</u> from your support team to handle calls and emails to the prison or the Parole Board. The people who work in these agencies are human. Multiple calls and emails about your hearing can wear on them and make them less patient with you and your supporters. One way to avoid this is to have one person be responsible for all communication with the prison, DCR, and/or the Parole Board. All questions to these agencies can be funneled through that one person, in the fewest calls or emails possible. This way, you reduce the number of emails and calls and keep important information organized.

Some Ways People on the Outside Can Support Your Planning for Release		
Organizing People	**Organizing Money**	**Organizing Information**
Pre-Release ◊ Connecting you to people who can offer a job, reentry help, treatment programs, and more ◊ Finding and preparing a witness(s) to speak at your release hearing ◊ Organizing a group who can provide one-time or ongoing help paying for reentry expenses (e.g., a car, insurance, rent, clothes, cell phone, a computer, a meal train, etc.)	**Pre-Release** ◊ Putting money on your books so you can access commissary, make phone or video calls, and order books ◊ Assistance with court fines, fees, and restitution ◊ Saving money for a "coming home" fund	**Pre-Release** ◊ Keeping a file of important documents (e.g., program certificates, awards, letters from prison supervisors or teachers, case records, disciplinary documents, etc.) ◊ Collecting letters of support to present to the Parole Board ◊ Storing vital records that will be useful at the hearing or upon release (e.g., birth certificate, social security card, disability documentation, work history and education documents)

When Should I Start?

It is never too early to start building your support team and working on the action steps in this guide. Below is a sample timeline you can use for your preparations. Start with your Parole Eligibility Date (the "PED"), which is the date you are eligible to see the board, then work backwards from there.

Timing	Preparation Phase
1+ Year Before Hearing	• Build your support team. • Learn about the parole process. • Review your timesheet for any mistakes to time served calculations. • Enroll in required classes. • Review your facility rules to avoid write-ups and violations. • Seek out classes, programs, training, and work assignments to stay busy and learn new skills. • Find ways to help others. Many people in prison tell us they maintain their well-being by mentoring, training, or serving others. • Keep at least one copy (two is better!) of all important prison documents: timesheet, certificates of completion, diplomas, work assignments, violation reports and outcomes, and letters of thanks or commendation from staff or supervisors.

Timing	Preparation Phase
6-12 Months Before Hearing	• Work with your support team to develop a detailed release plan. Learn more below in Pillar No. 2 *Make a Release Plan*. • With your support team, brainstorm a list of people who can write letters of support and/or who can testify at the parole release hearing. Learn more below in Pillar No. 3 *Prepare for the Release Hearing*. • Get a copy of all documents that you want the parole board to consider. You may already have some of these documents; you may need to request others from counselors or other prison staff.
2-6 Months Before Hearing	• Ask people to write their letters of support, and have a loved one send them a copy of our short guide, *How to Write a Letter of Support to the Parole Board* (available below in Appendix C and in the companion guide for loved ones, *How Do I Help My Loved One Prepare for Their Parole Release Hearing?*). • Collect letters of support three (3) months before the hearing. Ask people to send letters directly to one person on the support team so they can check for errors or harmful information. If necessary, ask people to edit and resubmit their letters of support. • Practice answering questions the Parole Board may ask. • Ask people to testify on your behalf and ask them to write out their testimony. • Gather documents that show your release plan. For example, a letter of support from a future employer; admission to a treatment or reentry program; etc. • Work with a loved one to put all documents in an order that makes sense and then scan those documents into a PDF file. This will become your *Evidence for Release* packet.
1 Month Before Hearing	• Ask your loved one to email a copy of the *Evidence for Release* packet, Witnesses, and a List of people who want to join the hearing to your loved one's Reentry Coordinator and the Executive Secretary of the Parole Board. Learn more in Pillar No. 5 *Show Community Support at the Release Hearing*. • Ask your loved one to email a copy of the *Evidence for Release* to the CCC. If they requested a companion guide from the CCC, they can simply reply to the email in which they received the guide. The CCC will mail you the *Evidence for Release* so you can have a paper copy of the packet at the time of the hearing.

Do not be discouraged if you are starting later than suggested here. This timeline is designed to guide people through the process – with plenty of time to spare. All these steps can be accomplished in shorter timeframes!

Pillar No. 1: Get to Know the Parole Board and Release Hearing Process

ACTION STEPS

- ☐ Review **Appendix A**: ***Introduction to Parole Release Hearings***, found at the end of this guide.
- ☐ Review **Appendix B:** ***Parole: State Code & Administrative Rules***.
- ☐ Encourage your loved to request a companion guide at: https://westvirginiaccc.org/parole.
- ☐ Ask your family and friends to support release planning.
- ☐ Select **one person** who will make all calls and send all emails to state agencies like the prison or the parole board.
- ☐ Develop your preparation **timeline**, based on the date of your PED.

Pillar No. 2
Make a Release Plan

Each year, thousands of people will ask the Parole Board to *believe* they are a good candidate for release. A strong release plan *shows* the Parole Board that you are prepared and ready to come home.

So, What Is In a Release Plan?

In short, it's a plan for how you will meet your needs and overcome challenges after your release. And because each person will have different needs and challenges, each release plan should be different.

A Strong Release Plan Includes…

✓ **An approved home plan**

✓ **How you will spend most of your time upon release**

Examples: work, school, a trade program, caregiving, etc.

✓ **Ideas about coping with common reentry challenges**

Examples: transportation to get around; obtaining an I.D.

✓ **A plan for how you will financially support yourself**

✓ **Commitments of support you have received**

Examples: a donated car; a cell phone paid for 6 months; etc.

✓ **Ideas about coping with previous triggers or obstacles**

Examples: AA/NA meeting schedule; finding a therapist; etc.

Creating a strong release plan is about **organizing information and people**.

Getting *Information* to Support a Release Plan

We know it is hard to get information in prison with limited access to the internet. This is one of the reasons we suggest having a support team on the outside who can help you find information for your release plan. Some folks have told us that prison employees have helped them get information they need about release planning. We know this varies from facility to facility. But we encourage you to ask helpful staff members you know to assist in this process, too. (In 2024, DCR created a *Reentry Planner* workbook that could be helpful in this process. If you have not received one already, ask a staff member for a copy of the planner.)

Some examples of what might be useful to your release plan:

- A list of employers who hire people with felony convictions near their home plan
- A list of nearby recovery group meetings (AA/NA)
- What they will need to do get a driver's license, or enroll in a specific benefits program
- The steps required to enroll in a school or a job training program
- Therapists in their area (or who offer virtual, tele-health appointments)
- Organizations that donate furniture or other necessities for people starting over

There are a few organizations that frequently work with people who are coming home from prison. We recommend sharing these with your support team and asking them to follow up for more information.

West Virginia Alliance of Recover Residences (WVARR)

What They Do: This organization certifies (approves) recovery home in West Virginia. You can find a list of certified residences on their website, along with information about how to apply to each recovery home.

Good to Know: If your proposed home plan is a **recovery residence**, it **must be certified by WVARR for the Parole Office to approve your home plan**.
Phone: (304) 989-0792
Website: https://wvarr.org/certified-program-list/

Jobs and Hope

What They Do: Offer job training, educational opportunities, and additional support to people in recovery (expungement, driver's license reinstatement, job placement, etc.). Eligible people are assigned a "Transition Agent" who will help them learn about available programs and guide them through the process.
Good to Know: Program participants must agree to random drug testing throughout the program.
Phone: (833) 784-1385
Website: https://jobsandhope.wv.gov/

No Wrong Door West Virginia

What They Do: Type in the zip code where your loved one will live and find resources for that area in the following categories: Benefits, Education, Work, Transportation, Legal, Re-entry, Housing, Goods, Health, and Food.
Website: https://nowrongdoor.wv.gov/

The REACH Initiative

What They Do: This organization is dedicated to helping people navigate reentry in West Virginia. The organization can link people to financial assistance and programs.
Good to Know: They run 22 Reentry Councils that meet monthly by Zoom to share information and area resources useful to people coming home from prison. You can sign up for your local council on the REACH website.
Phone: (855) WV REACH / (855) 987-3224
Website: https://wvreentry.org/

West Virginia Division of Rehabilitation Services (DRS)

What They Do: DRS provides services to people with disabilities to support "their path to work and live independently."
Good to Know: A substance use disorder and/or a mental health diagnosis qualify as a disability for DRS services.
Phone: (800) 642-8207
Website: https://wvdrs.org/

Getting *People* Involved with a Release Plan

People who have successfully returned home from prison tell us that it was **people** who made the difference in their transition. Information is important, but having a support system of people is even more important. This makes sense to any of us who has faced a moment of crisis: did you want to read an article about it or talk to another human being?

Coming home can sometimes feel like a series of challenges: trying to reconnect with loved ones and friends after being away for a long time; not getting a job you want because of something you cannot change (a felony conviction); reporting to a supervising officer who has the power to search your house, make you take a drug screen, and send you back to prison; readjusting to life in a world that may be nothing like the world you left. This is hard and frustrating – even for people who have been preparing for it.

The Parole Board knows this, too: each year they send hundreds of people *back* to prison because they struggled with making appointments, staying sober, keeping a job, or any other number of challenges.

The Parole Board also knows that when there is a group of people looking out for and encouraging a person, that person is much more likely to handle the inevitable challenges that come their way.

A *great* release plan spells out how specific people will look out for and encourage you after release. We recommend doing this in a few stages.

First, with your support team, make a list of all the people who may want to support your release. This could be friends, family, potential employers, and people you have met in prison.

Second, with your support team, make a list of all your needs when you come home. Start with the obvious, basic needs: a home, food, transportation, car insurance, a cell phone and phone service, clothes. *See* **Examples of Release Plan Supports** below.

Third, contact each person – one-by-one – and ask them to provide support. You can start by asking people what support they want to provide. If the person is not sure what to offer, use the list of needs to give them some ideas. When a person agrees to provide a specific support, ask them to include that information in a letter of support to the parole board.

Finally, keep a running list of each person who has offered support and the specific support they have offered.

Examples of Release Plan Supports

- A home plan
- A job offer
- Access to a car (or rides)
- Buying a wardrobe
- Mentoring
- Time
- A weekly dinner at your home
- A church companion
- Paying a cell phone bill
- An exercise buddy
- Teaching them how to cook
- Help with a resume
- Job interview practice
- Making a monthly budget
- A regular volunteer / service project to do together

Address Parole Board Concerns and Decision Factors

You can show extra thoughtfulness by addressing the Parole Board's potential concerns and decision factors in your release plan. This is an opportunity to address "negative" factors – and maybe even turn them into a positive.

Some examples:

- In a case with a victim, consider a home plan that puts more distance between you and the victim (i.e., a home plan in a different county).
- If you have been under supervision before (parole, probation, bond, or home confinement) and had a violation, make sure to include release plan supports to prevent future violations. The support should be tailored to the past violation. For example:

  Prior Violation: Positive drug screens.
  Release Plan Can Include: Regular AA/NA meeting attendance; Enrollment in therapy; Finding a sponsor; etc.

  Prior Violation: Missed appointments.
  Release Plan Can Include: Transportation plans; Pledges from folks who will provide rides.

Bottom line: the release plan is an opportunity to show you have thought long and hard about how to transition home successfully.

Pillar No. 2: Make a Release Plan

ACTION STEPS

- Gather information – with the help of your support team or prison staff – about reentry programs and supports.
- Work with your support team to brainstorm a list of all the **people** who are interested in your successful transition home.
- Work with your support team to brainstorm a list of all the **needs** you anticipate having when you leave prison.
- Make **direct** asks of **each** person, asking if and how they want to provide you support. If the person is unsure how to help, offer ideas from the list of needs.
- For each person who agrees to help, ask them to describe the support they will give in a letter to the Parole Board. (Don't forget to give them the tip sheet on writing letters found in Pillar No. 4!)
- Keep a master list of each person who offered support and the support they offered.

Pillar No. 3
Prepare for the Release Hearing

At this stage, you have spent a lot of time researching, brainstorming, discussing, and planning for release. Now is the time to consider the place in which all these plans will be presented: the release hearing.

People in prison have told us that they look forward to this moment for years – but the hearing itself is a mystery to them. They do not know what will happen or what documents the Parole Board will read. They know they can present witnesses, but they don't know how many they can or should present. They have lots of questions about the procedures and rules, but there is no right to have an attorney appointed to represent them in release hearings.

For an overview of a typical release hearing, review "What happens during a parole release hearing?" in **Appendix A**: *Introduction to Parole Release Hearings*. (To provide that overview, we listened to actual release hearings from the last few years to understand what really happens during a hearing.)

We also talked to dozens of people who saw the Board or supported a loved one at a release hearing. Here are a few things we heard, that were common experiences for many others:

"There were 26 of us who piled into a motel room to join my son's hearing. They only let two of us speak. When they denied parole, the Board told him the reason was a lack of community support."

"I prepared a long time for that hearing. I had everything I wanted to say in my head. When I got in there, they hit me with a bunch of curveballs – some that were wrong and untrue. And I wasn't prepared for that."

"They denied me, then said, 'Keep doing what you're doing.' How does that make any sense?"

"I asked the Board, 'What can I do to be granted parole?' They told me they're not in there to discuss that."

Release hearings can be like the often-dehumanizing court hearings you may have attended during your criminal case. For starters, parole release hearings do not happen in person. Instead, the Parole Board interviews candidates by video conference and listens to witnesses who testify by phone (no video). Also, the Parole Board may have a couple dozen release hearings scheduled for the day, resulting in hearings as short as 10 minutes. And, unlike other court hearings, there is no lawyer present who can answer your questions, or correct information presented to the Parole Board.

You face the tricky challenge of boiling down months – or years – of rehabilitation and planning into a presentation that could be shorter than a commercial break. When the Parole Board asks you *why* they should grant release, you want to give an answer that makes all those months and years of preparation clear to the people listening.

Having a Theory of the Case is one way to prepare for that moment.

A Theory of the Case: The Story of *Why* You Should Come Home

In a courtroom, a **Theory of the Case** shows why a jury should come to a particular decision (for example, "Not Guilty"). Lawyers know that a *good* Theory of the Case contains **three essential parts**: law, facts, and emotions. A

Theory of the Case emphasizes good or helpful facts and addresses "bad" facts that cannot be denied. It also addresses the emotions of the case – especially if there is a victim.

We encourage you to develop a Theory of the Case to prepare for your release hearing. With our exercises, you may develop your unique answer to the question: ***Why should the Parole Board grant release?***

Theory of the Case: The Law

A Theory of the Case begins with the law and knowing the legal factors the Parole Board must consider when making their decision.

You can read about the various laws and rules governing the Parole Board in **Appendix B: *Parole: State Code & Administrative Rules***. But this section will focus on one part of Appendix B: the administrative rules developed by the Parole Board about the procedures for granting parole, found in §92-1-6. That section lays out the "Factors in Decision":

§92-1-6. Factors in Decision

Under these rules, the Parole Board must consider the following factors:

- **6.1.a**: "Evidence based factors such as offense severity, risk assessment, program participation/completion and misconduct history."
- **6.1.b**: Whether the eligible person "has satisfactorily participated in institutional education, work, therapeutic or treatment programs, and has complied with the recommendations of the [Individual Reentry Program Plan]."
- **6.1.c**: Whether a person had been on supervision in the past (home confinement, day report, parole, probation), and if so, how they did under supervision and the circumstances of any violations.
- **6.1.d**: Sentiment by community members, victim(s), and people who work in the criminal legal system (sentencing judge, prosecutor, DCR official reports).
- **6.1.e**: The facts and circumstances of the crime of conviction.
- **6.1.f**: A person's "demeanor" during the hearing, and "the attitudes expressed with regard to prior criminal behavior, to social morals and law.
- **6.1.g**: Any prior criminal record.
- **6.1.h**: The results of any available physical, mental, or psychological/psychiatric examinations.
- **6.1.i**: Any new criminal convictions or Class I or Class II disciplinary violations while incarcerated.
- **6.1.j**: Any other factor that indicates whether the person "constitutes a reasonable risk to safety or property if released on parole."

These rules are clear: the Board must consider **both positive and negative factors** in all the above areas. Further, the Board may not "confine its inquiry to particular areas to the exclusions of others." In other words, the Parole Board may not pick and choose which factors to review. For example, the Board may not *only* consider the crime of conviction or prior criminal history and ignore a person's record of prison programming.

Finally, the Parole Board must consider all these questions to arrive at a determination of whether:

- ✓ "The inmate can and will conduct himself or herself in a lawful manner if released; **and**
- ✓ Whether release is in the best interests of society considering public safety and rehabilitation goals."

Knowing what the Parole Board must consider will guide your preparation throughout this process, helping you decide: which documents to collect; questions you may face in the hearing; what information should be added to your release plan; what you may want to emphasize at the hearing; and more.

Once you know the legal factors applied to release hearings, you can start to construct your Theory of the Case for your release hearing.

In **Appendix C: *Theory of the Case Worksheets***, you will find a series of worksheets you can use to take notes and brainstorm information that may be helpful to your Theory of the Case.

Theory of the Case: Facts That Support Release

We encourage you to start with the facts that support a decision to grant parole. In **Worksheet No. 1** you will find space to list all the facts that support your release.

These facts can be about what you have accomplished in prison.
Examples: Earned a GED or higher education degree; Completed all programming; Work assignments; Performance evaluations; Certificates earned; Programs started or led while in prison; Recognition or awards; etc.

These facts can be about your release plan.
Examples: Home plan in a city with lots of opportunities for work and education; Job offer; Detailed plans to address reentry challenges (like transportation, getting an I.D., finding recovery assistance); etc.

These facts can be about changes in your inner life and relationships with others.
Examples: Mentoring others behind bars; Religious changes; Reconnecting with family and friends outside of prison; etc.

With your list of facts, you can begin to connect them to the legal factors the Parole Board must consider.

For each fact in support of release, ask yourself: How does this apply to one or more of the Legal Factors the parole board considers?

As you answer that question, you can fill in one or more Legal Factors in the second column of **Worksheet No. 1**.

You may find that reviewing the Legal Factors found in §92-1-6 generates facts you may have forgotten in your original list. Great – add them to your list!

Tip: Facts are Better Than Opinions

As you make your list, stick to facts – that is, objective information that cannot be argued with.

When we are hoping to persuade others, we tend to tell people what we want them to believe ("I'm a hard worker."). Unfortunately, this makes people more skeptical, and more likely to try to pick apart what we are saying.

Instead, people are more likely to be persuaded when they are allowed to come to their own conclusion. We allow people to come to their own conclusions when we give them facts ("I completed all of the available courses at Mt. Olive.") – not our opinions or own beliefs about those facts.

Finally, as you connect your list of facts to the legal factors considered by the Board, ask yourself: ***What is the best way to present this information to the Board?***

For example, if the fact in support of release is a certification or degree you earned, the best way to present may be a copy of the certificate or your transcripts. If the fact in support of release is about your home plan, the best way to present may be a letter from the person or people you will live with describing that home.

As you come up with ideas about the best way to present your facts, write them down in third column of Worksheet No. 1. This will also be helpful as you eventually put together your *Evidence for Release* packet (discussed in **Pillar No. 4** below).

Theory of the Case: Do Not Ignore Bad Facts

Most people want to ignore any "bad" information that may be presented to the Parole Board. They believe if they do not draw attention to the information, the Parole Board will not consider it.

But people who have been through these hearings have the opposite experience: they tell us that the Parole Board is aware of bad facts and that the Board makes a point to ask about them. When this happens, and a person has not prepared for it, they get thrown off.

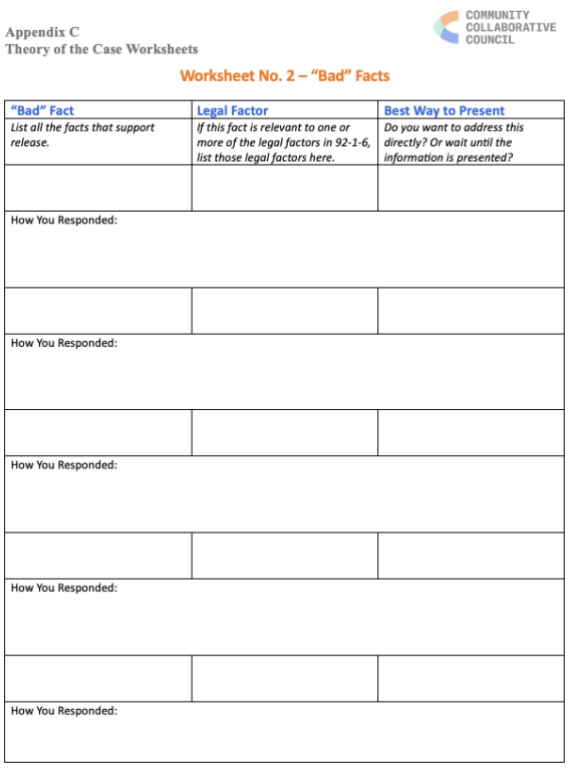
This is why, if possible, we suggest you **consider all the bad information that may come up during a hearing and prepare ahead of time to talk about it**.

Not all bad facts will come up during the hearing. But when it does, you will be ready. Knowing something is coming means you may feel less stress in the moment. Plus, you will be prepared to answer on your own terms, which means you can show how a bad fact has influenced your growth – or even become a good fact over time.

We think it is so important to consider bad facts, that we have created a separate worksheet to help you work through that process, **Worksheet No. 2** in Appendix C (*See box to right*).

First, let's define what we mean by "bad facts." These will be different from case to case and from person to person. A bad fact is any piece of information that could be used against you. For example:

- The crime of conviction, perhaps because of the type or seriousness of the offense
- Descriptions about the crime of conviction from the PSI or other "official" case documents
    - Unfortunately, this will include *incorrect or false* descriptions
- Your criminal record history
- Any violations during previous periods of supervision (e.g., bond, probation, home confinement, or parole)
- A victim(s) who is strongly opposed to release
- A recent disciplinary violation
- Information in the PSI or other documents that points to a lack of remorse



Appendix C
Theory of the Case Worksheets

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Worksheet No. 2 – "Bad" Facts

"Bad" Fact	Legal Factor	Best Way to Present
List all the facts that support release.	*If this fact is relevant to one or more of the legal factors in 92-1-6, list those legal factors here.*	*Do you want to address this directly? Or wait until the information is presented?*
How You Responded:		
How You Responded:		
How You Responded:		
How You Responded:		
How You Responded:		

If you are unsure of what bad facts may come up, we suggest reading the same documents the Parole Board will review:

- The PSI, which describes the crime of conviction, the "official version" of the incident, and details about your life at the time of the conviction
- All reports of Class I or II violations during your sentence
- Any disciplinary violation/report from the last year of your sentence
- A criminal history (often a part of the PSI)
- Any recent psychological assessments

If while reading these documents, you find yourself thinking, "I hope they don't bring that up," or "I can't believe they wrote that," we recommend adding that to a list of bad facts to prepare to address. You can list these in the first column of **Worksheet No. 2** of **Appendix C**.

Like you did in the first worksheet, ask yourself: How does this apply to one or more of the Legal Factors the parole board considers? Jot down the legal factors in the second column.

The next step is an opportunity to show the Parole Board your own accountability work. In the box labeled *How You Responded*, write out the actions you may have taken over the course of your sentence to address the bad fact.

Worksheet No. 2: Bad Facts and How You Responded

This may be some of the most important preparation you will do for your hearing. It is incredibly uncomfortable to be confronted with information that makes us look bad. Our human tendency is to do everything we can to resist it, avoid it, or argue with it. Plus, our society has trained us to believe that taking responsibility will make us look worse – or result in more punishment.

But think back to a time when someone wronged you, and they eventually told you, "Sorry, I screwed up" or "That was my fault. I apologize." You might have felt *more* respect for the person taking responsibility. We all know how much courage it takes to say we are wrong, and we tend to appreciate people who can do this authentically.

What kind of information could you include in the *How You Responded*? This will vary from person to person, but here are a few guiding questions:

- What were the conditions in my life that gave rise to this bad fact? How have I changed those conditions?
- What have I done to repair the harm I may have created?
- What have I done to heal from harms done to me in the past?
- What have I done to prevent any future harm?
- What have I learned about myself during my sentence?

Theory of the Case: The Emotions Beyond Change

In some situations, your Theory of the Case may need to address **emotions, not just facts**. People assume that legal proceedings are about the logical – that decisions are made based on the information and law presented. But anyone who has spent time in a courtroom knows that emotions can and do influence a case's outcome.

Some cases come with emotions. These are intense feelings created by the case itself. You cannot change those feelings with your actions – they simply exist. We call these "emotions beyond change." Some examples of cases likely to have Emotions Beyond Change:

- Cases in which a person was harmed, injured, or killed

- Sex cases, which are heavily stigmatized
- Cases involving a child or other vulnerable victims
- Cases that tap into a current societal concern – for example, selling fentanyl or other opioids

An emotion beyond change is like a bad fact. Ignoring it does not mean it goes away.

Imagine a person who has been convicted of homicide. They have spent more than a decade taking advantage of each opportunity for self-improvement offered by the prison. On the day of their parole hearing, they will want to share that positive story of their time in prison. They will be prepared to discuss the classes they have taken, the certifications earned, and what they have learned during their sentence.

And yet, there is an emotion beyond change: the loss and years of pain felt by the victim's loved ones. We have heard from many people that a victim opposed to parole can have a powerful impact on the Parole Board's decision. People who have been harmed or lost a loved one show up *years* after the incident carrying much of the same grief and anger that they felt when the incident occurred. Their pain feels fresh and almost frozen in time.

The Parole Board is sensitive to victims' pain – and we can be, too.

In **Worksheet No. 3** of Appendix C, you will find a series of questions that ask you to think deeply about the emotions at play and how you can authentically address those emotions during the hearing.

A Note About Victims

There is a popular myth that if the criminal legal system serves anyone, it is victims. But a recent national victims survey found that the system often fails to meet their needs. Less than 5% of people who had expenses related to the crime were compensated by the government. Three out of four people never received counseling or treatment. Less than 10% of victims described the criminal system as "very helpful."

In part, this is due to a misunderstanding of what victims want and need. The criminal legal system offers punishment, which does little to help a person heal. When victims of harm are asked what they want, they ask for two things: **(1) They want to know why the harm happened, and (2) They want to know that the harm will not happen again – to them or anyone else.** Both require the person who committed the harm to participate. But the criminal system is designed to keep these people apart.

You might think of a time you were harmed. Was there something that helped you heal? If not, what might have helped you?

A Parole Board hearing is unlikely to provide the healing a victim needs. But it is an opportunity for the person who committed the harm to acknowledge others' pain.

Theory of the Case: Bringing it Together

Now that you have worked through the legal factors, relevant facts, and emotions in your case, you want to bring it together. We suggest creating a document **that you can bring into your hearing** that has two parts: Your Testimony and Questions and Answers (Q&A).

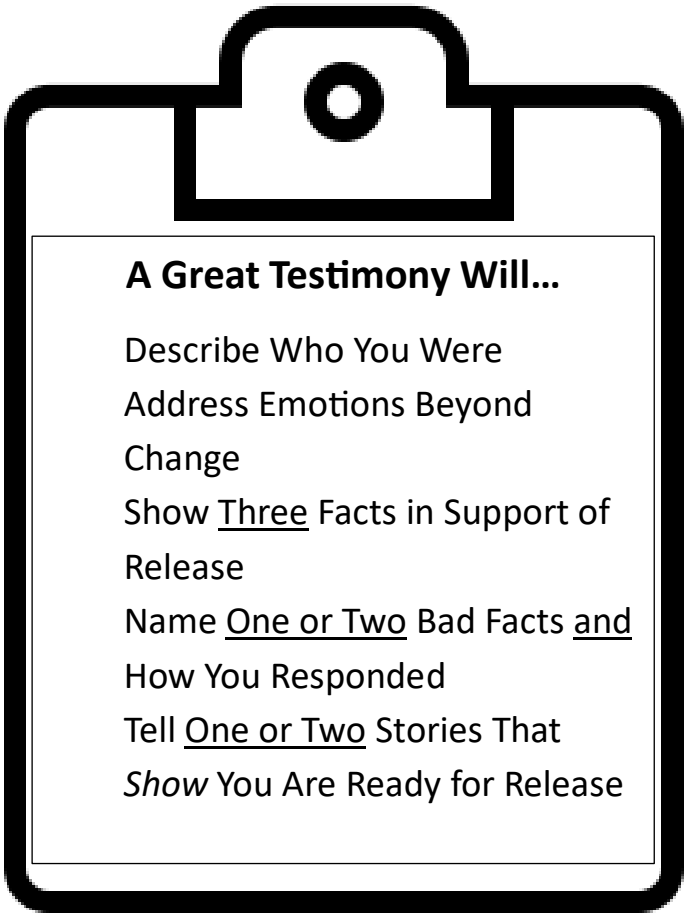
Part I: Your Testimony

There will likely be a moment when the Parole Board asks you some variation of the question: *Why do you believe you are ready for release?* Your answer to the question is what we call your Testimony.

In short, your Testimony is your Theory of the Case expressed in roughly 250 words.

Why 250 words? First, because it is roughly 90 seconds of speaking time. There are many hearings held each day and giving your testimony in 90 seconds shows the Parole Board you respect their time. Second, to get your Theory of the Case down into 250 words means that you are being extra thoughtful about every word and idea. The famous writer Mark Twain summed it up best when he wrote, "If I had more time, I would have written you a shorter letter."

There is no one, right way to do your Testimony. But here is a checklist that may help you bring it together.



You may have noticed that this checklist suggests including bad facts. If there are bad facts that are *undeniable* and *certain to be raised*, you may want to raise them first.

Imagine a situation in which a person has a history of multiple arrests and convictions before their current sentence. Prior criminal history is a factor the Parole Board must consider, so the parole candidate has a pretty strong hunch that it will come up. In the hearing, a Parole Board member asks, "Why do you think you're ready for release?"

At this point, the person may launch into only the good stuff – that is, the facts that support release. But because a good Theory of the Case also addresses bad facts, they may choose to use this time to get ahead of a question they know the Board will ask about their priors.

Perhaps they say something like:

> … RSAT also gave me the chance to think about the impact of my drug use on others. I was arrested 12 times over 5 years. I spent time in and out of jail and even served another prison sentence for 18 months. Those years were really tough on my family. My mother spent a lot of time and money visiting me, I lost my job and my apartment, and my sister had to take care of my parents alone during Covid. Since I've been here, I've had a chance to apologize to them and to be a better son and brother to them. I've gotten to know my sister's children. My sister feels safe sharing her stresses with me – something she didn't do before because she was too worried about me. For the first time in my life, I have a role in my family that makes me proud. It has made sobriety feel better than trying to escape with drugs…

Here, the person acknowledges their criminal record as a bad fact. They do not try to minimize it by saying that they were only convicted for a few of the arrests. Instead, they lean in further and acknowledge that their history of arrests hurt people in their family. This shows their concern and empathy. Further, they show how their work to be accountable to their family is part of the bigger (good) story of sobriety.

By addressing the information that worries or scares you, you have the chance to make that information part of the bigger reason why you are ready to come home.

Part II: Q&A

You have boiled down your Theory of the Case into a 250-word Testimony. To do this, you probably left out a lot of important information. That's okay. This is why you prepare a Q&A.

Your Q&A section is where you can write out the rest of the **good facts you want the Parole Board to know** and your **responses to any other bad facts**.

The Parole Board members are likely to ask you a series of questions. Before they leave to make their decision, they may ask, "Is there anything else you want us to know?"

Answering questions on the spot can be difficult. The Q&A section is your way to provide thoughtful answers to questions you don't know in advance.

How does this work? One way to do this is to set up your Q&A section like a bingo card (*See figure on the right*). Most of the squares will have good facts in support of release. A few squares may have how you responded to bad facts. For each square, **write out 1 to 4 sentences** you would like to share with the Board.

Q&A

For every question the Parole Board asks, try to get to one or more of your squares. Some questions may allow you to make three good points. Other questions only relate to one of your points. But as you answer these questions, mark it out, so you that avoid repeating points you've already made. Also, the Q&A section is the time to address items you could not get to in your Testimony, so try not to use the same facts in both places.

Write It Down, Like You Talk

You may feel uncomfortable with writing out your Testimony and Q&A. Perhaps you have spent months or years planning what you will say to the Parole Board. You know it like the back of your hand.

But when a hearing begins, it becomes a high stakes public speaking moment. And most people fear public speaking. When that fear and anxiety hit, people find themselves sweating, heart pounding, talking too fast, or not talking at all. This is a normal response to stress. But all that effort in our bodies tends to shut down our ability to think (and speak) clearly.

That's why some people report getting into a hearing and losing track of what they wanted to say or being thrown off by a single question.

The best defense against this stress? Writing down what needs to be said.

There more benefits. During your preparation, a written Testimony and Q&A helps you see clearly what is missing, or when you repeat yourself. Having a visual reference will help memorization. Finally, once the hearing begins and the stress creeps in, a written document will help you get back on track with a quick glance. We recommend memorizing what you want to share, if it's within your ability, but keeping a written document to refer back to.

The one rule of writing it down: write like you talk.

People tend to write more formally than they speak, which can come across as less authentic. Instead, we suggest you say out loud what they want to share, then copy it down as you go. The result is more natural and will feel more comfortable in the hearing itself.

Time is Precious, Look for Ways to Save It

Attention spans are short, and according to research, getting shorter. When a speaker repeats an idea or rambles, the listener grows impatient. They start to think more about when the speech will end, rather than what the person is saying.

Review your remarks and eliminate:

- Any words or phrases that are repeated
- Any ideas that are repeated (even if you use different words)
- Words that are used too much, like "remorse" or "rehabilitated"

Practice, Practice, Practice

Practice is another way to guard against the stress of a hearing. Repetition helps our brain create new associations, which makes it easier for us to remember information later. We encourage people to practice with different people, using different questions as prompts.

This is a wonderful time to get your loved ones or friends involved. Phone calls are great for focusing on the words and offering feedback about content. Calls on the video app are good practice for speaking to a camera.

But avoid trying to sound like other people. You may have friends who want to help you prepare by telling you the words to say or by writing portions of your remarks. This is kind and well-intentioned. But it may backfire. Remember, the Parole Board may hear 20+ hearings in a day. If they hear a phrase they have heard once or twice (or more) that week, they assume that the speaker lacks sincerity. It's better to talk like you.

Prison tends to make people pretty good at figuring out who is being sincere and who is not. If other residents want to help you prepare, this is a great way to use their expertise. As you practice your remarks, ask them: Do I sound like me or not?

The goal is to present your Testimony and Q&A in a way that is **most true to you**.

Sample Parole Board Questions to Help You Practice

Excerpted from *A Self-Help Guide to Parole Preparation in New York State* (2016)

1. Why did you [insert fact from the crime, such as hit him/shoot him/run from the police/sell drugs/carry a gun]?
2. Why did you think you needed a gun?
3. Do you think that selling drugs is a victimless crime? Why?
4. Do you think that selling drugs is a nonviolent crime? Why?
5. You said that you were high/drunk at the time of this offense. Why did you use drugs/alcohol?
6. How do we know you won't use drugs/alcohol upon release?
7. Were you offered a plea bargain in this case? Why didn't you take it?
8. Were you involved in this crime?
9. Why did you go to trial?
10. How do you explain this escalating pattern of violence when you were a young person?
11. What were you thinking when you committed this crime? What was going through your mind?
12. Why did you kill this man/woman/child/victim?
13. What would you say if you could speak to the victim of your offense or that person's family?
14. [In cases of violence or a claim of self-defense] Why didn't you just walk away?
15. What have you learned from *Thinking for a Change* or *A New Direction* curriculums?
16. Were you a member of a gang?
17. Do you think you've served enough time?
18. Why should this panel grant you parole?
19. Do you have anything else to add?

The sample questions above are intimidating. If you find yourself stuck on a question, go back to the exercises for Bad Facts and Emotions Beyond Change. When you thoughtfully develop your Theory of the Case, you will have done what you can to answer these questions.

A Heads Up about Virtual Hearings

One man told us that his hearing room was set up with the video camera in one spot and the video monitor in another. As a result, he had to keep turning his head away from the camera to see the Parole Board members. This makes it very hard to make "eye contact" with the camera, while also watching the reactions of the people you're speaking with. During your pre-parole orientation, ask the reentry coordinators to describe the room set-up for hearings. If the camera and monitor are in different locations, ask if they can be brought close together. But if you cannot change the room set up, focus on making eye contact with the camera.

Remember Your Demeanor

One of the factors the Parole Board considers is your "demeanor and the attitudes expressed with regard to prior criminal behavior, to social morals and law." Demeanor is like a person's attitude or behavior. In other words, the Parole Board may make judgments about a person's authenticity and remorse based on not just what they say, but **how they say it**.

This is where practice with loved ones is very helpful. We do not get to see ourselves as others do. So, you may not be aware of things you do that don't match up with what you meant. Ask your loved ones and friends to keep an eye out for distracting behaviors, such as:

- Frowning when deep in thought
- Saying "like," "uh," "you know what I mean"
- Talking too fast
- Bouncing or swaying in your chair
- Tapping fingers on a table
- Blinking more than usual
- Grimacing or making an angry face
- Sniffing or throat clearing
- Speaking too low for others to hear

Stress can change how we appear and sound to others. Some ways to reduce stress before a hearing:

1. A good night's sleep
2. Exercise
3. Taking a walk with another prison resident who is rooting for your loved one's release
4. Listening to music, singing a favorite song
5. Deep breathing exercises

Exercise: "Box Breathing"
Inhale, Hold, Exhale, Hold

Start by making yourself comfortable.

1. Breathe in through your nose for 3-4 seconds.
2. Hold the breath for 3-4 seconds.
3. Breathe out through your mouth for 3-4 seconds.
4. Hold for 3-4 seconds.

Repeat for as long as you want.

You can also use breathing exercises *during* the hearing. Deep breathing may sound silly, but it's backed by science. Our bodies come equipped with a stress response system that activates **fight**, **flight**, or **freeze**. A person in fight or flight may have a pounding heart, sweaty palms, and tense muscles. A person in a freeze response may feel numb, disconnected, or clammy.

We can reverse these responses to stress by breathing deeply and slowly. Deep breathing signals to our brains and bodies that we are safe. Practice "box breathing" in the box above to help your body get calm and out of its stress response.

Even with these exercises, you may feel nervous once the hearing begins.

Our favorite idea came from a man who made parole a few years ago. When the Parole Board asked him to speak at his hearing, he started by telling the Parole Board members, **"I'm very nervous."**

As he explained to us, "You have to make yourself vulnerable. It's key to showing them you're human. Be your authentic side. It's okay to show them you are worried, because they have all the power."

We could not agree more.

Pillar No. 3: Prepare for the Release Hearing

ACTION STEPS

- ☐ Use the worksheets in **Appendix C** to develop a **Theory of the Case**
  - Brainstorm facts in support of release
  - Describe how you responded to "bad" facts
  - Reflect on the emotions beyond change
- ☐ Bring it all together in a written document that covers:
  - Your Testimony
  - Q&A
- ☐ Practice with loved ones and friends, asking for feedback on:
  - Your testimony and answers
  - Your demeanor
  - Your eye contact with the camera
- ☐ Use deep breaths and other joyful activities to ease your stress

Pillar No. 4
Create an *Evidence for Release* Packet

What is an Evidence for Release packet?

The ***Evidence for Release*** is the packet of documents you will submit for the Parole Board to review.

Imagine a parole board member sitting at their computer during a long day of release hearings. Before them is a typical file: a *Regular Case Parole Guidelines* form (*see below*); a PSI (presentence investigation); case orders; etc. How much will they know about you from these documents?

West Virginia Parole Board
Regular Case Parole Guidelines

Inmate Name: _____ DOC #: _____

[Circle the Score in Sections I, II, and IV below] Institution _____

I. Offense Severity Level (*not Custody Level)

Low 1
Moderate 2
High 3

II. Actuarial Assessments (*For Sex Offenders, use highest risk score: LS/CMI or Static 99. Do not add the two scores together. Use the higher of the two assessment scores.)

1. LS/CMI Total Score _____ Date of Last Test _____

(0-4) Very Low 0
(5-10) Low 1
(11-19) Medium 2
(20-29) High 3
(30-43) Very High 5

2. Static 99

(-3-1) Low 1
(2-3) Low Moderate 2
(4-5) Moderate High 4
(6+) High 5

III. Program/Treatment Completion (Score only the listed Risk Reduction Programs. *Do not add* the scores within programs columns- Do Use the *single highest* score to place in the shaded score box).

Score	0 No Program Required	4 Waitlist	1 Enrolled	0 Completed	5 Refused/Terminated Or Failed to Sign Up
ACS1-Thinking for a Change					
SSAT-RSAT					
SOTP					

IV. Behavior/Disciplinary

No Disciplinary Violation(s) 0 Date of Last Violation
Class 1 Violation(s) 4 (within last 12 months) _____
Class 2 Violation(s) 3 (within last 6 months) _____

Parole Guideline Score: (provides baseline score considered with interview And other individual factors to yield final parole decision) **Total Score=**

1 to 8: Group 1
9 to 16: Group 2

Staff Name Date of Guideline Completion

Not much. **You are much more than your case file**. The *Evidence for Release* packet is a powerful response to a system that tries to reduce our loved ones to their criminal record.

Participatory Defense: Turning Time Served Into Time Saved

Our approach to the *Evidence for Release* packet is inspired by what families in other states have done to protect and advocate for their loved one's freedom.

Participatory Defense is "a strategic practice for families and communities to intervene in and ultimately positively impact the outcome of court cases." The model was developed by families in California who work with an organization called **Silicon Valley De-Bug** to apply their collective intelligence to their loved ones' cases. Families meet weekly to share tips about court procedures, bail and sentencing hearings, and how to tell their loved ones' stories to people in power (prosecutors, judges, etc.).

Early on, families realized they needed to "interrupt the sterility of the court assembly line with real human stories." Silicon Valley De-Bug founder, Raj Jayadev, describes their solution:

> **"We call them 'social biography packets' – packaged binders with a cover photo of the person depicted in a way that speaks most to who they are, a table of contents, and sections organized to tell a coherent story. The binders include handwritten letters, photos, certificates, medical and school records, accomplishments kept in a scrapbook – any information the family has that frames a deeper, textured, narrative of who their loved one is. They are curated into chapters such as 'Friends and Family Support,' 'Future Opportunities,' 'Prior Challenges Overcome.' …**
> **The human rights leader Bryan Stevenson once famously said, 'Each of us is more than the worst thing we've ever done,'… Social biographies are a practical, real way to share the 'more' by those who have the most proximate knowledge – parents, partners, siblings, children, loved ones."**

Learn more about participatory defense at: https://www.participatorydefense.org/
Watch a video about participatory defense here: https://www.youtube.com/watch?v=XZ65W5ZxapA ("Community-Powered Criminal Justice Reform," Raj Jayadev)

Source for quotes above: Raj Jayadev, *Protect Your People: How Ordinary Families are Using Participatory Defense to Challenge Mass Incarceration* (New York: The New Press, 2024), 12, 26.

Organizing the *Evidence for Release* Packet

This may feel overwhelming. But we encourage you to break it down. Below are four strategies that offer a road map for putting together a powerful *Evidence for Release* packet, or social biography.

1. Make an Outline. After developing your **Release Plan** (Pillar No. 2) and **Theory of the Case** (Pillar No. 3), you will know what you want the Parole Board to learn about you. The next step is to ask: **What is the best way to present that information?**

For example, if you want the Parole Board to know about the programming you have completed in prison, you may want to include transcripts or certificates of completion. If you want to show your recovery from drugs or alcohol, you may want to include samples of the work you have done to get in recovery – e.g., an RSAT certificate; a journal entry about your recovery; a letter from a sponsor or counselor; a plan for maintaining sobriety upon release, etc.

For every document, you should ask: **Is this consistent with my theory of the case?** If the answer is yes – then, add it to an outline of documents to collect. There's no right number of documents – so long as they all support the theory of the case.

Sample Outline:

Document	Who Has It?	Date Requested	Date Received	Notes

2. Start Collecting Right Away. Getting documents can be tricky. You may already have some. But you may need to request other documents from multiple sources. Depending on who has the records, this could take some time. The best advice is to request documents right away and to follow-up regularly.

Document	Who Has It?	Date Requested	Date Received	Notes
Letter from Denise	Denise	1/6/25	1/20/25	
Degree transcript	Department of Education	1/7/25		
Letter from Bob	Bob	1/7/25	1/18/25	
PSI	DCR	1/7/25 – met with counselor and sent request through tablet	1/13/25	
Medication record	Wexford / Medical staff	1/14/25 – through tablet, confirmed in person		Signed release; told it will take 2 weeks; send tablet note on 1/28
Letter from Angie	Angie	1/14.25		

There are some documents that you may not be able to collect yourself. We recommend having a person on the support team who can help you collect and keep those documents.

The ideal person is organized and has access to a computer (or is computer-savvy). Once all the documents are collected, this person will help organize them into a single **pdf file** before sending them to the Parole Board for consideration (more on that below in Pillar No. 5).

3. Ask People to Write Letters of Support. Letters of Support can be some of the most important documents to include in an *Evidence for Release* packet.

Many of the factors considered by the Parole Board cannot be changed. For example, there is nothing you can do to change the nature of the crime of conviction or your criminal record.

But one factor can change: the "sentiment" of the community. This is often the most important factor to the Parole Board members themselves. In all cases – especially those involving a victim – the Parole Board wants to know they will not face a backlash from the community for the decision they make.

Letters of support are one way to show the Parole Board that the community supports a decision to release. But they are also a powerful way to show who you are. A good letter uses stories and details to *show* how you are ready for release.

The Best Tip for Writing a Letter: Show, Don't Tell

From *Writing a Letter of Support to the Parole Board*

We want the Parole Board to believe what we have to say about our loved one. The best way to do this is by letting the Parole Board member come to their own conclusion. They are more likely to do this when you show, don't tell.

× Tell	✓ Show
My brother is a hard worker.	*…My brother loves his work as a teacher's assistant. He spends 10 hours each week in classes. But because he knows how hard class can be for some men, he offers another 10 hours of week in office hours – for answering questions or tutoring people between classes. He even started to get up early each day – around 5:00 a.m. – so he can spend time reviewing people's homework and giving them extra feedback and suggestions…*

Can you feel the difference? When you **tell** someone an idea, they may or may not believe it. But when you **show** them – with story and details – they create a picture in their mind that leads them directly to that idea.

So, whenever you catch yourself using an adjective to describe your loved one ("she is remorseful," "he is caring," "he is a good-hearted person"), ask yourself:

In **Appendix D** you will find *Writing a Letter of Support to the Parole Board*, a short guide for people who want to write letters of support. This guide is also included in our companion guide for loved ones, *How Do I Help My Loved One Prepare for Their Parole Release Hearing?* If they have not already done so, your loved one can request a guide at: https://westvirginiaccc.org/parole.

When you (or your loved one) share the tipsheet in Appendix D with people writing letters of support, make sure to tell them how and when to submit their letter. Here are a few more tips for organizing letters of support:

- ✓ **Set a deadline to have the letters back at least <u>two months before the hearing</u>.** Some people will likely miss the deadline, so make sure to give yourself a cushion.
- ✓ **Expect to follow-up with people to get their letters.** Some people forget. Others find letter-writing intimidating and want extra assurance. If you are still waiting for a letter one week before the deadline, give that person a call and ask if you can help.
- ✓ **Don't be afraid to ask someone to re-write a letter that is too vague or contains inappropriate information.** See more guidelines on do's and don'ts in Appendix D.

4. Make the *Evidence for Release* Packet Easy to Read. Think back to the example above about the Parole Board member sitting in front of his computer for several hours of release hearings. The documents they review can become mind-numbing and may start to blur together.

The *Evidence for Release* packet can be the opposite: eye-catching, interesting, and a break from the usual case file. The goal is to make something people want to flip – or scroll – through.

Once you and your support team have collected all the documents you want to present, the next question is: **How do you want to organize the information?** Organized information is easier and more pleasing to read.

Put yourself in the shoes of the Parole Board member again. Imagine opening a 50-page pdf file. That could be overwhelming. Now imagine opening a 50-page pdf file that starts with a Table of Contents. With a quick scan you know what is inside the packet because section headings tell you what to expect and where to find it in the file.

You are the best one to decide how to organize your Evidence for Release packet. Each section can tackle a different theme and/or part of your Theory of the Case. A section can have a single document, or multiple documents.

We recommend using **Section Headings** to tell the reader what to expect in each section. Some sample section headings you might use include:

"Michael's Release Plan"
"Samples of Michael's Art Work"
"Community Sentiment: Letters from People Who Support Michael's Release"
"Michael's Award-Winning Essay in Bible College"
"Awards, Certificates, and Commendations Earned during Sentence"
"Michael's Work History"

Good section headings tell the reader something important about you – even if they don't read the entire section.

Don't be afraid to include visuals that are relevant and important to your story. Visuals could include:

- Photos of you and the people who are important to your release (children, a partner, parents)
- Your artwork, or art created for you (e.g., a child's drawing)

Finally, once you have placed the documents into the right sections, ask your loved one to scan the entire packet into a single PDF file.

Tips for Easy Reading

1. Use an easy-to-read font (Arial or Times New Roman) in a size that most people prefer (Font Size 11 or 12).
2. Break up the packet into different sections.
3. Use Section Headings to generate interest and to communicate your loved one's Theory of the Case. (Use a larger Font Size for Titles and Headings)
4. Include photos and other visuals where appropriate.
5. Add a Table of Contents at the beginning to show what's inside the packet.
6. Turn the packet into a single PDF file.

Pillar No. 4: Creating an *Evidence for Release* Packet

ACTION STEPS

- ☐ With your loved one, make an outline of all documents you want to include in your *Evidence for Release* packet.
- ☐ Request documents you don't have and keep track of when you requested and received the documents.
- ☐ Ask your support team to send a copy of *Writing a Letter of Support to the Parole Board* to each person who agreed to write a letter. Set a deadline to get the letters back **at least 2 months** before the hearing.
- ☐ Follow-up with people who have not sent in letters, or those who may need to edit their letters.
- ☐ Organize all documents and letters into a single file with A Table of Contents & clear Section Headings. If possible, turn that packet into a single pdf file.
- ☐ Use *Tips for Easy Reading* box as a checklist to finish the *Evidence for Release* packet.

Pillar No. 5
Show Community Support at the Release Hearing

A parole release hearing is unlike other court hearings. First, the hearings are virtual, with the Parole Board joining by video from different locations. Second, your loved ones and supporters cannot join the video conference but instead join by phone.

Whether you are submitting the *Evidence for Release* packet, providing a list of witnesses, or trying to help your loved ones attend the hearing by phone, **you must make plans before the hearing date**. The Parole Board does not make this process easy. We hear from people in prison that the process for submitting documents, presenting witnesses, and having people listen to the hearing varies from prison to prison.

First, some context: The board hears release hearings once per month at each prison, for one or two days at a time. During their monthly "visit," the Parole Board will hold up to 25 hearings per day. Each prison has one or more **Reentry Coordinators**, who are responsible for coordinating the hearings the Parole Board will have at that prison.

The Reentry Coordinator will hold a Pre-Parole Orientation approximately one month before your hearing. The orientation covers the basics of parole supervision (rules, special conditions, potential violations) and rules about Home Plans. During this orientation, the Reentry Coordinator will tell you the rules about how to: submit documents, have witnesses testify, and have loved ones listen to the hearing while it is happening.

We encourage you to listen carefully for clear instructions on each of these matters. For example, one prison directs residents to have witnesses notify the prison within 1-2 days of the orientation class. Missing a short deadline like this may mean that you do not get to present a witness at the hearing.

This is why we suggest you have the following completed *before* your Pre-Parole Orientation, if possible:

1. The *Evidence for Release* packet,
2. A list of witnesses and their phone numbers, and
3. A list of spectators and their phone numbers.

Show "Community Sentiment" Through Witnesses

"Community sentiment" is one of the legal factors that could (and does) sway the Parole Board's decision. They must consider whether the public supports or opposes release. For this reason, we consider witnesses to be a crucial part of your hearing presentation.

Witness testimony can:

- Demonstrate your support in the community,
- Provide details about a home plan or job,
- Describe changes you have made in your life, and
- Highlight important parts of the Theory of the Case,

Unfortunately, we hear repeatedly that rules about witnesses vary from prison to prison. Some people are told they can only have two witnesses speak; others will have three witnesses speak on their behalf.

This is one of the many processes that the CCC hopes will change with better policy. But in the meantime, we have suggestions on how to select and prepare potential witnesses.

Your choice of witnesses will depend on what you most want to emphasize to the Parole Board. This is a good time to refer to review your Theory of the Case worksheets and ask, "What information is best shared by someone other than me?"

For example, a witness can talk about your release plan, describing the home plan, the release supports people have offered, and how this release plan is different from what you had in place before your sentence.

Or a witness can tell the Board about your growth while incarcerated. They can talk about where you started and where you are now, while referring to documents (awards, certificates) and letters of support in the *Evidence for Release* packet.

There is no right person to be a witness. Instead, we encourage you to think about the information you most want to emphasize and the people who are in the best position to provide that information. Similarly, choose people who know you well and are enthusiastic about your release. Be clear about the information you want them to address and how that fits into your overall Theory of the Case.

Once you have asked people to speak at your hearing, ask them to make use of the following tips, which are also available in our companion guide, *How Do I Help My Loved One Prepare for Their Parole Release Hearing?*

Tips for Witnesses

- **Write it Down**. Trust that you will be nervous. This is a big moment for your loved one and public speaking can be scary. Writing it down ensures that you say exactly what you meant to say.
- **Write Like You Talk**. Avoid formal language. Talk like you normally talk. You may even write your testimony by saying each part out loud and copying it as you go.
- **Letter Writing Tips Apply to Testimony, Too**. Show, don't tell. A story is always better than stating an opinion. Avoid saying over-used words and phrases ("remorseful," "rehabilitated," etc.).
- **Keep the Tone Positive**. Focus on what is good about your loved one, their growth, and the supports they will have when they come home. Avoid minimizing their crime of conviction or other people's pain.
- **Edit, Practice, Edit**. Practicing your testimony out loud helps with nerves on the day of the hearing and makes it easier to identify parts that don't work. If you find yourself repeating a point you've already made, cut it out. Practice with others and ask for their feedback about what they liked most, what did not work, and what they didn't understand.
- **Speak for Less Than 2 Minutes**. Remember that the Parole Board will see many people that day and will want to keep the hearings moving. If you use the tips above, you will find that 2 minutes is a good amount of time to say what is important but also keep people's attention. If you have three speakers, we urge you to cap all three speakers to a **total** of five minutes.

Do not be afraid to ask your witnesses to share their remarks with you. This way you can make sure that people respect the time limits and that witnesses are not repeating the same information. (We have heard from the Parole Board that this is something they do not appreciate: multiple witnesses discussing the same information.)

You will also be able to steer witnesses away from harmful statements, like those that blame a victim or try to convince the Parole Board that the crime of conviction was not serious.

Submitting the *Evidence for Release,* Witnesses, and List of People Who Will Attend

You want to make sure that all of your documents are submitted to the board and all your supporters can participate in the hearing (as a witness or as spectators). We have a few suggestions to accomplish this goal:

1. Listen to your Reentry Coordinator's directions on how to submit documents and witnesses and confirm the deadline to submit hearing information.

You will receive information at your Pre-Parole Orientation about how and when to submit your hearing information. Aim to make that deadline with time to spare.

2. Make it easy.

The easier we make it for the Reentry Coordinator to get our hearing information, the more likely that information will make it to the Parole Board. Instead of submitting multiple documents over days or weeks, **we urge you to compile all documents into a single PDF file *before* sending to the Reentry Coordinator**. This way, they don't have to scan papers or keep track of multiple files. They simply save and send it to the appropriate person. By cutting out the extra work, we make it easier for the Reentry Coordinator to give us what we want: a complete file in front of the parole board.

The same is true with witnesses and spectators. We encourage you to submit these in the same email that contains the *Evidence for Release* packet. Multiple emails can get lost; one email is easy to track.

Ask **one person** on your support team to send this information, using the email tips below.

Email Tips

- **Send all hearing information in one email**. Multiple emails are stressful to receive! One email shows organization. It also shows that you respect the recipient's time.
- **Use a simple email address**. Use a simple, professional email address (for example, your name@gmail.com). Don't forget to check your email box regularly for any responses.
- **Write a clear subject line so they know what the email contains**. *See* Sample Email below.
- **Be kind.** Greet the person you are writing and thank them for their help. We all respond better to kindness.
- **Avoid unusual fonts**. Stick to the standard font on your email account (or use ones like Arial, Times New Roman, Calibri).
- **Use paragraphs and headings.** This makes your email easy to follow. Avoid putting everything into a single paragraph, which is hard to read and can be seen as unprofessional.
- **Do not use ALL CAPS.** THIS LOOKS LIKE YOU ARE YELLING AT THE READER.
- **But do capitalize names and the beginning of each sentence**.
- **Proofread**. Read a few times before sending. Sometimes your computer will help you out and suggest corrections!

One way to be extra certain that your hearing information is received by the Parole Board is to ask your loved one to add the Parole Board secretary, Mavi Crawford, to the same email they send to the Reentry Coordinator. Here is a sample email that shows how your loved ones can send all information at once to the Reentry Coordinator and the Parole Board secretary.

SAMPLE EMAIL
(Sent approximately 1 month before hearing)

From: LovedOne@gmail.com
To: [Reentry Coordinator] and [Parole Board Secretary]

Subject: John A. Smith's Parole Hearing, OID No. 123456

Dear Ms. Johnson,

Hope this finds you well.

I am writing about John A. Smith's upcoming parole hearing, scheduled for [Month, Year].

Documents for Consideration. Attached is the documentation Mr. Smith would like to submit to the Parole Board for consideration.

Witnesses. Mr. Smith will have two witnesses, who will speak for a total of 4 minutes. The witnesses are:
1. Denise Smith, Phone: 304-123-7890
2. John Gray, Phone: 304-123-4567

Attendees. Mr. Smith has a group of supporters who would like to attend the hearing. Attached is a list of their names and phone numbers.

Questions.
1. Do you know the hearing date and time – or have a date when we will find out that information?
2. What is the best way for the witnesses and other supporters to join the hearing?

Please let me know if I can provide any more information. Thank you so much for organizing these hearings.

Sincerely,
Denise Smith

In our companion guide for loved ones, **we have a list of email addresses for the DCR Reentry Coordinators and Parole Board secretary.**

Get a Copy of Your *Evidence for Release* Packet

If your loved one submitted the *Evidence for Release* packet, you may not have a copy for yourself (because of prison rules about mail). We can help. Ask your loved one to email a copy of the *Evidence for Release* to the CCC. If they requested a companion guide from the CCC, they can simply reply to the email that sent them the guide. The CCC will then mail you the *Evidence for Release* so you will have a paper copy of what the Board will review.

Important Note: The CCC will only mail *Evidence for Release* packets that are emailed to the CCC as a single PDF file and emailed at least 15 days prior to your scheduled parole hearing date.

The Last Word, From Someone Who Has Been There

We end with a word from Justin, a person who came home after two decades in DCR prisons. We asked him what advice he would give people preparing for their hearing and this is what he told us:

"Get the PSI. The only reason I had it was because someone told me that the Parole Board relied on it. I got it from the records department. I was prepared because I read the reports."

"Whatever the victim impact statement was *is* the facts. Don't argue. When they bring up factors about your case, don't argue."

"You want to have a 6-month to a 1-year plan. Housing, employment, bank account, driver's license. You want to be able to speak that to them."

"Don't compare your situation to someone else's. Every case is different."

"When they say, 'Tell us what happened,' that's your opportunity to talk. **They give you a chance to talk, you talk**."

Pillar No. 5: Show Community Support at the Release Hearing

ACTION STEPS

- ☐ Try to complete the following ***before*** your Pre-Parole orientation:
  - Evidence for Release packet,
  - The witness (or witnesses) who will testify,
  - A list of people who want to attend the hearing and their phone numbers.
- ☐ Pay close attention to the Pre-Parole orientation instructions on submitting evidence and names of witnesses/attendees.
- ☐ Remind witnesses to use the *Tips for Great Witness Testimony* and to speak for less than 2 minutes each.
- ☐ With the help of a loved one, send <u>one email</u> to submit the *Evidence for Release* packet, witness list, and the names of people who want to listen to the hearing. Don't forget to:
  - Use the *Email Tips*, and
  - Send the email to both the Reentry Coordinator and the Parole Board secretary.

Final Thoughts and an Invitation

We hope that you develop a parole hearing plan that is unique and right for your needs. This guide is designed to give you as much information as possible. But it's okay to use what you like – and leave the rest.

We expect that this guide will change as you and your loved ones provide feedback and information about your preparation and hearing experiences.

At the end of this packet, you will find a document titled *Share Your Hearing Experience*. We will use the information you write and send back to us to improve this guide. We hope you will share your thoguhts with us.

You can mail that form and any other suggestions for this guide to:
Sara Whitaker
West Virginia Center on Budget and Policy
1610 Washington St. East, Suite 200
Charleston, WV 25311

We look forward to learning and sharing more about this process. Best of luck.

Sincerely,
Your CCC Parole Advocacy Support Team
Brent, Mathew, Sara, and Sherea

Appendix A
Introduction to Parole Release Hearings

COMMUNITY COLLABORATIVE COUNCIL

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What is a parole release hearing?

A parole release hearing is held by members of the state Parole Board to decide if a parole-eligible person should be released from prison and placed under parole supervision. This hearing is sometimes called a "parole interview" or "parole eligibility hearing."

This hearing is different from a parole *revocation* hearing, which is a hearing to determine if a person has violated the terms of their parole supervision.

One main difference between the two types of hearings is that a person has a right to a lawyer in the revocation hearing, which means that a lawyer is automatically assigned to represent a person facing a revocation hearing.

But people are not entitled to a lawyer in parole release hearings, and most hearings take place without a lawyer present.

The contents of this guide address parole *release* hearings but do not address parole *revocation* hearings.

Who is the Parole Board?

The West Virginia Parole Board is an agency of the Department of Homeland Security, which also oversees the Division of Corrections and Rehabilitation (DCR), the West Virginia State Police, and other state agencies.

The Parole Board has nine full-time members who are appointed by the Governor and serve six-year terms.

West Virginia law requires Parole Board members to have a college degree or five years of work experience in one of the following fields: corrections, law enforcement, sociology, law, education, psychology, social work, medicine, mental health, or reentry services for people leaving jail or prison.

As of September 2024, the Parole Board members and substitute members were:

1. Benita F. Murphy, Chairperson
2. Edward E. Wooton, Vice-chairperson
3. Ralph D. Miller
4. Cedric R. Robertson
5. David P. Reider
6. Jack G. Roop
7. Harold L. Hughes
8. Travis W. Foreman

9. Elizabeth K. Brown

Substitutes:

1. Mary Downey
2. Leighann Davidson
3. Gary Gaskins
4. John Sines

Parole release hearings are not held in front of the entire Parole Board. Instead, these hearings are conducted by a "panel" of three Parole Board members. The decisions of the panel are considered the decisions of the Parole Board.

The panel changes regularly, so a person who is eligible for parole will not know which Board members will be on the panel assigned to their hearing. Each panel has a designated *Lead Interviewer* who leads the hearing process and makes decisions about hearing motions, procedure, and evidence.

While a typical panel has three Parole Board members, the Parole Board rules state that two members is enough for official business to move forward.

What rules govern the Parole Board?

General rules for the Parole Board are found in the West Virginia Code, which is a compilation of our state's laws. The code is organized into different "chapters" (think: categories) and "articles" (think: sub-categories). You can find the Parole Board laws in Chapter 62 (Criminal Procedure), Article 12 (Probation and Parole).

Starting with West Virginia Code 62-12-12, the code lays out a series of general rules about who can be on the Parole Board, how parole eligibility is determined, hearing procedures, and more.

The code also gives the Parole Board the power to make more specific rules, which are called "administrative rules" and found in the West Virginia Code of State Rules (CSR). You can find these administrative rules in *Procedural Rules of the West Virginia Parole Board Eligibility, Decisions and Discharge*, 92 CSR 1.

These administrative rules will be the best guide to understanding what the Board is required to do in parole eligibility hearings.

Who may attend or participate in a parole release hearing?

Parole release hearings are open to the public, but the rules allow "restrictions on attendance…at the Board's discretion."

A person who is eligible for release has a right to have witnesses testify on their behalf. Also, loved ones and friends may "attend" the hearing by telephone. It is important to note that witnesses and supporters must coordinate with the prison *before* the hearing if they want to testify or listen to the hearing. *To learn more, register above to receive a copy of the CCC Guide, How Do I Help My Loved One Prepare for Their Parole Release Hearing?.*

For certain convictions, DCR must notify victims of the hearing and their right to give testimony at least 45 days prior to the hearing. Convictions that require a 45-day notice of parole release hearing are:

- Aggravated robbery
- Arson
- Child neglect resulting in injury
- Child abuse resulting in injury

- Kidnapping
- Murder
- Sexual assault in the first or second degree
- Sexual offense against a minor

For all convictions, any victim who is registered with DCR to receive parole hearing notifications will be given notice of a parole release hearing at least 10 days prior to the hearing.

According to West Virginia State Code of Rules 92-1-2, a victim is any of the following:

- "A victim of a felony"
- One "whose death occurs during the commission of a felony or misdemeanor"
- "A member of the deceased victim's immediate family"
- "The fiduciary of the deceased victim's estate"
- "An adult household member residing with the victim"

Note: Victims and supporters do not access the parole release hearing through the videoconference link used by the Parole Board members and person who is incarcerated. Instead, victims and supporters join the hearing via a separate telephone line. Learn more by contacting DCR's Victim Services Manager at 304-558-2036, Ext. 24733.

What happens during a parole release hearing?

The Parole Board has stopped holding in-person release hearings. Instead, the person eligible for parole will be brought into a "hearing room" at their facility where they will videoconference with the panel of Parole Board members.

Parole Board hearings are audio recorded, so the lead interviewer will begin by stating information for the record: the date, time, prison facility, and the names of the Parole Board members on the panel.

The lead interviewer may ask the eligible person to confirm their name, date of birth, and offender identification (OID) number. The lead interviewer may also verify that the eligible person received a copy of the Presentence Investigation Report.

Sometimes the lead interviewer on the panel will ask who else is present to give testimony. These folks, who are only allowed to appear by telephone, may include victims, supporters of the eligible person, or other community members.

The heart of the parole release hearing is a series of questions directed to the eligible person. These questions will vary based on the questioner, but some common themes are:

- Specific details of the crime of conviction. For these questions, the panel relies on the State's version of events, contained in the PSI (presentence investigation report);
- A person's criminal system record prior to the crime of conviction, as well as any previous criminal system supervision (e.g., parole, probation, home confinement, etc.);
- Whether a person feels remorse for their actions;
- The details of a release plan, including the home plan and the eligible person's plans for employment, education, or training programs;
- The classes and programs completed in prison, as well as any work assignments or special responsibilities held; and
- The details of any "write-ups" or violations of prison rules.

The lead interviewer will invite the person to give a statement about why they should be released. This is another chance to address a person's remorse, their growth and development in prison, and how their release plans will help them adjust well after release.

It is important to know that there is no set procedure for the hearing and so these parts of the hearing can happen in any order decided by the panel.

After the panel has asked all their questions, the eligible person has made their statement, and the witnesses/victims have testified, the panel may ask the eligible person if they feel everything has been covered. If the answer is yes, the panel will go off the line to discuss the hearing and vote on their decision. When the panel returns to the hearing, they will announce their decision regarding release and may (or may not) state reasons supporting their decision.

Parole release hearings vary in length. Some may last 10 minutes; others may last 20-30 minutes.

What documents will the panel have for a parole release hearing?

According to West Virginia State Code of Rules 92-1-5, the panel may consider any of the following documents:

1. The Regular Case Parole Guidelines form, which creates a guideline score based on the crime of conviction, a person's risk and case management assessment, whether a person has completed mandatory programs, and recent disciplinary violations;
2. A risk and case management assessment called the LS/CMI, usually completed by DCR staff when a person enters a prison;
3. A criminal history report provided by the West Virginia State Police or U.S. Department of Justice;
4. DCR reports about work record; participation in therapeutic, treatment, and educational programs; and overall conduct;
5. DCR discipline reports, including all Class I or Class II violations and the sanctions imposed;
6. Reports of physical, mental, or psychiatric examinations conducted by DCR or other appropriate experts;
7. Written sentiment submitted by victims, law enforcement officers, prosecuting attorneys, judges, or other public officials and citizens from the county where the individual was sentenced or from the community in which the individual resided;
8. A written description of the facts and circumstances of the crime(s) for which the individual has been convicted and is currently incarcerated;
9. Previous supervision history and violations while under probation, parole, or home confinement supervision; and
10. A home plan approved by Parole Services.

The panel may not hold a hearing until the Regular Case Parole Guidelines form (No. 1) is available.

The panel may hold a release hearing without the remaining documents (Nos. 2-9), so long as all panel members sign a written statement with the reasons they decided to hold the hearing without the document(s).

What does the panel consider when making their decision?

West Virginia Code of State Rules 92-1-6 requires the panel to consider the following factors:

- The "evidence-based" factors covered in the *Regular Case Parole Guidelines* form;
- Whether the eligible person "has satisfactorily participated in institutional education, work, therapeutic or treatment programs, and has complied with the recommendations of the IRPP;"

Appendix A
Introduction to Parole Release Hearings

COMMUNITY COLLABORATIVE COUNCIL

- Whether a person had been on supervision in the past (home confinement, day report, parole, probation), and if so, how they did under supervision and the circumstances of any violations;
- Sentiment by community members, victim(s), and people who work in the criminal legal system (sentencing judge, prosecutor, DCR official reports);
- The facts and circumstances of the crime of conviction;
- A person's "demeanor" and "the attitudes expressed with regard to prior criminal behavior, to social morals and law;"
- The results of any available physical, mental, or psychological/psychiatric examinations;
    - Note: psychological exams must be completed for people convicted of sexual offenses.
- Prior criminal record;
- Any new criminal convictions or Class I or Class II disciplinary violations while incarcerated; and
- Any other factor that indicates whether the person "constitutes a reasonable risk to safety or property if released on parole."

The Parole Board is supposed to consider **both positive and negative factors in the above areas** and "not confine its inquiry to particular areas to the exclusions of others."

According to Parole Board rules, the panel must evaluate all of these factors to determine whether the eligible person can act in a lawful manner if released and "whether release is in the best interests of society considering public safety and rehabilitation goals."

What if a person was under 18 years old at the time of their offense?

According to West Virginia Code of State Rules § 92-1-6, when interviewing people convicted of crimes committed while they were children, the Parole Board must consider additional factors:

1. Educational and court documents;
2. Participation in rehabilitative and educational programming during incarceration;
3. At the time of the offense, the person's age, immaturity, and their home and community environments;
4. Efforts made toward rehabilitation;
5. Evidence of remorse; and
6. Any other factors or circumstances the Board considers relevant.

What happens if my loved one is denied release?

If a person is denied release, they are entitled to another release hearing no more than 12 months after the first hearing. However, if a person is serving a "Life with Mercy" sentence, the Board may schedule the next parole hearing up to 36 months after the denial.

WV Code §62-12 – Sections Regarding Parole

§62-12-7a. Presentence diagnosis and classification; power of court; custody of convicted person; provision for presentence reports; penalty for escape.

Notwithstanding any other provision of law, when any person has been found guilty of, or pleads guilty to, a felony, or any offense described in article eight-d or eight-b, chapter sixty-one of this code, against a minor child, the court may, prior to pronouncing of sentence, direct that the person be delivered into the custody of the commissioner of corrections, for the purpose of diagnosis and classification for a period not to exceed sixty days: Provided, That the court shall require that a presentence report be completed by the probation officer assigned to that person and be made available to the commissioner of corrections prior to delivery of the person to a statutorily approved diagnosis and classification unit of the Division of Corrections. While at the diagnosis and classification unit the person shall undergo examination, diagnosis and classification and shall then be remanded and delivered to the custody of the sheriff of the county wherein he or she was found guilty or entered such plea. Within ten days following the termination of the examination, diagnosis and classification, the commissioner of corrections shall make or cause to be made a report to the court wherein the person was found guilty, or entered a plea of guilty, containing the results, findings, conclusions and recommendations of the commissioner with respect to such person.
Whenever a person is remanded into the custody of the commissioner of corrections pursuant to this section, the person shall be given credit on any sentence subsequently imposed by the court equal to the time spent in such custody.

§62-12-12. Parole Board generally.

(a) The West Virginia Parole Board is continued as part of the Division of Corrections and Rehabilitation. The board shall consist of nine members, each of whom shall have been a resident of this state for at least five consecutive years prior to his or her appointment. No more than five of the board members may at any one time belong to the same political party, except as provided in subsection (b) of this section. The board shall be appointed by the Governor, by and with the advice and consent of the Senate and shall serve at the will and pleasure of the Governor.
(b) The Governor shall appoint one of the nine members to serve as chairperson at the Governor's will and pleasure. In addition to all other powers, duties, and responsibilities granted and assigned to the chairperson by law and rule, the chairperson has the following powers and duties:
(1) To provide for the management of facilities and personnel of the board;
(2) To supervise the administration and operation of the board;
(3) To delegate the powers and duties of his or her office to the vice chairperson or other members of the board, who shall act under the direction of the chairperson and for whose acts he or she is responsible: *Provided*, That if the position of chairperson becomes vacant by death, resignation, or otherwise, the vice chairperson shall assume all the powers and duties of the chairperson until such time as a new chairperson is appointed pursuant to the provisions of this subsection;
(4) To employ one full-time administrative employee, who shall be a classified exempt; and
(5) To exercise all other powers and perform all other duties necessary and proper in carrying out his or her responsibilities as chairperson.
(c) The board, from its membership, shall elect a vice chairperson, at least once every year, to serve as chair in the absence of a chairperson. In the absence of or at the direction of the chairperson, the vice chairperson may exercise the powers and duties of the chairperson. The vice chairperson shall, while performing the duties and responsibilities of the chairperson, have all of the statutorily authorized power and duties of the chairperson.

(d) Members of the board shall have at least an undergraduate degree from an accredited college or university or at least five years of actual experience in the fields of corrections, law enforcement, sociology, law, education, psychology, social work, or medicine, or a combination thereof, and shall be otherwise competent to perform the duties of his or her office: *Provided*, That at least three members initially appointed after July 1, 2021, shall have five or more years experience in the fields of mental health, social work, or inmate reentry services. All members currently serving on the board shall continue the terms they are currently serving, unless otherwise removed. The members shall be appointed for overlapping terms of six years. Members are eligible for reappointment. The members of the board shall devote their full time and attention to their board duties.
(e) The Governor may, if he or she is informed that a vacancy is imminent, appoint a member to fill the imminent vacancy prior to it becoming vacant: *Provided*, That the new member may be appointed no more than 30 days prior to the vacancy occurring and only for purposes of training. He or she may not assume the powers and duties of the position until the vacancy has actually occurred.
(f) The Governor may appoint no more than five persons to a list of substitute board members. Substitute board members shall meet the qualifications set forth in subsection (d) of this section. The persons on the list shall be used in a rotating fashion. If a full-time board member is unable to serve, a substitute board member may serve in his or her place. These substitute board members shall have the same powers and duties of the fulltime board members while acting as a substitute and shall serve at the will and pleasure of the Governor. These members shall be reimbursed for expenses and paid a per diem rate set by the secretary.
(g) The Division of Corrections and Rehabilitation shall provide administrative and other services to the board as the board requires. Expenses of the board shall be included within the annual budget of the Division of Corrections and Rehabilitation: *Provided*, That the salaries of the members appointed pursuant to subsection (b) of this section are to be included in a separate budget for the Parole Board.
(h) Notwithstanding any provision of this code to the contrary, meetings of the parole board are not subject to the provisions of §6-9A-1 *et seq*. of this code: *Provided*, That hearings before the parole board shall be open to the public.

§62-12-12a. Parole board panels.

(a) The board shall sit in panels of three members for the purpose of conducting hearings and making determinations concerning the release of any inmate on parole, conducting hearings and making determinations regarding the revocation of parole, considering any eligible parolee for release from further supervision and discharge from parole, conducting parole interviews and conducting any other hearing provided for in this article. Membership on each panel shall be appointed on a rotating basis by the chairperson of the board. Two members of each panel shall constitute a quorum for the transaction of official business.
(b) When the board sits in panels as herein authorized, each panel shall act in the same manner and under the same authority as the full board. All authority, duties, powers and responsibilities of the board on any matter brought before the panel for hearing shall be exercised by the panel as though heard and decided by the full board. Decisions of each panel shall constitute a decision of the board. All procedures of the board relating to the conduct of hearings shall apply to hearings before the panels of the board.

§62-12-13. Powers and duties of board; eligibility for parole; procedure for granting parole.

(a) The Parole Board, whenever it is of the opinion that the best interests of the state and of the inmate will be served, and subject to the limitations provided in this section, shall release any inmate on parole for terms and upon conditions provided by this article.
(b) Any inmate of a state correctional institution is eligible for parole if he or she:

(1) (A) Has served the minimum term of his or her indeterminate sentence or has served one fourth of his or her definite term sentence, as the case may be; or
(B) He or she has applied for and been accepted by the Commissioner of Corrections and Rehabilitation into an accelerated parole program. To be eligible to participate in an accelerated parole program, the commissioner must determine that the inmate:
(i) Does not have a prior criminal conviction for a felony crime of violence against the person, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child;
(ii) Is not serving a sentence for a crime of violence against the person, or more than one felony for a controlled substance offense for which the inmate is serving a consecutive sentence, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child; and
(iii) Has successfully completed a rehabilitation treatment program created with the assistance of a standardized risk and needs assessment.
(C) Notwithstanding any provision of this code to the contrary, any inmate who committed, or attempted to commit, a felony with the use, presentment, or brandishing of a firearm is not eligible for parole prior to serving a minimum of three years of his or her sentence or the maximum sentence imposed by the court, whichever is less: *Provided*, That any inmate who committed, or attempted to commit, any violation of §61-2-12 of this code, with the use, presentment, or brandishing of a firearm, is not eligible for parole prior to serving a minimum of five years of his or her sentence or one third of his or her definite term sentence, whichever is greater. Nothing in this paragraph applies to an accessory before the fact or a principal in the second degree who has been convicted as if he or she were a principal in the first degree if, in the commission of or in the attempted commission of the felony, only the principal in the first degree used, presented, or brandished a firearm. An inmate is not ineligible for parole under the provisions of this paragraph because of the commission or attempted commission of a felony with the use, presentment, or brandishing of a firearm unless that fact is clearly stated and included in the indictment or presentment by which the person was charged and was either: (i) Found guilty by the court at the time of trial upon a plea of guilty or nolo contendere; (ii) found guilty by the jury upon submitting to the jury a special interrogatory for such purpose if the matter was tried before a jury; or (iii) found guilty by the court if the matter was tried by the court without a jury.
(D) The amendments to this subsection adopted in the year 1981:
(i) Apply to all applicable offenses occurring on or after August 1 of that year;
(ii) Apply with respect to the contents of any indictment or presentment returned on or after August 1 of that year irrespective of when the offense occurred;
(iii) Apply with respect to the submission of a special interrogatory to the jury and the finding to be made thereon in any case submitted to the jury on or after August 1 of that year or to the requisite findings of the court upon a plea of guilty or in any case tried without a jury: *Provided*, That the state gives notice in writing of its intent to seek such finding by the jury or court, as the case may be. The notice shall state with particularity the grounds upon which the finding will be sought as fully as the grounds are otherwise required to be stated in an indictment, unless the grounds upon which the finding will be sought are alleged in the indictment or presentment upon which the matter is being tried;
(iv) Does not apply with respect to cases not affected by the amendments and in those cases the prior provisions of this section apply and are construed without reference to the amendments; and
(v) Insofar as the amendments relate to mandatory sentences restricting the eligibility for parole, all matters requiring a mandatory sentence shall be proved beyond a reasonable doubt in all cases tried by the jury or the court.
(E) As used in this section, “felony crime of violence against the person” means felony offenses set forth in §61-2-1 *et seq*., §61-3E-1 *et seq*., §61-8B-1 *et seq*., or §61-8D-1 *et seq*. of this code.
(F) As used in this section, “felony offense where the victim was a minor child” means any felony crime of violence against the person and any felony violation set forth in §61-8-1 *et seq*., §61-8A-1 *et seq*., §61-8C-1 *et seq*., or §61-8D-1 *et seq*. of this code.

(G) For the purpose of this section, the term "firearm" means any instrument which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive, gunpowder, or any other similar means;
(2) Is not in punitive segregation or administrative segregation as a result of disciplinary action;
(3) Has prepared and submitted to the Parole Board a written parole release plan setting forth proposed plans for his or her place of residence, employment and, if appropriate, his or her plans regarding education and post-release counseling and treatment which has been approved by the Division of Corrections and Rehabilitation: *Provided*, That an inmate's application for parole may be considered by the board without the prior submission of a home plan, but the inmate shall have a home plan approved by the division prior to his or her release on parole. The Commissioner of the Division of Corrections and Rehabilitation, or his or her designee, shall review and investigate the plan and provide findings to the board as to the suitability of the plan: *Provided, however*, That in cases in which there is a mandatory 30-day notification period required prior to the release of the inmate, pursuant to §62-12-23 of this code, the board may conduct an initial interview and deny parole without requiring the development of a plan. In the event the board believes parole should be granted, it may defer a final decision pending completion of an investigation and receipt of the commissioner's findings. Upon receipt of the plan, together with the investigation and findings, the board, through a panel, shall make a final decision regarding the granting or denial of parole;
(4) Has satisfied the board that if released on parole he or she will not constitute a danger to the community; and
(5) Has successfully completed any individually required rehabilitative and educational programs, as determined by the division, while incarcerated: *Provided*, That, effective September 1, 2021, any inmate who satisfies all other parole eligibility requirements but is unable, through no fault of the inmate, to complete his or her required rehabilitative and educational programs while incarcerated, which are eligible to be taken while on parole, may be granted parole with the completion of such specified programs outside of the correctional institutions being a special condition of that person's parole term: *Provided, however*, That the Parole Board may consider whether completion of the inmate's outstanding amount of such programming would interfere with his or her successful reintegration into society.
(c) Except in the case of an inmate serving a life sentence, a person who has been previously twice convicted of a felony may not be released on parole until he or she has served the minimum term provided by law for the crime for which he or she was convicted. An inmate sentenced for life may not be paroled until he or she has served 10 years, and an inmate sentenced for life who has been previously twice convicted of a felony may not be paroled until he or she has served 15 years: *Provided*, That an inmate convicted of first degree murder for an offense committed on or after June 10, 1994, is not eligible for parole until he or she has served 15 years.
(d) In the case of an inmate sentenced to a state correctional facility regardless of the inmate's place of detention or incarceration, the Parole Board, as soon as that inmate becomes eligible, shall consider the advisability of his or her release on parole.
(e) If, upon consideration, parole is denied, the board shall promptly notify the inmate of the denial. The board shall, at the time of denial, notify the inmate of the month and year he or she may apply for reconsideration and review. The board shall at least once a year reconsider and review the case of every inmate who was denied parole and who is still eligible: *Provided*, That the board may reconsider and review parole eligibility any time within three years following the denial of parole of an inmate serving a life sentence with the possibility of parole.
(f) Any inmate in the custody of the commissioner for service of a sentence who reaches parole eligibility is entitled to a timely parole hearing without regard to the location in which he or she is housed.
(g) The board shall, with the approval of the Governor, adopt rules governing the procedure in the granting of parole. No provision of this article and none of the rules adopted under this article are intended or may be construed to contravene, limit, or otherwise interfere with or affect the authority of the Governor to grant pardons and reprieves, commute sentences, remit fines, or otherwise exercise his or her constitutional powers of executive clemency.

(h) (1) The Division of Corrections and Rehabilitation shall promulgate policies and procedures for developing a rehabilitation treatment plan created with the assistance of a standardized risk and needs assessment. The policies and procedures shall provide for, at a minimum, screening and selecting inmates for rehabilitation treatment and development, using standardized risk and needs assessment and substance abuse assessment tools, and prioritizing the use of residential substance abuse treatment resources based on the results of the standardized risk and needs assessment and a substance abuse assessment. The results of all standardized risk and needs assessments and substance abuse assessments are confidential.
(2) An inmate shall not be paroled under paragraph (B), subdivision (1), subsection (b) of this section solely due to having successfully completed a rehabilitation treatment plan, but completion of all the requirements of a rehabilitation treatment plan along with compliance with the requirements of subsection (b) of this section creates a rebuttable presumption that parole is appropriate. The presumption created by this subdivision may be rebutted by a Parole Board finding that, according to the standardized risk and needs assessment, at the time parole release is sought the inmate still constitutes a reasonable risk to the safety or property of other persons if released. Nothing in subsection (b) of this section or in this subsection may be construed to create a right to parole.
(i) Notwithstanding the provisions of subsection (b) of this section, the Parole Board may grant or deny parole to an inmate against whom a detainer is lodged by a jurisdiction other than West Virginia for service of a sentence of incarceration, upon a written request for parole from the inmate. A denial of parole under this subsection precludes consideration for parole for a period of one year or until the provisions of subsection (b) of this section are applicable.
(j) If an inmate is otherwise eligible for parole pursuant to subsection (b) of this section, and has completed the rehabilitation treatment program required under subdivision (1), subsection (h) of this section, the Parole Board may not require the inmate to participate in an additional program, but may determine that the inmate must complete an assigned task or tasks prior to actual release on parole. The board may grant parole contingently, effective upon successful completion of the assigned task or tasks, without the need for a further hearing.
(k) (1) The Division of Corrections and Rehabilitation shall supervise all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the Uniform Act for Out-of-State Parolee Supervision.
(2) The Division of Corrections and Rehabilitation shall provide supervision, treatment/recovery, and support services for all persons released to mandatory supervision under §15A-4-17 of this code.
(l) (1) When considering an inmate of a state correctional facility for release on parole, the Parole Board panel considering the parole shall have before it an authentic copy of, or report on, the inmate's current criminal record as provided through the West Virginia State Police, the United States Department of Justice, or any other reliable criminal information sources and written reports of the superintendent of the state correctional institution to which the inmate is sentenced:
(A) On the inmate's conduct record while in custody, including a detailed statement showing any and all infractions of disciplinary rules by the inmate and the nature and extent of discipline administered for the infractions;
(B) On the inmate's industrial record while in custody which shall include: The nature of his or her work, occupation or education, the average number of hours per day he or she has been employed or in class while in custody and a recommendation as to the nature and kinds of employment which he or she is best fitted to perform and in which the inmate is most likely to succeed when he or she leaves the state correctional institution; and
(C) On any physical, mental, psychological, or psychiatric examinations of the inmate.
(2) The Parole Board panel considering the parole may waive the requirement of any report when not available or not applicable as to any inmate considered for parole but, in every case, shall enter in its record its reason for the waiver: *Provided*, That in the case of an inmate who is incarcerated because the inmate has been found guilty of, or has pleaded guilty to, a felony under the provisions of §61-8-12 of this code or under the provisions of §61-8B-1 *et seq.* or §61-8C-1 *et seq.* of this code, the Parole Board panel may not waive the report required by this subsection. The report shall include a study and diagnosis of the

inmate, including an on-going treatment plan requiring active participation in sexual abuse counseling at an approved mental health facility or through some other approved program: *Provided, however*, That nothing disclosed by the inmate during the study or diagnosis may be made available to any law-enforcement agency, or other party without that inmate's consent, or admissible in any court of this state, unless the information disclosed indicates the intention or plans of the parolee to do harm to any person, animal, institution, or to property. Progress reports of outpatient treatment are to be made at least every six months to the parole officer supervising the parolee. In addition, in such cases, the Parole Board shall inform the prosecuting attorney of the county in which the person was convicted of the parole hearing and shall request that the prosecuting attorney inform the Parole Board of the circumstances surrounding a conviction or plea of guilty, plea bargaining, and other background information that might be useful in its deliberations.

(m) Before releasing any inmate on parole, the Parole Board shall arrange for the inmate to appear in person before a Parole Board panel and the panel may examine and interrogate him or her on any matters pertaining to his or her parole, including reports before the Parole Board made pursuant to the provisions of this section: *Provided*, That an inmate may appear by video teleconference if the members of the Parole Board panel conducting the examination are able to contemporaneously see the inmate and hear all of his or her remarks and if the inmate is able to contemporaneously see each of the members of the panel conducting the examination and hear all of the members' remarks: *Provided, however*, That the requirement that an inmate personally appear may be waived where a physician authorized to do so by the Commissioner of the Division of Corrections and Rehabilitation certifies that the inmate, due to a medical condition or disease, is too debilitated, either physically or cognitively, to appear. The panel shall reach its own written conclusions as to the desirability of releasing the inmate on parole and the majority of the panel considering the release must concur in the decision. The superintendent shall furnish all necessary assistance and cooperate to the fullest extent with the Parole Board. All information, records, and reports received by the Parole Board shall be kept on permanent file.

(n) The Parole Board and its designated agents are at all times to have access to inmates imprisoned in any state correctional facility or in any jail in this state and may obtain any information or aid necessary to the performance of its duties from other departments and agencies of the state or from any political subdivision of the state.

(o) The Parole Board shall, if requested by the Governor, investigate and consider all applications for pardon, reprieve, or commutation and shall make recommendation on the applications to the Governor.

(p) Prior to making a recommendation for pardon, reprieve or commutation, the board shall notify the sentencing judge and prosecuting attorney at least 10 days before the recommendation.

(q) A parolee shall participate as a condition of parole in the litter control program of the county to which he or she is released to the extent directed by the Parole Board, unless the board specifically finds that this alternative service would be inappropriate.

(r) The commissioner shall develop, maintain, and make publicly available a general list of rehabilitative and educational programs available outside of the correctional institutions which an inmate may be required to complete as a special condition of parole pursuant to subdivision (5) of subsection (b) of this section, and the manner and method in which such programs shall be completed by the parolee.

§62-12-13a. Eligibility date for parole.

When the prisoner has received an indeterminate sentence, the minimum sentence shall be considered as an eligibility date for parole consideration but does not confer in the prisoner the right to be released as of that date.

§62-12-13b. Special parole considerations for persons convicted as juveniles.

(a) When a person who is serving a sentence imposed as the result of an offense or offenses committed when he or she was less than eighteen years of age becomes eligible for parole pursuant to applicable provisions of this code, including, but not limited to, section twenty-three, article eleven, chapter sixty-one thereof, the parole board shall ensure that the procedures governing its consideration of the person's application for parole ensure that he or she is provided a meaningful opportunity to obtain release and shall adopt rules and guidelines to do so that are consistent with existing case law.
(b) During a parole hearing involving a person described in subsection (a) of this section, in addition to other factors required by law to be considered by the parole board, the parole board shall take into consideration the diminished culpability of juveniles as compared to that of adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner during incarceration. The board shall also consider the following:
(1) A review of educational and court documents;
(2) Participation in available rehabilitative and educational programs while in prison;
(3) Age at the time of the offense;
(4) Immaturity at the time of the offense;
(5) Home and community environment at the time of the offense;
(6) Efforts made toward rehabilitation;
(7) Evidence of remorse; and
(8) Any other factors or circumstances the board considers relevant.

§62-12-13c. Authority of commissioner to establish a nonviolent offense parole program.

(a) The commissioner may establish a nonviolent offense parole program for any inmate of a state correctional facility in which an inmate may be paroled without action of the Parole Board based upon objective standards as set forth in this section, to commence on July 1, 2021.
(b) Notwithstanding any provision of this code to the contrary, any inmate of a state correctional facility is eligible for parole under the nonviolent offense parole program if:
(1) He or she has served at least the minimum term of his or her sentence and is eligible for parole as determined by the parole board; and
(2) He or she qualifies for the nonviolent offense parole program as authorized by this section.
(c) To qualify for the nonviolent offense parole program, the commissioner must determine that the inmate:
(1) Is not serving a sentence for a crime of violence against the person, crime of violence against an animal, or felony for a controlled substance offense which involves actual or threatened violence to a person, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child: *Provided*, That an inmate is ineligible to participate in the nonviolent offense parole program if the sentence from which parole is being considered is aggregated, concurrently or consecutively, with an offense determined disqualifying under this subdivision.
(2) Has successfully completed an individualized rehabilitation treatment program as determined by the division;
(3) Has not previously been released on parole pursuant to this section from the same sentence; and
(4) Has otherwise satisfied the requirements for parole eligibility set forth in §62-12-13 of this code.
(d) Any person released under the nonviolent offense parole program is subject to all conditions of release and sanctions for violations applicable to persons released on parole by the Parole Board, and all parole revocations of persons granted parole pursuant to this section shall be heard in accordance with the provisions of §62-12-19 of this code.
(e) The nonviolent offense parole program authorized by subsection (a) of this section requires no action by the Parole Board as to the release decision if the inmate qualifies for the program and has successfully completed his or her rehabilitation treatment program as determined by the commissioner.
(f) The commissioner shall develop a policy directive setting forth the processes and procedures to determine successful completion of the rehabilitation treatment program and to provide notice to the

inmate. If the inmate fails to successfully complete his or her rehabilitation treatment program, his or her parole shall be determined in accordance with the provisions of §62-12-13 of this code. An inmate who has been denied parole pursuant to the provisions of §62-12-13 of this code and who thereafter successfully completes his or her rehabilitation treatment program prior to his or her next parole review is eligible for release under the nonviolent offense parole program within a reasonable time after he or she has successfully completed the program as determined by the commissioner, provided the inmate remains qualified for release under the nonviolent offense parole program.

§62-12-17. Conditions of release on probation and parole.

(a) Release and supervision on parole of any person, including the supervision by the Division of Corrections of any person paroled by any other state or by the federal government, shall be upon the following conditions:
(1) That the parolee may not, during the period of his or her parole, violate any criminal law of this or any other state or of the United States;
(2) That the parolee may not, during the period of his or her parole, leave the state without the consent of the Division of Corrections;
(3) That the parolee complies with the rules prescribed by the Division of Corrections for his or her supervision by the parole officer;
(4) That in every case in which the parolee for a conviction is seeking parole from an offense against a child, defined in section twelve, article eight, chapter sixty-one of this code, or article eight-b or eight-d of said chapter, or similar convictions from other jurisdictions where the parolee is returning or attempting to return to this state pursuant to the provisions of article six, chapter twenty-eight of this code, the parolee may not live in the same residence as any minor child nor exercise visitation with any minor child nor may he or she have any contact with the victim of the offense; and
(5) That the parolee, and all federal or foreign state probationers and parolees whose supervision may have been undertaken by this state, pay a fee, based on his or her ability to pay, not to exceed $40 per month to defray the costs of supervision.
(b) The Commissioner of Corrections shall keep a record of all actions taken and account for moneys received. All moneys shall be deposited in a special account in the State Treasury to be known as the Parolee's Supervision Fee Fund. Expenditures from the fund shall be for the purposes of providing the parole supervision required by the provisions of this code and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code. Amounts collected which are found, from time to time, to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.
(c) The Division of Corrections shall consider the following factors in determining whether a parolee or probationer is financially able to pay the fee:
(1) Current income prospects for the parolee or probationer, taking into account seasonal variations in income;
(2) Liquid assets of the parolee or probationer, assets of the parolee or probationer that may provide collateral to obtain funds and assets of the parolee or probationer that may be liquidated to provide funds to pay the fee;
(3) Fixed debts and obligations of the parolee or probationer, including federal, state and local taxes and medical expenses;
(4) Child care, transportation and other reasonably necessary expenses of the parolee or probationer related to employment; and
(5) The reasonably foreseeable consequences for the parolee or probationer if a waiver of, or reduction in, the fee is denied.

(d) In addition, the Division of Corrections may impose, subject to modification at any time, any other conditions which the division considers advisable.
(e) The Division of Corrections may order substance abuse treatment as a condition or as a modification of parole, only if the standardized risk and needs assessment indicates the offender has a high risk for reoffending and a need for substance abuse treatment.
(f) The Division of Corrections may impose, as an initial condition of parole, a term of reporting to a day report center or other community corrections program only if the standardized risk and needs assessment indicates a moderate to high risk of reoffending and moderate to high criminogenic need. Any parolee required to report to a day report center or other community corrections program is subject to all the rules and regulations of the center or program and may be removed at the discretion of the center's or program's director. The Commissioner of Corrections shall enter into a master agreement with the Division of Justice and Community Services to provide reimbursement to counties for the use of community corrections programs by eligible parolees. Any placement by the Division of Corrections of a parolee in a day report center or other community corrections program may only be done with the center or program director's consent and the parolee is subject to all of the rules and regulations of the center or program and may be removed by the director.

§62-12-18. Period of parole; discharge.

The period of parole shall be the maximum of any sentence, less deductions for good conduct and work as provided by law, for which the paroled inmate, at the time of release, was subject to imprisonment under his or her definite or indeterminate sentence, as the case may be: *Provided*, That at any time after a parolee has been on parole for a minimum of one-year from the date of his or her release, the Commissioner of the Division of Corrections and Rehabilitation, or his or her designee, may submit a request to the chairperson of the parole board for a parolee's early discharge from parole along with appropriate documentation as to the parolee's good conduct while on parole. The chairperson may, after a review of the request and submission from the commissioner, or his or her designee, when in his or her judgment, the ends of parole have been attained and the best interests of the state and the parolee will be served by the early discharge, release the parolee from further supervision and discharge him or her from parole: *Provided, however*, That an inmate sentenced to serve a life term of imprisonment and released on parole may not be discharged from supervision and parole in a period less than five years from the date of his or her release on parole.
A parolee who has violated the terms of his or her release on parole by confession to, or being convicted of, in any state of the United States, the District of Columbia, or the territorial possessions of the United States, the crime of treason, murder, aggravated robbery, first degree sexual assault, second degree sexual assault, a sexual offense against a minor, incest, or offenses with the same essential elements if known by other terms in other jurisdictions may not be discharged from parole. A parolee serving a sentence in any correctional facility of another state or the United States may, unless incarcerated for one of the above enumerated crimes, be discharged from parole while serving his or her sentence in a correctional facility or be continued on parole or returned to West Virginia as a parole violator, in the discretion of the parole board.

§62-12-19. Violation of parole.

(a) If at any time during the period of parole there is reasonable cause to believe that the parolee has violated any of the conditions of his or her release on parole, the parole officer may arrest him or her with or without an order or warrant, or the Commissioner of Corrections may issue a written order or warrant for his or her arrest. The written order or warrant is sufficient for his or her arrest by any officer charged with the duty of executing an ordinary criminal process. The commissioner's written order or warrant delivered to the sheriff against the parolee shall be a command to keep custody of the parolee for the

jurisdiction of the Division of Corrections. During the period of custody, the parolee may be admitted to bail by the court before which the parolee was sentenced. If the parolee is not released on a bond, the costs of confining the paroled prisoner shall be paid out of the funds appropriated for the Division of Corrections.

(1) If reasonable cause is found to exist that a parolee has violated a term or terms of his or her release on parole that does not constitute:

(A) Absconding supervision;

(B) New criminal conduct other than a minor traffic violation or simple possession of a controlled substance; or

(C) Violation of a special condition of parole designed either to protect the public or a victim; the parole officer may, after consultation with and written approval by the director of parole services, for the first violation, require the parolee to serve a period of confinement up to sixty days or, for the second violation, a period of confinement up to one hundred twenty days: Provided, That the Division of Corrections shall notify the Parole Board when a parolee is serving such a term of confinement and the Parole Board may deny further confinement. A parolee serving a term of confinement in the first or second instance may be confined in jail or any other facility designated by the commissioner, but shall be committed to the custody of the Commissioner of Corrections, and the costs of confining the parolee shall be paid out of funds appropriated for the Division of Corrections: Provided, however, That upon written request, the parolee shall be afforded the right to a hearing within forty-five days before the Parole Board regarding whether he or she violated the conditions of his or her release on parole.

(2) When a parolee is in custody for a violation of the conditions of his or her parole, he or she shall be given a prompt and summary hearing before a Parole Board panel upon his or her written request, at which the parolee and his or her counsel shall be given an opportunity to attend.

(A) If at the hearing it is determined that reasonable cause exists to believe that the parolee has:

(i) Absconded supervision;

(ii) Committed new criminal conduct other than a minor traffic violation or simple possession of a controlled substance; or

(iii) Violated a special condition of parole design to protect either the public or a victim; the panel may revoke his or her parole and may require him or her to serve in a state correctional institution the remainder or any portion of his or her maximum sentence for which, at the time of his or her release, he or she was subject to imprisonment.

(B) If the Parole Board panel finds that reasonable cause exists to believe that the parolee has violated a condition of release or supervision other than the conditions of parole set forth in subparagraph (A), subdivision (2) of this subsection, the panel shall require the parolee to serve, for the first violation, a period of confinement up to sixty days or, for the second violation, a period of confinement up to one hundred twenty days unless the Parole Board makes specific written findings of fact that a departure from the specific limitations of this paragraph is warranted: Provided, That if the violation of the conditions of parole or rules for his or her supervision is not a felony as set out in section eighteen of this article, the panel may, if in its judgment the best interests of justice do not require a period of confinement, reinstate him or her on parole. The Division of Corrections shall effect release from custody upon approval of a home plan.

(b) Notwithstanding any provision of this code to the contrary, when reasonable cause has been found to believe that a parolee has violated the conditions of his or her parole but the violation does not constitute felonious conduct, the commissioner may, with the written consent of the parolee, allow the parolee to remain on parole with additional conditions or restrictions. The additional conditions or restrictions may include, but are not limited to, participation in any program described in subsection (d), section five, article eleven-c of this chapter. If the parolee complies with the conditions of parole the commissioner may not revoke his or her parole for the conduct which constituted the violation. If the parolee fails to comply with the conditions or restrictions and all other conditions of release, that failure is an additional violation of parole and the commissioner may proceed against the parolee under the provisions of this section for the original violation as well as any subsequent violations.

(c) When a parolee has violated the conditions of his or her release on parole by confession to, or being convicted of, any of the crimes set forth in section eighteen of this article, he or she shall be returned to the custody of the Division of Corrections to serve the remainder of his or her maximum sentence, during which remaining part of his or her sentence he or she is ineligible for further parole.
(d) Whenever a person's parole has been revoked, the commissioner shall, upon receipt of the panel's written order of revocation, convey and transport the paroled prisoner to a state correctional institution. A parolee whose parole has been revoked shall remain in custody until delivery to a corrections officer sent and duly authorized by the commissioner for the removal of the parolee to a state correctional institution. The cost of confining the parolee shall be paid out of the funds appropriated for the Division of Corrections.
(e) When a parolee is convicted of, or confesses to, any one of the crimes enumerated in section eighteen of this article, it is the duty of the Parole Board to cause him or her to be returned to this state for a summary hearing as provided by this article. Whenever a parolee has absconded supervision, the commissioner shall issue a warrant for his or her apprehension and return to this state for the hearing provided in this article: Provided, That the panel considering revocation may, if it determines the best interests of justice do not require revocation, cause the parolee to be reinstated to parole.
(f) A warrant filed by the commissioner shall stay the running of his or her sentence until the parolee is returned to the custody of the Division of Corrections and is physically in West Virginia.
(g) Whenever a parolee who has absconded supervision or has been transferred out of this state for supervision pursuant to section one, article six, chapter twenty-eight of this code is returned to West Virginia due to a violation of parole and costs are incurred by the Division of Corrections, the commissioner may assess reasonable costs from the parolee's inmate funds or the parolee as reimbursement to the Division of Corrections for the costs of returning him or her to West Virginia.
(h) Conviction of a felony for conduct occurring during the period of parole is proof of violation of the conditions of parole and the hearing procedures required by the provisions of this section are inapplicable.
(i) The Commissioner of Corrections may issue subpoenas for persons and records necessary to prove a violation of the terms and conditions of a parolee's parole either at a preliminary hearing or at a final hearing before a Parole Board panel. The subpoenas shall be served in the same manner provided in the Supreme Court of Appeals of West Virginia Rules of Criminal Procedure. The subpoenas may be enforced by the commissioner through application or petition of the commissioner to the circuit court for contempt or other relief.

§62-12-20. To whom article applies.

The provisions of this article shall be applied to all persons who shall be convicted of a crime committed after this article takes effect. All persons convicted of a crime committed before this article takes effect, whether convicted before or after that time, shall remain subject to the law in effect when the crime was committed, but any such person who consents to be subject to this article may avail himself of its provisions.

§62-12-21. Repeal of inconsistent laws;"director" construed to mean "board."

All other laws or parts of laws inconsistent with this article are hereby repealed: Provided, however, That nothing in this article shall be construed to affect in any way the laws relating to juvenile probation and parole. Wherever in the official Code of West Virginia the words "director of probation and parole" are used they shall be construed to mean the board of probation and parole.

§62-12-22. Appointment of counsel for parole violators; authority to appoint; payment of counsel.

Any person accused of a violation of his parole, as set forth in this article, may be represented by counsel at any hearing held for the purpose of determining whether his parole should be revoked. In the event the person accused of a violation of his parole is unable to pay for counsel and desires to have counsel appointed for him he shall present his application for the appointment of counsel and an affidavit reflecting his inability to pay for such counsel to the circuit court in the county in which such person is confined or in the county in which the hearing is to be held for the purpose of determining whether his parole should be revoked, or to the judge thereof in vacation. If it appears to the satisfaction of the court or judge that such person is in fact unable to pay for counsel, such court or judge may appoint counsel to represent such person. Counsel so appointed shall be paid for his services and expenses in accordance with the provisions of article twenty-one, chapter twenty- nine of this code.

§62-12-23. Notification of parole hearing; victim's right to be heard; notification of release on parole.

(a) Following the sentencing of a person who has been convicted of murder, aggravated robbery, sexual assault in the first or second degree, kidnapping, child abuse resulting in injury, child neglect resulting in injury, arson or a sexual offense against a minor, the prosecuting attorney who prosecuted the offender shall prepare a parole hearing notification form. This form shall contain the following information:
(1) The name of the county in which the offender was prosecuted and sentenced;
(2) The name of the court in which the offender was prosecuted and sentenced;
(3) The name of the prosecuting attorney or assistant prosecuting attorney who prosecuted the offender;
(4) The name of the judge who presided over the criminal case and who sentenced the offender;
(5) The names of the law-enforcement agencies and officers who were primarily involved with the investigation of the crime for which the offender was sentenced; and
(6) The names, addresses and telephone numbers of the victims of the crime for which the offender was sentenced or the names, addresses and telephone numbers of the immediate family members of each victim of the crime, including, but not limited to, each victim's spouse, father, mother, brothers, sisters and any adult household member residing with the victim.
(b) The prosecuting attorney shall retain the original of the parole hearing notification form and shall provide copies of it to the circuit court which sentenced the offender, the Parole Board, the Commissioner of Corrections and to all persons whose names and addresses are listed on the form.
(c) At least forty-five days prior to the date of a parole hearing, the Parole Board shall notify all persons who are listed on the parole hearing notification form, including the circuit court which sentenced the offender, the prosecuting attorney's office that prosecuted the offender and the law-enforcement agency and officer primarily involved in the offense underlying the sentence, of the date, time and place of the hearing. Such notice shall be sent by regular mail, properly addressed and postage prepaid, by electronic mail, or by facsimile. Notice to the victims of the crime for which the offender was sentenced or the immediate family members of each victim of the crime shall be sent by certified mail, return receipt requested. The notice shall state that the victims of the crime have the right to submit a written statement to the Parole Board and to attend the parole hearing to be heard regarding the propriety of granting parole to the prisoner. The notice shall also state that only the victims may submit written statements and speak at the parole hearing unless a victim is deceased, is a minor or is otherwise incapacitated.
(d) The panel considering the parole shall inquire during the parole hearing as to whether the victims of the crime or their representatives, as provided in this section, are present. If so, the panel shall permit those persons to speak at the hearing regarding the propriety of granting parole for the prisoner.
(e) If the panel grants parole, it shall immediately set a date on which the prisoner will be released. Such date shall be no earlier than thirty days after the date on which parole is granted. On the date on which parole is granted, the Parole Board shall notify all persons listed on the parole hearing notification form, including the circuit court which sentenced the offender and office of the prosecuting attorney that prosecuted the offender, that parole has been granted and the date of release. This notice shall be sent by the method prescribed in subsection (c) of this section. A written statement of reasons for releasing the

prisoner, prepared pursuant to subsection (b), section thirteen of this article, shall be provided upon request to all persons listed on the parole hearing notification form, including the circuit court which sentenced the offender and office of the prosecuting attorney that prosecuted the offender.

§62-12-24. Request to continue for good cause and timely notice required.

(a) Any inmate scheduled for a parole interview shall, if he or she desires to continue the interview, file with the institutional parole officer a written waiver of his or her right to an interview on the date set on a form provided by the commissioner of corrections at least thirty days prior to the interview date. A copy of the waiver shall be supplied to the board of parole.
(b) The board shall propose for promulgation a legislative rule pursuant to article three, chapter twenty-nine-a of this code setting forth criteria constituting emergency circumstances where a waiver of interview filed less than thirty days prior to the scheduled interview shall constitute good cause for a continuance.
(c) Any inmate failing to appear for his or her scheduled parole interview who has not waived his or her interview pursuant to subsection (a) or (b) of this section shall be deemed to have waived his or her right to a parole interview for a period of twelve months from the date of the interview at which he or she failed to appear. The panel conducting the interview shall have discretion to reset the interview with notice to the inmate and any other person or persons entitled by law to notice, prior to the expiration of the twelve-month waiver period.

§62-12-26. Extended supervision for certain sex offenders; sentencing; conditions; supervision provisions; supervision fee.

(a) Notwithstanding any other provision of this code to the contrary, any defendant convicted after the effective date of this section of a violation of §61-8-12 of this code or a felony violation of the provisions of §61-8B-1 *et seq*., §61-8C-1 *et seq*., and §61-8D-1 *et seq*., of this code shall, as part of the sentence imposed at final disposition, be required to serve, in addition to any other penalty or condition imposed by the court, a period of supervised release of up to 50 years: *Provided*, That the period of supervised release imposed by the court pursuant to this section for a defendant convicted after the effective date of this section as amended and reenacted during the first extraordinary session of the Legislature, 2006, of a violation of §61-8B-3 or §61-8B-7 of this code and sentenced pursuant to §62-12-9(a) of this code, shall be no less than 10 years: *Provided, however*, That a defendant designated after the effective date of this section as amended and reenacted during the first extraordinary session of the Legislature, 2006, as a sexually violent predator pursuant to the provisions of §15-12-2a of this code shall be subject, in addition to any other penalty or condition imposed by the court, to supervised release for life: *Provided further*, That a defendant convicted of a violation of §61-8A-2, §61-8A-4, or §61-3C-14b of this code on and after the effective date of the amendment to this section enacted during the 2021 regular session of the Legislature is subject to the provisions of this section: *And Provided further*, That pursuant to the provisions of subsections (a) and (h) of this section, a court may modify, terminate, or revoke any term of supervised release imposed pursuant to this subsection.
(b) Any person required to be on supervised release between the minimum term of 10 years and life pursuant to the provisos of §62-12-26(a) of this code also shall be further prohibited from:
(1) Establishing a residence or accepting employment within 1,000 feet of a school or child care facility or within 1,000 feet of the residence of a victim or victims of any sexually violent offenses for which the person was convicted;
(2) Loitering within 1,000 feet of a school or child care facility or within 1,000 feet of the residence of a victim or victims of any sexually violent offenses for which the person was convicted: *Provided*, That the imposition of this prohibition applies to a defendant convicted after the effective date of this section as amended and reenacted during the regular session of the Legislature, 2015: *Provided, however*, That as

used in this subdivision "loitering" means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose: *Provided further*, That nothing in this subdivision shall be construed to prohibit or limit a person's presence within 1,000 feet of a location or facility referenced in this subdivision if the person is present for the purposes of supervision, counseling, or other activity in which the person is directed to participate as a condition of supervision or where the person has the express permission of his or her supervising officer to be present;

(3) Establishing a residence or any other living accommodation in a household in which a child under 16 resides if the person has been convicted of a sexually violent offense against a child, unless the person is one of the following:

(i) The child's parent;

(ii) The child's grandparent; or

(iii) The child's stepparent and the person was the stepparent of the child prior to being convicted of a sexually violent offense, the person's parental rights to any children in the home have not been terminated, the child is not a victim of a sexually violent offense perpetrated by the person, and the court determines that the person is not likely to cause harm to the child or children with whom such person will reside: *Provided*, That nothing in this subsection shall preclude a court from imposing residency or employment restrictions as a condition of supervised release on defendants other than those subject to the provision of this subsection.

(c) In addition to any other prohibitions, any person found guilty of violating the provisions of §61-8B-3 or §61-8B-7 of this code is also prohibited from being in a supervisory position, playing a supervisory role, or being responsible for groups of children, including, but not limited to, religious organizations, Boy Scouts, Girl Scouts, 4H organizations, sporting and scholastic teams, music, sporting, and theatre groups and camps, and summer day camps.

(d) The period of supervised release imposed by the provisions of this section shall begin upon the expiration of any period of probation, the expiration of any sentence of incarceration or the expiration of any period of parole supervision imposed or required of the person so convicted, whichever expires later.

(e) Any person sentenced to a period of supervised release pursuant to the provisions of this section shall be supervised by a multi-judicial circuit probation officer, if available. Until a multi-judicial circuit probation officer is available, the offender shall be supervised by the probation office of the sentencing court or of the circuit in which he or she resides.

(f) A defendant sentenced to a period of supervised release is subject to any or all of the conditions applicable to a person placed upon probation pursuant to the provisions of §62-12-9 of this code: *Provided*, That any defendant sentenced to a period of supervised release pursuant to this section shall participate in appropriate offender treatment programs or counseling during the period of supervised release unless the court determines the offender treatment programs or counseling to no longer be appropriate or necessary and makes express findings in support thereof.

(g) The sentencing court may, based upon defendant's ability to pay, impose a supervision fee to offset the cost of supervision. The fee shall not exceed $50 per month. The fee may be modified periodically based upon the defendant's ability to pay.

(h) *Modification of conditions or revocation*. — The court may:

(1) Terminate a term of supervised release and discharge the defendant released at any time after the expiration of two years of supervised release, pursuant to the provisions of the West Virginia Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interests of justice;

(2) Extend a period of supervised release if less than the maximum authorized period was previously imposed or modify, reduce, or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, consistent with the provisions of the West Virginia Rules of Criminal Procedure relating to the modification of probation and the provisions applicable to the initial setting of the terms and conditions of post-release supervision;

(3) Revoke a term of supervised release and require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on supervised release if the court, pursuant to the West Virginia Rules of Criminal Procedure applicable to revocation of probation, finds by clear and convincing evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this subdivision may not be required to serve more than the period of supervised release; or
(4) Order the defendant to remain at his or her place of residence during nonworking hours and, if the court directs, to have compliance monitored by telephone or electronic signaling devices, except that an order under this subdivision may be imposed only as an alternative to incarceration.
(i) *Written statement of conditions*. — The court shall direct that the probation officer provide the defendant with a written statement at the defendant's sentencing hearing that sets forth all the conditions to which the term of supervised release is subject and that it is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.
(j) *Supervised release following revocation*. — When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of supervised release authorized under §62-12-26(a) of this code, the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of the term of supervised release shall not exceed the term of supervised release authorized by this section less any term of imprisonment that was imposed upon revocation of supervised release.
(k) *Delayed revocation*. — The power of the court to revoke a term of supervised release for violation of a condition of supervised release and to order the defendant to serve a term of imprisonment and, subject to the limitations in §62-12-26(j) of this code, a further term of supervised release extends beyond the expiration of the term of supervised release for any period necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of a violation.

§62-12-27. Mandatory prerelease risk assessment of certain sex offenders.

Prior to discharging an inmate convicted of a violation of section twelve, article eight, chapter sixty-one of this code or a felony violation of the provisions of article eight-b or eight-d of said chapter at the expiration of the term of their sentence, the Division of Corrections shall perform an assessment to determine the statistical risk that the inmate will reoffend after being released from the division's custody. Prior to releasing the inmate, the division shall forward the results of the assessment to the inmate's supervising entity.

Appendix B
Parole: State Code & Administrative Rules

92CSR1

TITLE 92
PROCEDURAL RULE
WEST VIRGINIA PAROLE BOARD

SERIES 1
PROCEDURAL RULES OF THE WEST VIRGINIA PAROLE BOARD ELIGIBILITY, DECISIONS AND DISCHARGE

§92-1-1. General.

1.1. Scope. -- These rules establish procedures and criteria to be employed by the West Virginia Parole Board when considering eligible inmates incarcerated by the West Virginia Division of Corrections & Rehabilitation for parole; in granting or denying parole; establishing conditions therefore; and providing a process for reconsideration and extraordinary remedies.

1.2. Authority. -- W. Va. Code § 62-12-13(g).

1.3. Filing Date. -- June 1, 2022.

1.4. Effective Date. -- July 1, 2022.

1.5. Purpose. -- The general purpose of these rules and regulations is to establish procedures and criteria whereby the West Virginia Parole Board shall discharge its duties and exercise the powers described and reserved to the Board by the W. Va. Code §§62-12-12; 62-12-12a; 62-12-13; 62-12-13b; 62-12-18; 62-12-23; and 62-12-24.

1.6. Repeal and Replace. -- This rule repeals and replaces W. Va. Code R. §92-1-1, West Virginia Parole Board Procedural Rules, effective October 7, 2014.

§92-1-2. Definitions.

2.1. "Accelerated Parole" shall mean a release of an inmate upon parole based upon successful completion of that certain program set forth in W. Va. Code §62-12-13(b)(1)(B), provided the Parole Board does not find that the inmate constitutes a reasonable risk to the safety or property of other persons if released, and all other factors in subsections (b)(2-4) of the same section are met.

2.2. "Board" or "Parole Board" shall mean the West Virginia Parole Board.

2.3. "Chairperson" shall mean the Parole Board Member appointed by the Governor to govern the West Virginia Parole Board pursuant to W. Va. Code §62-12-12.

2.4. "Contingent Parole" shall mean a release of an inmate to parole based upon successful completion of conditions or submission of an approved release plan within a time frame specified by the Panel.

2.5. "Division" shall refer to the West Virginia Division of Corrections & Rehabilitation.

2.6. "Foreign Detainer" shall mean a detainer lodged by a jurisdiction other than West Virginia for service of a sentence of incarceration.

2.7. "Institution" shall refer to any location designated by the State of West Virginia as a correctional facility.

2.8. "Lead Interviewer" shall be a Parole Board Member who shall serve as the Presiding Member over a specific case.

2.9. "Member" shall mean any Member of the West Virginia Parole Board.

2.10. "Ordinary Parole" shall mean a release of an inmate to parole based on eligibility relating to service of the minimum required sentence set forth in W. Va. Code §62-12-13(b)(1)(A) and all other factors in subsections (b)(2-4) of the same section.

2.11. "Parole Officer" shall refer to an employee of the West Virginia Division of Corrections & Rehabilitation who is charged with the supervision of the parolee during his or her release on parole and with the enforcement of the terms and conditions of parole.

2.12. "Panel" shall refer to three Members designated by the Chairperson for the purpose of conducting hearings and making determinations pursuant to Section 3.2 below.

2.13. "Victim" means a person who is a victim of a felony, or whose death occurs during the commission of a felony or misdemeanor, or a member of the deceased victim's immediate family, the fiduciary of the deceased victim's estate, or an adult household member residing with the victim. For purposes of inmates with aggregate consecutive or concurrent sentences, any of the victims of the crimes for which the inmate is currently serving a sentence shall be considered victims at any parole hearing held during that aggregate term of incarceration.

2.14. "Violation" shall refer to a breach by the parolee of any term or condition of release upon parole.

§92-1-3. General Provisions Relating to the Parole Board.

3.1. The Parole Board is committed to discharging its responsibilities using contemporary, evidence based practices and strategies. It is committed to ongoing professional development and incorporating new evidence based practices in decision-making and in its interactions with offenders. Equally, it recognizes and supports ongoing professional development of Parole Board staff.

3.1.a. The Parole Board shall:

3.1.a.1. Be sensitive to the concerns of crime victims and the public by reducing the potential of future victimization;

3.1.a.2. Enhance public safety by making informed parole decisions by using parole guidelines consistent with evidence based practices, and exercise professional judgment to assess offenders' discrete, individual factors, to assess readiness for transition into the community;

3.1.a.3. Recognize that the Parole Board, while comprised of individual decision makers, is structured to vote as a "panel," and each panel shall act in the same manner and under the same authority, as the full Parole Board; therefore, the established principles should support decisional consistency;

3.1.a.4. Support the use of a transparent and clear decisional process, and are committed to ensuring that decision-making is carried out in a fair and consistent process through the use of parole guidelines;

3.1.a.5. Recognize that offender risk of reoffending can be reduced and that continued risk reduction can occur through imposing conditions of parole and the application of intermediate sanctioning that target the offender's criminogenic needs;

3.1.a.6. Value evidence based research, data and related decisional best practices by applying them to the decisions of parole, setting conditions, supporting intermediate sanctions, and making decisions to revoke parole;

3.1.a.7. Ascribe to the importance of treating correctional staff, offenders, victims, and the public with respect and dignity;

3.1.a.8. Understand the importance of the wise utilization of finite prison and community resources, through fiscal responsibility, by applying the principles of effective intervention and use of evidence based parole strategies for identifying and prioritizing supervision and treatment for those offenders who pose the greatest and most serious risk to the community;

3.1.a.9. Respond to parole violators by supporting compliance with parole conditions through the timely application of an evidence based graduated scale of sanctions, including a return to confinement;

3.1.a.10. Recognize that the Parole Board and the Division are two parts of one larger system; therefore, the Parole Board supports the order and safety within the Division; and

3.1.a.11. Defer to the sentencing court regarding the issue of appropriate punishment by recognizing that the sentencing court is the arbiter of just punishment.

3.2. Method of Decision. (W. Va. Code §62-12-12a):

3.2.a. The Board shall sit in Panels of three Members for the purpose of conducting parole interviews and making determinations concerning the release of any inmate on parole, conducting hearings and making determinations regarding the revocation of parole, considering requests for reconsideration and conducting any other hearing. Two Members of any Panel shall constitute a quorum for the purpose of conducting business. Procedural and evidentiary matters, such as motions to continue and decisions to admit or exclude evidence and other non-dispositive matters, shall be decided by the Lead Interviewer.

3.2.b. The Chairperson will designate the Members of each Panel and will assign each Panel such matters as the Chairperson deems proper.

3.2.c. No inmate shall be granted parole without the consent of at least two Members of the Panel.

3.2.d. The presence of an inmate/parolee shall be required at all proceedings unless the inmate/parolee's conduct impairs the security and order of the proceedings and it becomes necessary for his or her removal from the proceedings.

3.2.e. The Parole Board shall only consider inmates for parole who are in an Institution in the custody of the Division or those on a furlough approved by the Commissioner of Corrections.

3.2.f. Notwithstanding subdivisions (a) or (b) above, the Parole Board may, in its discretion, consider in absentia an inmate who is confined in this State in a nursing home, state hospital, or who is mentally incapacitated, or terminally ill.

3.2.g. The Parole Board may allow for videoconferencing where appropriate to satisfy the attendance requirements as established in subdivisions (a), (b) and (c) above.

3.3. Rule Interpretation. The Parole Board reserves for itself the authority to interpret these rules or any other rule or policy directive it may issue.

3.4. Privacy of Deliberations. All deliberations and votes of each Panel shall be made in private.

3.5. Open Meetings Act. Because the Parole Board exercises quasi-judicial functions, the formal requirements of the Open Governmental Proceedings Act (W.Va. Code §6-9A-1 *et seq.*) do not apply.

3.6. Nonviolent Offender Parole Program. The Board will not sit and determine parole for inmates who are eligible for parole pursuant to W. Va. Code §62-12-13c.

3.7. Signatures on official documents. One member of each Panel set by the Chairperson may sign any official documents on behalf of the Panel.

§92-1-4. Eligibility for Parole Consideration.

4.1. Eligibility Based on Incarceration Period.

4.1.a. Any inmate, in order to be eligible for consideration for ordinary parole, must meet the following prerequisites:

4.1.a.1. If the inmate is serving an indeterminate sentence, he or she must have served the minimum term of the sentence.

4.1.a.2. If the inmate is serving a determinate sentence, he or she must have served one-fourth of the sentence.

4.1.a.3. If the inmate is serving a sentence designated in the committing court's sentencing/commitment order as "Life with Mercy," and the crime is not First Degree Murder, he or she must have served 10 years of the sentence.

4.1.a.4. If the inmate is serving a sentence designated in the committing court's sentencing/commitment order as "Life with Mercy" for First Degree Murder, and the crime occurred prior to June 10, 1994, he or she must have served 10 years of the sentence. If the crime occurred on or after June 10, 1994, he or she must have served 15 years.

4.1.a.5. If the inmate is serving a sentence designated in the committing court's sentencing/commitment order as "Life with Mercy", and he or she has been convicted of felony crimes twice before, he or she must serve 15 years of the life sentence.

4.1.a.5.A. This provision shall apply regardless of the crime for which the life sentence was imposed, unless the crime is first degree murder or second degree murder or a violation of W. Va. Code §61-8B-3, and it is determined, as provided in W. Va. Code §61-11-19 that such person had been before convicted in this state of first degree murder, second degree murder, or a violation of W. Va. Code §61-8B-3, or has been so convicted under any law of the United States or any other state for an offense which has the same elements as any offenses described in this subsection, in which case the inmate is not eligible for parole.

4.1.a.6. If the inmate is serving a sentence for a drug offense and the committing court's order designated that the crime occurred within 1000 feet of a school or school property, he or she must have served three years if the drug was a narcotic controlled substance and two years if it was non-narcotic. (W. Va. Code §60A-4-406).

4.1.a.7. Notwithstanding any other provisions herein, if an inmate is sentenced under a court order showing that he or she committed or attempted to commit a felony with the use, presentment or brandishing of a firearm, the inmate shall be eligible for parole consideration in accordance with the following:

4.1.a.7.A. If the inmate so committed or attempted to commit the crime of robbery as defined in W. Va. Code §61-2-12, he or she shall be eligible for parole either when he or she has served five years of the sentence or when he or she has served one-third of his or her determinate sentence, whichever is greater.

4.1.a.7.B. If the inmate so committed or attempted to commit any other act, and was convicted of a felony under any section of the Code, other than W. Va. Code §61-2-12, then he or she shall be eligible for parole after he or she has served a minimum of three years of the sentence or the maximum of the sentence, whichever is less.

4.1.a.7.C. The provisions of this subsection will apply only to those inmates who were convicted of their felonies after August 1, 1981. Inmates convicted of their offenses before that date shall have their eligibility determined by subsections (1), (2), (3) and (4). Resolution of any dispute over the applicability of this subsection shall be made by reference to W. Va. Code §62-12-13(a)(1)(B).

4.1.a.8. If an inmate is serving two or more sentences concurrently, he or she shall be eligible for parole consideration after he or she has served the longest of the minimum terms. If one of the sentences is a determinate sentence, then he or she shall serve one-fourth, (5 years or one-third of a definite sentence if the firearm statute is applicable), of that sentence in order to be eligible for parole consideration, providing that such is longer than the minimum sentence for any concurrent indeterminate sentence.

4.1.a.9. If an inmate is serving consecutive sentences, the time of parole eligibility shall be computed by adding together the minimum terms of the sentences. If one of the sentences is a determinate sentence, then parole eligibility shall be computed by adding a number equal to one-fourth of the determinate term, (or one-third if the firearm statute is applicable), to the minimum term of the other sentences.

4.1.a.9.A. If the inmate is serving two determinate sentences consecutively, then parole eligibility shall be computed by adding a number equal to one-fourth, (or one-third if the firearm enhancement is applied), of one determinate term to a number equal to one-fourth, (or one-third if the firearm enhancement is applied), of the second term.

4.1.a.10. When a parolee has violated the conditions of the release on parole by confessing to, or being convicted of treason, first or second degree murder, armed/aggravated robbery, rape, first or second degree sexual assault, any sexual offense against a minor, incest, or an offense with the same essential elements if known by other terms in other jurisdictions, he or she shall be returned to an Institution of this State to serve the remainder of the maximum sentence, during which remaining part of the sentence he or she shall be ineligible for further parole.

4.1.b. Rules concerning parole eligibility shall not be interpreted to delay the actual discharge of sentence and release from the institution. If an inmate has reached his or her discharge date by benefit of Good Time awarded, but has not reached parole eligibility, then he or she shall be discharged.

4.1.c. An inmate who is serving a sentence designated in the committing court's sentencing/commitment order as "Life" or "Life without Mercy" shall not be eligible for parole.

4.1.d. Parole Eligibility Dates shall be calculated by the Division and provided to the inmate within 30 days of the receipt of a valid Sentencing/Commitment Order from the Circuit Court or within 30 days of the receipt of a Revocation of Parole Order from the Board.

4.2. Eligibility Based upon Successful Completion of Accelerated Parole Program. An inmate shall only be eligible for accelerated parole consideration if approved and referred to the Parole Board by the Division.

The minimum time served requirements of section 4.1.a do not apply if all of the following are met:

4.2.a. The inmate has applied and been accepted into the Division's "Accelerated Parole Program."

4.2.b. The inmate has met the requirements of the Division's current Policy Directive(s) for the Accelerated Parole Program.

4.3. Detainers.

4.3.a. Notwithstanding the minimum time served requirements of section 4.1.a, the Parole Board may grant or deny parole to an inmate against whom a detainer is lodged by a jurisdiction other than West Virginia for service of a sentence of incarceration, upon a written request for parole from the inmate.

4.3.b. All applications to parole to a detainer for serving a sentence in another jurisdiction shall be considered by the Board and may be summarily denied without hearing. For applicants not summarily denied, a hearing shall be scheduled at the discretion of the Board at the inmate's institution with all required notices being provided to all individuals entitled to such notice.

4.3.c. If parole is granted, the inmate shall be released only to the detainer. If the detainer is voided by the authorities who filed it, the Parole Board will be notified and parole will be denied. The inmate will be notified of this decision in writing by the Parole Board.

4.3.d. A denial of parole under this section precludes consideration for parole for a period of one year or until the requirements of section 4.1.a are met.

4.4. Eligibility Based on Institutional Conduct.

4.4.a. No inmate who is incarcerated in administrative or punitive segregation for disciplinary conduct shall be considered for parole. Such inmate shall become eligible in the first full month following the month in which he or she is released from punitive segregation.

4.5. Eligibility Relating to Submission of a Release Plan.

4.5.a. All inmates seeking parole must have a written parole release plan, approved by DCR Parole Services, setting forth his or her proposed plans for place of residence and employment. A release plan may be substituted by detainer to serve a sentence of incarceration in another jurisdiction for a year or longer.

4.5.b. In the case of inmates subject to mandatory 30-day notification periods, being offenses of murder, aggravated robbery, sexual assault in the first or second degree, kidnapping, child abuse resulting in injury, child neglect resulting in injury, arson, or a sexual offense against a minor, the board may conduct an initial interview without a release plan. If the Panel does not deny parole, the decision will be a contingent decision pursuant to section 8.1.b.2 below.

§92-1-5. Interviews of Inmates.

5.1. Inmates who meet the applicable eligibility requirements for parole consideration shall be given an interview by a Panel of the Board.

5.2 Pursuant to W. Va. Code §62-12-13(m), interviews may be conducted by means of video teleconference in compliance with statutory requirements.

5.3 No inmate shall have the right to an interview on any particular day. However, the inmate shall have the right to an interview within a specific month in accordance with the following:

5.3.a. Initial Interview. -- When an inmate first becomes eligible for parole, he or she shall be interviewed by a Panel of the Board during the month in which he or she becomes eligible.

5.3.b. An inmate who is not granted parole following the initial interview, shall be scheduled for an additional interview no more than 12 months following the month of initial eligibility except for inmates with life sentences who may be subject to extensions of this period. Subsequent interviews will be scheduled at 12 month intervals, except as otherwise provided for by this Rule.

5.3.c An inmate who is serving a sentence of "Life with Mercy" and is not granted parole following the interview, shall be scheduled for an additional interview no more than 36 months following the month of initial eligibility. Subsequent interviews may be scheduled at up to 36 month intervals, except as otherwise provided for by this Rule.

5.4. Notice to Inmate.

5.4.a. The Division shall notify inmates of the date of their individual interviews by issuance of a monthly list. The list shall give the name of each inmate, by institution, who is to receive an interview in a given month, together with the date of such interview. The list shall be issued by the Division on or before the first day of the month prior thereto. The list shall be sent to each institution, and all inmates whose names appear on it shall be notified of the date of their individual interview by employees of the institution.

5.5. Notice to Victims in Crimes Not Subject to W.Va. Code §62-12-23.

5.5.a. Notwithstanding the provisions of section 5.6 of this Rule, written notice of each interview shall be sent to the victim(s) who have registered to receive such notice through technology made available by the Division, so that they may comment on the appropriateness of the granting of parole. The notice shall occur at least 10 days prior to the interview.

5.5.b. The Division shall notify the victim(s) of the decision of the Panel. This notice may be made by regular mail, facsimile or electronic mail.

5.6. Notice to Officials; Notice to Victims; Victims' Right to be Heard pursuant to W.Va. Code §62-12-23.

5.6.a. Following the sentencing of a person who has been convicted of murder, aggravated robbery, sexual assault in the first or second degree, kidnapping, child abuse resulting in injury, child neglect resulting in injury, arson, or a sexual offense against a minor, the prosecuting attorney shall prepare a "Parole Hearing Notification Form" containing the information required by W. Va. Code §62-12-23.

5.6.b. At least 45 days prior to the date of a parole hearing, the Division shall notify those persons listed on the "Parole Hearing Notification Form" of the date and place at which such parole hearing will be held. Such notice sent to victims shall be sent by certified mail, return receipt requested. Such notice sent to officials shall be sent by regular mail, electronic mail, or facsimile.

5.6.c. The notice to the victim(s) shall state that the victim(s) have the right to submit a written statement to the Board and to attend the parole hearing to be heard, with or without the inmate present, regarding granting parole to the inmate. The notice shall also state that only the victim(s) may submit written statements and speak at the parole hearing unless a victim is deceased, is a minor, or is otherwise incapacitated. This testimony may be given by phone or in person at the Board's discretion.

5.6.d. If the Panel grants parole, it shall immediately set a date for the inmate's release and shall notify those persons listed on the "Parole Hearing Notification Form" that parole has been granted and indicate the date on which the inmate is to be released. Such notice sent to victims shall be sent by certified

mail, return receipt requested. Such notice sent to officials shall be sent by regular mail, electronic mail, or facsimile.

5.7. Date and Place of Interview.

5.7.a. Inmates will participate in parole interviews at the Institution where confined. If deemed in the interest of economy and expedience or for any other special circumstance, the Board may designate another secure location. Interviews may, in special circumstances, be held at a hospital or at the discretion of the Board. Individual inmates shall not be scheduled in advance for specific times, unless the Victim, as mentioned in Section 5.6 of this Rule, has requested to attend the hearing. The Panel of the Board on a given day shall commence with interviews at a prearranged time. Thereafter, the Panel shall interview each inmate scheduled for that day in turn. The Parole Board reserves the right to change the order of the schedule. If necessary, interviews may be continued to succeeding days. Parole interviews are open to the public, except as restrictions on attendance may be required at the Board's discretion.

5.8. Consideration of Documents at Interviews.

5.8.a. At the interview the Panel will consider any of the following documents, which it has obtained from appropriate sources:

5.8.a.1. The Regular Case Parole Guidelines and a LS/CMI report prepared by the Division.

5.8.a.2. An authentic copy of the inmate's current criminal record, as provided through the West Virginia State Police, the United States Department of Justice or any other reliable criminal information source.

5.8.a.3. Reports from the Institution concerning the inmate's work record, participation in therapeutic, treatment and educational programs, and overall conduct.

5.8.a.4. Reports of the inmate's discipline while incarcerated, to include the record of any and all violations of Class I or Class II institutional disciplinary rules, proved and disposed of, and the sanctions imposed therefor.

5.8.a.5. Reports submitted to the Panel by institutional authorities concerning physical, mental or psychiatric examinations of the inmate conducted by either the Division or other appropriate agencies or professionals.

5.8.a.6. Written sentiment submitted by victims, law enforcement officers, prosecuting attorneys, judges, or other public officials and citizens from the county where the inmate was sentenced or from the community in which the inmate resided.

5.8.a.7. A written description of the facts and circumstances of the crime(s) for which the inmate has been convicted and is currently incarcerated.

5.8.a.8. Records pertaining to any previous release of the inmate on home confinement, probation or parole.

5.8.a.9. A home plan that has been approved by the Division's Parole Services unit.

5.8.b. The Panel may conduct the interview without any of the aforementioned documents and reports, provided that a written statement indicating the reason for the Panel deciding to proceed without them is prepared, signed by all interviewing Members, and placed in the inmate's file. *Further provided that*, if an inmate appears at the parole hearing and no Regular Case Parole Guidelines have been completed, the Board shall delay the hearing until the same has made available.

5.8.c. In the case of a prisoner who is incarcerated because such prisoner has been found guilty of, or has pleaded guilty to a felony under the provisions of W. Va. Code §61-8-12 or under the provisions of W. Va. Code §61-8B-1 et seq. or 61-8C-1 et seq. (sex crimes), the Board may not waive the report required by subsection (5) and the report shall include a study and diagnosis which shall include an on-going treatment plan requiring active participation in sexual abuse counseling at an approved mental health facility or through some other approved program.

5.9. Conduct of the Interview.

5.9.a. The interview will be conducted in an informal manner. The purpose of the interview is to consider the facts and matters contained in the documents and reports described in Section 5.8, to allow the inmate to proffer reasons why he or she should be granted parole, and to give the Panel an opportunity to pose questions and observe the demeanor of the inmate. All hearings shall be fair and appropriate and the decision based on the totality of the findings. The proceedings in the interview shall be recorded by electronic, stenographic, or other means of equivalent competence. An interview by video teleconference may be utilized in compliance with the requirements of W. Va. Code §62-12-13(m).

5.9.b. During the course of the interview, the Panel shall:

5.9.b.1. Allow the inmate an opportunity to comment upon information contained in the documents or reports which the Panel shall consider, and rebut any information which the inmate believes is false or inaccurate. In order to rebut the information, or to present additional information which the inmate believes is relevant, the inmate may present to the Panel documents, affidavits or letters. The inmate may also ask that the Panel delay consideration of the case pending receipt of such documents, affidavits or letters if they are not available at the time of the interview. The Board or its Panel has no responsibility for obtaining such information on the inmate's behalf.

5.9.b.2 Any civilian or public attendees to any form of Parole Board hearing shall only be permitted to bring with them a photo identification.

5.9.c. Allow the inmate an opportunity to make a statement as to why he or she should be granted parole. Specifically, addressing as to why the Panel should believe that if he or she were released on parole, he or she could conduct themselves in a lawful manner. Further, that release would not be incompatible with the best interests and welfare of society generally.

5.9.d. Members may ask the inmate any question bearing on the factors considered for a grant or denial of parole. All interviews or questioning shall be conducted in a professional, fair and impartial manner.

5.9.e. Any person, including the inmate himself or herself, who speaks without permission, or who disrupts the interview may be ordered to leave the room by the Panel. Further, the person may be subject to sanction and/or criminal prosecution.

5.10. Open Meetings Act. Because the Parole Board exercises quasi-judicial functions, the formal requirements of the Open Governmental Proceedings Act (W.Va. Code §6-9A-1 *et seq.*) do not apply.

§92-1-6. Factors in Decision.

6.1. The Parole Board makes its decisions based upon a structured, informed and evidence based process using formal parole guidelines. In the consideration of release of an inmate on parole, the Panel will consider positive and negative factors in all the aforesaid areas and not confine its inquiry to particular areas to the exclusion of others. In considering whether parole should or should not be granted to any inmate, the Panel shall consider the following factors:

6.1.a. Evidence based factors such as offense severity, risk assessment, program participation/completion and misconduct history. The Parole Guidelines scoring will inform the Panel in the exercise of its discretion;

6.1.b. Whether the inmate has satisfactorily participated in institutional education, work, therapeutic or treatment programs, and has complied with the recommendations of the IRPP;

6.1.c. Whether the inmate has previously been on home confinement, parole, probation, community corrections, or other supervision, and if so, how the inmate behaved thereon and the circumstances of any violations;

6.1.d. The sentiment expressed by members of the community, victims of the crime(s) committed by the inmate, and criminal justice officials, if any such sentiment be available;

6.1.e. The facts and circumstances of the crime;

6.1.f. The demeanor of the inmate during the interview and the attitudes expressed with regard to prior criminal behavior, to social morals and law;

6.1.g. The inmate's prior criminal record, if any;

6.1.h. The results of any available physical, mental or psychological/psychiatric examinations. Psychological exams must be conducted for sexual offenders. Other inmates' crimes may dictate a psychological exam be conducted if directed by the Division through their psychological assessment and screening;

6.1.i. Whether the inmate has been convicted of a new crime while incarcerated, or has been found guilty of violating any Class I or Class II institutional disciplinary rules; and

6.1.j. Any other factor which may tend to indicate whether or not the inmate constitutes a reasonable risk to safety or property if released on parole.

6.2. The Panel will consider positive and negative factors in all the aforesaid areas and not confine its inquiry to particular areas to the exclusions of others. The Panel shall assess all factors together to determine whether:

6.2.a. The inmate can and will conduct himself or herself in a lawful manner if released; and

6.2.b. Whether release is in the best interests of society considering public safety and rehabilitation goals.

6.3. In the consideration of release of an inmate on accelerated parole, the Panel must consider all the aforementioned factors, verify eligibility requirements and program completion. If denying accelerated parole the Panel must give written rebuttable reasons to justify the denial.

6.4. Special parole considerations for persons convicted as juveniles.

6.4.a. When a person who is serving a sentence imposed as the result of an offense or offenses committed when he or she was less than eighteen years of age becomes eligible for parole pursuant to applicable provisions of this code, including, but not limited to, section twenty-three, article eleven, chapter sixty-one thereof, the parole board shall ensure that the procedures governing its consideration of the person's application for parole ensure that he or she is provided a meaningful opportunity to obtain release and shall adopt rules and guidelines to do so that are consistent with existing case law.

6.4.b. During a parole hearing involving a person described in subsection (a) of this section, in addition to other factors required by law to be considered by the parole board, the parole board shall take into consideration the diminished culpability of juveniles as compared to that of adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner during incarceration. The board shall also consider the following:

6.4.b.1. A review of educational and court documents;

6.4.b.2. Participation in available rehabilitative and educational programs while in prison;

6.4.b.3. Age at the time of the offense;

6.4.b.4. Immaturity at the time of the offense;

6.4.b.5. Home and community environment at the time of the offense;

6.4.b.6. Efforts made toward rehabilitation;

6.4.b.7. Evidence of remorse; and

6.4.b.8. Any other factors or circumstances the board considers relevant.

§92-1-7. Waiver of Interview.

7.1. The inmate may waive a parole interview for up to one year, either by writing a letter setting forth the desire to do so, or by executing such waiver form as provided by the Board. Such waiver shall be made no later than 30 days before the interview date unless special circumstances exist for a shorter period. The Board, in its discretion, may grant or deny a postponement.

§92-1-8. Decisions of the Panel.

8.1. The Panel at the conclusion of an interview may decide to:

8.1.a. Grant parole with or without special conditions.

8.1.a.1. If the Panel decides to grant parole, it shall issue written notification thereof, specifying the grant decision and any Special Conditions for supervision of parole, in addition to those conditions specified in W. Va. Code §62-12-17, which the Board deems necessary. The Parole Board's conditions will be strictly enforced and will not be voided or invalidated by any entity other than the Parole Board.

8.1.a.2. An inmate granted parole, who is subject to a detainer filed by authorities of any state or of the United States, shall be released only to the detainer. The inmate shall not be released to parole supervision without the express written consent of the authorities who filed the detainer.

8.1.a.3. Any person charged with escape from the custody of the Commissioner of Corrections shall not be released from custody while the prosecution of the alleged offense is pending.

8.1.b. Grant contingent parole with additional requirements.

8.1.b.1. If the Panel should decide that parole should be granted, contingent upon additional conditions being met by the inmate prior to his or her release on parole, the Panel may make a contingent grant to parole. All conditions for the release of a prisoner to parole must be clearly set forth by the Panel

together with a time frame by which the conditions are to be met. Upon completion of stated conditions, the Chairman of the Board will be notified to grant and issue parole release. Failure of an individual to meet such conditions as specified by the order of the Panel shall constitute grounds for rescission of parole.

8.1.b.2. If the parole release plan is unavailable at the time of the interview, and the Panel determines that the inmate could be a suitable candidate for parole, the Panel shall grant parole contingent upon the receipt of an approved release plan. The inmate will then have no more than 120 days to tender an approved release plan. If the approved release plan is received, the Parole Board will grant parole and authorize release onto parole. Failure to submit an approved release plan within the 120-day time frame may result in denial of parole. *Provided*, That the Board may extend the period up to 120 days upon a showing of good cause.

8.1.c. Deny parole and schedule an additional interview at 12 months, except as otherwise provided below.

8.1.c.1. If a majority of the Panel denies parole and determines that the inmate should have an additional interview prior to the expiration of 12 months, then the Panel shall proceed to deliberate the length of time which shall elapse before the next interview. If a majority of the Panel agrees on a specific period of time, then that period of time shall be the period for the next interview. If the Panel is unable to agree upon a period of time which is less than 12 months to schedule another interview, then the Lead Interviewer, after causing the same to be duly noted in writing, may poll each Member of the Panel who shall recommend a period of time between 0 and 12 months, and reach the average of the same by adding all recommendations and dividing by the number of Members making recommendations. Once this average is reached, the Panel shall again deliberate to determine if this average can be agreed upon. If the Panel cannot thereafter agree on a date for a new interview, the matter shall be referred to the Chairperson who, in his or her sound judgment, shall schedule another interview prior to the expiration of 12 months. The Panel will inform the inmate in the Decision Summary of the specific reasons for denial and requirements for the next parole review.

8.1.c.2. In the case of an inmate serving a sentence designated in the committing court's sentencing/commitment order as "Life with Mercy," subsequent interviews may be scheduled at up to 36 month intervals following a denial of parole. (W. Va. Code §62-12-13(e))

8.1.c.3. In the case where an inmate was not provided a parole interview in the initial month of eligibility, the Panel will adjust his or her next parole eligibility date to account for time the inmate was not interviewed. This adjustment will not be made if the inmate is 9 months or further past due for their interview.

8.2. A Decision Summary shall be provided to the inmate which will identify all the guideline factors and countervailing factors supporting the decision. This decision shall contain the specific requirements for the offender if parole is denied or granted contingent, or conditions if parole is granted.

8.2.a. At any time before or after an interview, the Panel may defer consideration until it receives additional information which it deems necessary to its decision.

§92-1-9. Release or Discharge from Parole.

9.1. The Chairperson shall consider all requests by the Division and by parolees for release or discharge from further parole supervision, provided that the parolee shall have been released on parole for at least one year if sentenced to less than life imprisonment or five years if sentenced to life imprisonment and the ends of parole have been attained.

9.1.a. If the Chairperson denies discharge, they shall issue a written statement as to the reasons for denial and set a date to be reviewed again. The date for the next review shall not exceed a year.

9.2. No parolee shall be discharged from parole if he or she has violated the terms of release on parole by confession to, or being convicted of, in any state of the United States, the District of Columbia or the territorial possessions of the United States, the crime of treason, murder, aggravated robbery, first degree sexual assault, second degree sexual assault, sexual offense against a minor, incest, or offenses with the same essential elements if known by other terms in other jurisdictions.

§92-1-10. Request for Records.

10.1. Any inmate/parolee or his/her representative may make a request for records pertaining to consideration of the inmate for release on parole, rescission or revocation of parole, or discharge of a parolee from supervision, provided such records are subject to public disclosure under the West Virginia Freedom of Information Act, W. Va. Code §29B-1-1 et seq., and overriding security considerations do not dictate otherwise. Examples of documents not to be disclosed include but are not limited to the following: official, judicial, victim, or community sentiment of any form; documents in which the identity of the victim or victim's address is set forth; treatment records of the offender and psychological/psychiatric testing and reports. If a document contains non-disclosable information which is easily redacted then the document should be disclosed with the non-disclosable information redacted. All requests must be in writing and directed to the Commissioner of the Division. For photocopies the cost shall be twenty-five cents ($0.25) per page, to be paid in advance.

10.2. Recordings of hearings may be requested by an inmate/parolee or his/her representative. Written transcripts of hearings are not undertaken by the Board. If an inmate/parolee or his/her representative desires a copy of an electronic recording of the inmate/parolee's parole hearing, he or she must tender a written request for such recording to the Board and include payment of $20.00 per hearing. In the event of a lost or missing electronic recordation of the hearing, the requestor shall be notified in writing of the cause of its absence.

§92-1-11. Reconsideration.

11.1. An aggrieved inmate may request reconsideration by the Parole Board within 120 days of the date of the Decision. Any request for reconsideration made after the 120-day filing period will be rejected absent a showing of good cause. In examining the request for reconsideration, the Parole Board will only consider those events which have occurred after the decision date or new information that was not available to the Panel at the time of the Decision. The Parole Board will not re-examine any facts or circumstances available to the Board at the time of the Decision.

11.2. A Panel, as set forth in Section 3.2, may within its discretion, grant or deny a request for reconsideration. In addition to simply granting or denying the request, the Board may modify the upcoming interview date, conduct further hearings concerning the assertions in the request for reconsideration, or request updated information from the Division or staff.

§92-1-12. Judicial Review.

12.1. Judicial Review. Decisions of the Parole Board are full and final and are not subject to direct appeal.

12.2. Extraordinary Remedies. An aggrieved inmate may institute a state *habeas corpus ad subjiciendum* action (W.Va. Code 53-4A-1 *et seq.*) in the Circuit Court of Kanawha County, the Circuit Court of the County where the Institution is located, or the West Virginia Supreme Court of Appeals, *if* the

actions or Decision of the Parole Board is alleged to violate rights provided by the West Virginia Constitution. An aggrieved inmate may institute an action in the proper federal court (28 U.S. Code §2241) if the actions or Decision of the Parole Board is alleged to violate a United States Constitutional right.

§92-1-13. Severability.

13.1. These rules are considered to be severable. In the event these rules are inconsistent with or contrary to any applicable statute, the provisions of the statute shall be applied.

13.2. No error in either the admission or the exclusion of evidence; no error or defect in any ruling or order; or in any act or omission by the Parole Board, Panel, or by any of the parties; shall be grounds for granting a new hearing, for vacating, modifying, or for otherwise disturbing a decision or order, unless refusal to take such action is inconsistent with the fair administration of justice. Any error, defect, irregularity, or variance, which does not affect substantial rights, may be disregarded.

13.3. These rules, including any time frames herein, are intended to serve only as guidelines for procedural functions of the Parole Board and its Panels. Nothing herein is intended to vest any person with any right, substantive or otherwise, which is greater than otherwise existing in law.

Appendix C
Theory of the Case Worksheets

COMMUNITY COLLABORATIVE COUNCIL

§92-1-6. Factors in Decision

Under these rules, the Parole Board must consider the following factors:

- **6.1.a**: "Evidence based factors such as offense severity, risk assessment, program participation/completion and misconduct history."
- **6.1.b**: Whether the eligible person "has satisfactorily participated in institutional education, work, therapeutic or treatment programs, and has complied with the recommendations of the [Individual Reentry Program Plan]."
- **6.1.c**: Whether a person had been on supervision in the past (home confinement, day report, parole, probation), and if so, how they did under supervision and the circumstances of any violations.
- **6.1.d**: Sentiment by community members, victim(s), and people who work in the criminal legal system (sentencing judge, prosecutor, DCR official reports).
- **6.1.e**: The facts and circumstances of the crime of conviction.
- **6.1.f**: A person's "demeanor" during the hearing, and "the attitudes expressed with regard to prior criminal behavior, to social morals and law.
- **6.1.g**: Any prior criminal record.
- **6.1.h**: The results of any available physical, mental, or psychological/psychiatric examinations.
- **6.1.i**: Any new criminal convictions or Class I or Class II disciplinary violations while incarcerated.
- **6.1.j**: Any other factor that indicates whether the person "constitutes a reasonable risk to safety or property if released on parole."

Appendix C
Theory of the Case Worksheets

COMMUNITY COLLABORATIVE COUNCIL

Worksheet No. 1 – Good Facts

Fact in Support of Release	Legal Factor	Best Way to Present
List all the facts that support release. (Write only one fact per box.)	*If your fact is relevant to one or more of the legal factors in 92-1-6, list those legal factors here.*	*This can refer to how the information is presented, but also who presents the information.*

Appendix C
Theory of the Case Worksheets

COMMUNITY COLLABORATIVE COUNCIL

Fact in Support of Release	Legal Factor	Best Way to Present

Appendix C
Theory of the Case Worksheets

COMMUNITY COLLABORATIVE COUNCIL

Worksheet No. 2 – "Bad" Facts

"Bad" Fact	Legal Factor	Best Way to Present
List all the facts that support release.	*If this fact is relevant to one or more of the legal factors in 92-1-6, list those legal factors here.*	*Do you want to address this first? Or wait until the information is presented?*
How You Responded:		
How You Responded:		
How You Responded:		
How You Responded:		
How You Responded:		

Appendix C
Theory of the Case Worksheets

COMMUNITY COLLABORATIVE COUNCIL

Worksheet No. 3 – Emotions Beyond Change

The Emotions Beyond Change in my case are:
Who is feeling these emotions?
If I were in their place, what feelings would I have?
If I were in their place, what answers would I want?
If I were in their place, what would I *not* want to hear?
Considering all the above, what do I want to say in my hearing to address these emotions?

Appendix D
Writing a Letter of Support to the Parole Board

The Parole Board rules and procedures focus mainly on a parole applicant's crime and any previous involvement in the criminal system. For these reasons, it is crucial for the Board to hear from people who know the applicant well. A letter of support can show the Board how an applicant has made positive changes while incarcerated and demonstrate the applicant's readiness for release.

What Does the Parole Board Consider?

State law requires the Parole Board to consider the following:

- Whether the eligible person "has satisfactorily participated in institutional education, work, therapeutic or treatment programs, and has complied with the recommendations of the [Individual Reentry Program Plan]."
- Whether a person had been on supervision in the past (home confinement, day report, parole, probation), and if so, how they did under supervision and the circumstances of any violations.
- Sentiment by community members, victim(s), and people who work in the criminal legal system (sentencing judge, prosecutor, DCR official reports).
- The facts and circumstances of the crime of conviction.
- A person's "demeanor" and "the attitudes expressed with regard to prior criminal behavior, to social morals and law.
- The results of any available physical, mental, or psychological/psychiatric examinations.
- Prior criminal record.
- Any new criminal convictions or Class I or Class II disciplinary violations while incarcerated.
- Any other factor that indicates whether the person "constitutes a reasonable risk to safety or property if released on parole."

General Tips for Letters of Support

- ✓ Typed letters are easier to read, and therefore more likely to be read. Use a professional, easy-to-read font like Times New Roman, Helvetica, or Arial.

- ✓ At the top of the letter, include the **date**, **your full name**, your **contact information**, and a subject heading with the **applicant's full name and OID number**. You can locate the OID number by searching the parole applicant's at: https://apps.wv.gov/ois/offendersearch/doc.

January 15, 2025

John Smith
123 Justice Avenue
Charleston, WV 12345
Phone: (304) 123-1234

Letter in Support of David Smith, OID No. 999999

Dear Parole Board,

- ✓ Open with "Dear Parole Board" or "To the Parole Board."

- ✓ Introduce yourself and your relationship to the parole applicant.
Example: My name is John Smith. David was my student at Mt. Olive prison from 2015 to 2018…

- ✓ Tell the parole board about the quality of your relationship.
Example: I have known David his entire life… or *I saw David each day for three years...*

Appendix D
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COMMUNITY COLLABORATIVE COUNCIL

- ✓ If you have specific expertise or training that may be relevant to the Parole Board, provide some information about your background.
  Example: As a licensed social worker, I have spent 30 years working with people who have been involved in the criminal legal system…

- ✓ Describe why you support this person's release. What has this person done to show you they are a good candidate for release? Include at least one or two stories to illustrate these points. Remember that the Board does not know the parole applicant at all. So, it is important to be as specific and detailed as possible.

- ✓ If you have known the applicant for a long time, describe how they have changed during their incarceration. This is an opportunity to address "bad" factors related to the crime of conviction or that the applicant has worked hard to change.
  Example: When David was first incarcerated, he had been in active addiction for several years. He worked hard to secure a place in the RSAT program, where he found support and ways to be of service to others. Early in that program, David started a men's circle that met once a week…

- ✓ If you intend to provide the applicant specific support after release, make sure to include details about that support. See ***Release Supports*** below for ideas about what information to include.

- ✓ Write your full name and **sign the letter**.

Release Supports

Support You Will Provide	Information to Include in Your Letter
Home Plan	• A description of your home, location, how many rooms are available, and who lives in the home. Include the ages of any children in the home and their relationship to the applicant. • Other benefits of the home's location, such as how close it is to other supports (e.g., extended family, a job, AA/NA meetings, public transportation, etc.) • Any other information about how the applicant will be supported at home. For example, access to their own car or a person at home who can provide regular rides.
A Job (or Job Interview)	• A summary of the company, location, job title, and job responsibilities. • Any training or supervision offered. • The starting pay, the number of expected work hours per week, and the opportunities to advance. • Whether the company or organization will accommodate the applicant's parole appointments and supervision.
Reentry Assistance	• Explain the reentry assistance you or your organization will provide. This can include help with obtaining vital records (birth certificate, social security card), getting a driver's license, proving a peer mentor, enrolling in health insurance, etc. • If you are offering counseling or mentorship, describe your credentials and how often you will meet with the person after their release.

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Financial Support	• If you can provide financial help to the person after their release, be specific about how you will do this. For example, $50 per month for their first year after release. • Financial support can also include a pledge to pay for a person's cell phone, car insurance, or utilities.
General Support	Examples of general support you have pledged: • Attend church together weekly. • Drive applicant to treatment or NA/AA meetings. • Serve as a 12-step sponsor. • Exercise partner. • Introduce them to friends. • Invite them to family activities or holiday celebrations.

What to Avoid in Your Letter

- × Suggestions that the crime of conviction was not serious, or that the person for whom you are writing had only limited or accidental involvement, or that they are serving too much time. Similarly, avoid referring to the crime as a "mistake."
- × Over-used phrases like "model prisoner" or "fully rehabilitated." Tell stories specific to the applicant, instead of using broad descriptors.
- × Avoid telling the Board what to do. **Instead, emphasize how much you care about the parole applicant, the positive things you personally know about them, and how you will support them if they come home**.

The Best Tip for Writing a Letter: Show, Don't Tell

We want the Parole Board to believe what we have to say about our loved one. The best way to do this is by letting the Parole Board member come to their own conclusion. They are more likely to do this when you show, don't tell.

× Tell	✓ Show
My brother is a hard worker.	*…My brother loves his work as a teacher's assistant. He spends 10 hours each week in classes. But because he knows how hard class can be for some men, he offers another 10 hours of week in office hours – for answering questions or tutoring people between class. He even started to get up early each day – around 5:00 a.m. – so he can spend time reviewing people's homework and giving them lots of feedback and suggestions…*

Can you feel the difference? When you **tell** someone an idea, they may or may not believe it. But when you **show** them – with story and details – they create a picture in their mind that leads them directly to that idea.

Whenever you use an adjective to describe your loved one ("she is remorseful," "he is caring," "he is a good-hearted person"), ask yourself: **Is there a story or specific examples I can share instead?**

Share Your Hearing Experience

COMMUNITY COLLABORATIVE COUNCIL

Below are some questions about previous parole hearings, or the hearing for which you requested this guide. Your feedback and insights are what helps make this guide possible. Your information will be kept confidential. Thanks so much for taking the time to answer these questions!

Background

Full Name: OID No.:

Race: Date of Birth: Facility:

The Crime of Conviction

For your current sentence, list all convictions, year of conviction, county convicted, and sentence imposed. Ex.
(1) 2nd degree murder, 2008, Kanawha, determinate 25 years;
(2) Grand larceny, 2008, Kanawha, 1-10 years, run concurrently

What was the date (or month and year) of your parole hearing?

Was this your first parole hearing? *Circle one* Yes / No If no, how many others have you had?

Home Plan

Did DCR help you find a home plan? *Circle one* Yes / No If yes, describe the help you received.

How did you submit your initial home plan? *Example: Filled out a form and gave to the counselor*

How long did it take to receive a decision about your Home Plan?

Was your home plan accepted or rejected? If rejected, what were the reasons given?

Which of the following documents did you receive… (Check one)

	Before Hearing	During Hearing	After Hearing	Never Received	Not Applicable
Presentence Investigation Report (PSI)	☐	☐	☐	☐	☐
Criminal Record	☐	☐	☐	☐	☐
Reports of prison violations or infractions	☐	☐	☐	☐	☐
Any physical, mental, or psychiatric exams	☐	☐	☐	☐	☐
Prison work/job record	☐	☐	☐	☐	☐
Prison programs or educational courses completed	☐	☐	☐	☐	☐

Share Your Hearing Experience

COMMUNITY COLLABORATIVE COUNCIL

Tell us about any attempts you made to get the above documents.

The Hearing

Was a victim present? Yes / No Did a victim testify? Yes / No How many victims testified?

Were you allowed to present witnesses? Yes / No If yes, how many of your witnesses testified?

Did you face obstacles to presenting the witnesses you wanted, or having people attend the hearing by phone?

What was the outcome of the hearing? *Grant, Deny, Defer, Other? Describe*

Were there parts of the hearing experience that surprised or frustrated you? Or questions you did not expect?

What do you wish you had known *before* the hearing?

What is the best advice you would give to someone seeing the Parole Board?

Anything else you would like us to know?

Thanks again for sharing your experience. You can mail this form to:
Sara Whitaker, West Virginia Center on Budget and Policy
1610 Washington St. East, Suite 200, Charleston, WV 25311